

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-002-02-1-5-00097
Petitioners: Clyde A. & Dorothy G. Swanson
Respondent: Department of Local Government Finance
Parcel #: 002020301550054
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 \$93,700 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 261 Wildwood Road, Lowell, Cedar Creek Township in Lake County.
6. The subject property is a 1,022 square foot, one-story frame dwelling located on a residential lot measuring 62.5 feet x 122 feet (7,625 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: \$32,200 Improvements: \$61,500.
 - 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.

Issue

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

The subject dwelling has only five rooms with a partial basement, no carpeting, and does not have sewer as listed on the property record card. *Clyde & Dorothy Swanson testimony.*

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

- a. The subject dwelling is currently valued based on 566 square feet of basement, 456 square feet of crawl space, wood and linoleum flooring, five total rooms, a fireplace, central air conditioning, and one bathroom. *Elliot testimony.*
- b. The notation of sewer can be removed from the information section, but will not affect the assessed value of the subject property. *Elliot 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. #155.
- c. The following exhibits were presented:

For the Petitioners:
Petitioners' Exhibit 1 – Floor plans of the subject dwelling (two pages).

For the DLGF:

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

Respondent's Exhibit 2 – The 2002 property record card and photograph of the dwelling.

Respondent's Exhibit 3 – A copy of the top twenty comparable properties, sales statistics and property record cards with photographs for comparable properties of Susan Adlard, Karen Depeso, and Randy Scott.

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).
14. During the hearing, the parties agreed that the information used to assess the subject dwelling is correct and agreed to remove the notation of sewer utility from the information section of the subject property record card. The removal of the sewer utility information does not affect the assessed value established for the subject property.

Conclusion

15. The parties agreed that the information used to value the subject dwelling was correct and that the notation of sewer utility should be removed from the information section of the subject property record card. This agreement has no affect on the valuation of the subject 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.