

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-001-02-1-5-00052A
Petitioners: Cleatis D. & Joyce Fay Vinyard
Respondent: Department of Local Government Finance
Parcel #: 001013905230001
Assessment Year: 2002

The Indiana Board of Tax Review (the "Board") issues this determination in the above matter, and finds and concludes as follows:

Procedural History

1. The informal hearing as described in Ind. Code § 6-1.1-4-33 was held February 10, 2004 in Lake County, Indiana. The Department of Local Government Finance (DLGF) determined that the Petitioners' property tax assessment for the subject property was \$99,800 and notified the Petitioners on March 31, 2004.
2. The Petitioners filed a Form 139L on April 8, 2004.
3. The Board issued a notice of hearing to the parties dated July 28, 2004.
4. A hearing was held on September 1, 2004 in Crown Point, Indiana before Special Master Kathy J. Clark.
5. The hearing held on September 1, 2004 was continued and reconvened on September 8, 2004.

Facts

6. The subject property is located at: 1702 46th Avenue, Griffith, Indiana (Calumet Township, Lake County).
7. The subject property is a one-story, ranch style, single-family residence.
8. The Special Master did not conduct an on-site inspection of the property.
9. Assessed Value of subject property as determined by the DLGF:
Land: \$14,700 Improvements: \$85,100 Total: \$99,800
10. Assessed Value requested by Petitioners:
Land: \$14,700 Improvements: \$59,300 Total: \$74,000.
11. The following persons were present and sworn in at the hearing:

For Petitioners: Cleatis & Joyce Vinyard, Owners.
For Respondent: Sharon Elliott, Staff Appraiser, Cole-Layer-Trumble.

Issues

12. Summary of Petitioners' contentions in support of alleged error in assessment:
 - a. The dimensions of the living area as recorded on the subject's property record card are incorrect. The living area is actually 28 feet by 40 feet, not 28 feet by 56 feet as shown on the property record card. The dimensions of the garage are 16 feet by 28 feet. *Petitioners' Exhibit C.*
 - b. The subject's year of construction listed on the property record card is incorrect and should be 1962, not 1965. In support of this position, the Petitioners provided a copy of the loan settlement statement for the subject property showing the year of construction as 1962. *Vinyard testimony on September 1st and Petitioners' Exhibit D submitted at the September 8th hearing.*
 - c. The subject is a mirror image of their neighbor's residence and therefore should be assessed the same. Both dwellings were built by the same developer, from the same blueprints, at the same time. *Vinyard testimony and Petitioners' Exhibits A and B.*

13. Summary of Respondent's contentions in support of assessment:
 - a. Upon review of the Petitioners' Exhibit C and Respondent's Exhibit 3 during the September 1st hearing, Ms. Elliott agreed that the dwelling's dimensions were obviously incorrect. *Elliott testimony.*
 - b. Ms. Elliott returned to the September 8th hearing and agreed that the living area of the subject property did in fact measure 28 feet by 40 feet, the garage dimensions are 16 feet by 28 feet, and that the year of construction should be 1962. *Elliott testimony.*

Record

14. The official record for this matter is made up of the following:
 - a. The Petition and all subsequent pre-hearing submissions by either party.
 - b. The tape recording of the hearing labeled Lake Co. #364.
 - c. Exhibits:
 - Petitioners' Exhibit A: Subject photograph.
 - Petitioners' Exhibit B: Photograph of neighbor's comparable residence.
 - Petitioners' Exhibit C: As-built blueprints of subject residence.
 - Petitioners' Exhibit D: Subject's real estate contract and loan settlement statement.

 - Respondent's Exhibit 1: 139L Petition.
 - Respondent's Exhibit 2: Subject property record card.
 - Respondent's Exhibit 3: Photograph of subject.
 - Respondent's Exhibit 3A: Comparable sales analysis.
 - Respondent's Exhibit 4: Comparable property record cards and photographs.
 - Respondent's Exhibit 5: Proposed revised property record card.
 - d. These Findings and Conclusions.

Analysis

15. The most applicable governing cases:
 - a. The Petitioner must sufficiently explain the connection between the evidence and Petitioner's assertions in order for it to be considered material to the facts. *See generally, Heart City Chrysler v. State Bd. of Tax Comm'rs*, 714 N.E.2d 329, 333 (Ind. Tax Ct. 1999).
 - b. The Board will not change the determination of the DLGF unless the Petitioner has established a prima facie case and, by a preponderance of the evidence, proven both the alleged errors in the assessment and specifically what assessment is correct. *See Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998); *North Park Cinemas, Inc. v. State Bd. of Tax Comm'rs*, 689 N.E.2d 765 (Ind. Tax Ct. 1997).
16. The Petitioners provided sufficient evidence to support the Petitioners' contentions that the current assessment is in error. The Petitioners presented evidence to show the measurements used by the DLGF to assess the subject property were incorrect. The living space of the property should be 40 feet by 28 feet, and the garage should measure 16 feet by 28 feet. The Respondent agreed that the measurements were as the Petitioners contended.
17. The Petitioners provided a copy of the loan settlement statement for the subject property showing the year of construction as 1962. The Respondent agreed the year of construction of the residence was 1962.
18. A review of the proposed revised property record card (*Respondent Exhibit 5*) indicates it reflects only the agreement concerning the corrected square footage of the living space.
19. The proposed revised property record card does not reflect the agreed changes to the dimensions of the garage. It also does not reflect the correct depreciation of the residence based upon a 1962 year of construction.

Conclusion

20. The Petitioners provided probative evidence indicating an error in the assessment. The Board determines the correct dimensions of the residence are 40 feet by 28 feet. The correct year of construction of the dwelling is 1962, requiring an adjustment to the depreciation percentage. The correct dimensions of the garage are 16 feet by 28 feet. Accordingly, the assessment must be changed to reflect all of these changes agreed upon by the parties.

Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should be changed.

ISSUED:

Commissioner,
Indiana Board of Tax Review

IMPORTANT NOTICE

- APPEAL RIGHTS -

You may petition for judicial review of this final determination pursuant to the provisions of Indiana Code § 6-1.1-15-5. The action shall be taken to the Indiana Tax Court under Indiana Code § 4-21.5-5. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice.