

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-002-02-1-5-00096
Petitioners: Clyde A. & Dorothy G. Swanson
Respondent: Department of Local Government Finance
Parcel #: 002020301550051
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 on December 4, 2003. The Department of Local Government Finance (the "DLGF") determined that the Petitioners' property tax assessment for the subject property was \$217,900 and notified the Petitioners on March 19, 2004.
2. The Petitioners filed a Form 139L on April 16, 2004.
3. The Board issued a Notice of Hearing to the parties dated July 16, 2004.
4. A hearing was held on August 26, 2004 in Crown Point, Indiana before Special Master Dalene McMillen.

Facts

5. The subject property is located at 253 Wildwood Road, Lowell, Cedar Creek Township in Lake County.
6. The subject property is a one-story, 2,615 square foot residential dwelling with a 960 square foot detached garage located on a residential lot measuring 135' x 119' (16,065 square feet).
7. The Special Master did not conduct an on-site inspection of the property.

8. The assessed value of the subject property;
- a. As determined by the DLGF:
Land: \$45,800 Improvements: \$172,100.
 - b. As requested by the Petitioners:
The Petitioners did not request a specific assessed value.
9. The following persons were present and sworn in at the hearing:

For the Petitioners: Clyde A. Swanson, Owner
 Dorothy G. Swanson, Owner

For the DLGF: Sharon S. Elliott, Staff Appraiser, Cole-Layer-Trumble.

Issues

10. Summary of Petitioners' contentions in support of alleged error in assessment:

Valuation of the detached garage

- a. The detached garage is not a three-car garage. The detached garage is an odd shape building with unfinished storage area and no insulation. The hand drawn sketch of the detached garage shows a total area of 960 square feet. *C. & D. Swanson testimony; Petitioner's Exhibit 1.*

Room count and utility information

- b. The information listed on the subject property record card incorrectly indicates that the subject dwelling has nine (9) rooms and sewer utility. The subject dwelling has only eight (8) rooms and a septic system rather than sewer utility. *C. & D. Swanson testimony.*

11. Summary of Respondent's contentions in support of assessment:

Valuation of the detached garage

- a. The detached garage is valued as a 960 square foot, "L" shaped building with unfinished storage area and no insulation, constructed in 1990, with a value of \$14,900. *Elliott testimony; Respondent's Exhibit 4.*

Room count and utility information

- b. The notation of sewer utility and the number of rooms listed in the information section of the property record card can be changed to reflect the correct information. These changes do not affect the assessed value of the property.
Elliott testimony.

Record

- 12. The official record for this matter is made up of the following:
 - a. The Petition, and all subsequent pre-hearing and post-hearing submissions by either party.
 - b. The tape recording of the hearing labeled Lake Co. #153.
 - c. The following exhibits were presented:

For the Petitioners:

Petitioners' Exhibit 1 – Floor plan of the detached garage.

Petitioners' Exhibit 2 – Hand drawn map of the detached garage, prepared by Clyde Swanson.

For the DLGF:

Respondent's Exhibit 1 – A copy of the Form 139L petition, dated April 16, 2004.

Respondent's Exhibit 2 – Clyde Swanson's original 2002 property record card with an exterior photograph of the dwelling.

Respondent's Exhibit 3 – A sheet of the top twenty comparable properties and statistics. Property record cards and photographs for comparable properties of Michael Flynn, Carl Persinger, and Michael Wilson.

Respondent's Exhibit 4 – Clyde Swanson's corrected 2002 property record card.

Analysis

- 13. The most applicable governing cases are:
 - 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. Conclusory statements are of no value to the Board in its evaluation of the evidence. *See generally, Heart City Chrysler v. State Board of Tax Commissioners*, 714 N.E.2d 329, 333 (Ind. Tax Ct. 1999).
 - b. The Petitioner must do two things: (1) prove the assessment is incorrect; and (2) prove that the specific assessment he seeks, is correct. In addition to

demonstrating that the assessment is invalid, the Petitioner also bears the burden of presenting sufficient probative evidence to show what assessment is correct. *Blackbird Farms Apartment, LP v. Department of Local Government Finance*, 765 N.E.2d 711 (Ind. Tax 2002).

- c. In the event the Petitioner sustains his burden, the burden then shifts to the Respondent to rebut Petitioner's evidence with substantial evidence. Should the Respondent fail to rebut Petitioner's evidence, the Board will find for the Petitioner. *Meridian Towers East & West v. Washington Township Assessor*, 805 N.E.2d 475 (Ind. Tax 2003).

Valuation of detached garage

14. During the hearing, the parties verbally agreed that the detached garage is correctly valued at \$14,900 as a 960 square foot detached garage with unfinished storage area and no insulation.

Room count and utility information

15. During the hearing, the parties agreed that the sewer listed on the property record card under the heading of public utilities should be removed and that the dwelling total room count should be changed from nine (9) to eight (8) rooms.

Conclusions

Valuation of the detached garage

16. The parties agreed that the detached garage is correctly valued at \$14,900 as a 960 square foot detached garage with unfinished storage area and no insulation.

Room count and utility information

17. The parties agreed that the sewer listed on the property record card under the heading of public utilities should be removed and that the dwelling total room count should be changed from nine (9) to eight (8) rooms. These changes do not affect the assessed value of the property.

Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should not 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.