

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-028-02-1-5-01060
Petitioners: Cornelius & Ann Nnadi
Respondent: Department of Local Government Finance
Parcel #: 008081504130035
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 Department of Local Government Finance (DLGF) determined that the Petitioners' property tax assessment for the subject property was \$124,600 and notified the Petitioners on March 31, 2004.
2. The Petitioners filed a Form 139L on April 21, 2004.
3. The Board issued a notice of hearing to the parties dated November 15, 2004.
4. A hearing was held on December 15, 2004 in Crown Point, Indiana before Special Master Barbara Wiggins.

Facts

5. The subject property is a single family residence located at 749 West 65th Lane in Merrillville, Indiana.
6. The Special Master did not conduct an on-site visit of the property
7. Assessed Value of subject property as determined by the DLGF:
Land \$21,700 Improvements \$102,900 Total \$124,600
8. Assessed Value requested by Petitioners on Form 139L petition:
Land \$18,700 Improvements \$97,300 Total \$116,000
9. The persons indicated on the sign-in sheet (Board Exhibit C) were present at the hearing.
10. Persons sworn in at hearing:

For Petitioners: Cornelius Nnadi, Homeowner

For Respondent: Phillip Raskosky, DLGF

Issues

11. Summary of Petitioners' contentions in support of an alleged error in the assessment:
 - a) A previous appraisal values the subject property at \$116,000. The appraisal was done three or four years ago. *Nnadi testimony.*
 - b) The subject home is frame with brick on the front. The air conditioning was replaced three years ago. The furnace needs to be replaced and the electrical needs to be rewired. There are trees in the back which are uprooting the building. The roots are causing flood problems. *Nnadi testimony.*
 - c) The Petitioners purchased the subject property in 1996 for \$125,000. The Petitioner stated the subject property can not be increasing in value. *Nnadi testimony.*

12. Summary of Respondent's contentions in support of the assessment:
 - a) The Respondent presented the Top 20 Comparables and Statistics. The Respondent chose the three properties most comparable to the subject property and presented property record cards and photos. *Raskosky testimony; Resp't Exs. 4, 5.*
 - b) The average sale price per square foot of the three comparables is \$60.24. The subject property has a per square foot value of \$42.41. *Raskosky testimony.*
 - c) The Respondent noted the subject property is currently valued at \$124,600 and the Petitioner paid \$125,000 for the subject property in 1996. *Raskosky testimony.*
 - d) The Petitioners claim some physical deterioration. The alleged physical deterioration is probably attributable to normal wear and tear for a building that was built in 1975. *Raskosky testimony.*
 - e) The Petitioners did not provide any evidence to support their allegations. *Raskosky testimony.*

Record

13. The official record for this matter is made up of the following:
 - a) The Petition
 - b) The tape recording of the hearing labeled Lake County #1010

c) Exhibits:

Petitioner: No exhibits provided

Respondent Exhibit 1: Form 139L Petition

Respondent Exhibit 2: Subject Property Record Card (PRC)

Respondent Exhibit 3: Subject Photograph

Respondent Exhibit 4: Comparable Sales Summary

Respondent Exhibit 5: Comparable Sales PRCs and Photographs

Respondent Exhibit 6: Height Design Sheet

Board Exhibit A: Form 139L

Board Exhibit B: Notice of Hearing

Board Exhibit C: Sign in Sheet

d) These Findings and Conclusions

Analysis

14. The most applicable laws are:

- a) A Petitioner seeking review of a determination of an assessing official has the burden to establish a prima facie case proving that the current assessment is incorrect, and specifically what the correct assessment would be. *See Meridian Towers East & West v. Washington Township Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also, Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998).
- b) In making its case, the taxpayer must explain how each piece of evidence is relevant to the requested assessment. *See Indianapolis Racquet Club, Inc. v. Washington Township Assessor*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004) (“[I]t is the taxpayer's duty to walk the Indiana Board . . . through every element of the analysis”).
- c) Once the Petitioner establishes a prima facie case, the burden shifts to the assessing official to rebut the Petitioner's evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). The assessing official must offer evidence that impeaches or rebuts the Petitioner's evidence. *Id; Meridian Towers*, 805 N.E.2d at 479.

15. The Petitioners did not provide sufficient evidence to support their contentions. This conclusion was arrived at because:

- a) The Petitioners contend the subject property is not worth what it is assessed at. The Petitioners stated the subject property needs repairs including a new furnace and electrical rewiring. The Petitioners also stated there are problems with tree roots and flooding. *Nnadi testimony*.

- b) The only evidence presented by the Petitioners was testimony that the subject property was not worth what it is assessed at and that repairs were needed. *Nnadi testimony*. However, the Petitioners neither explained how the subject property was affected by the needed repairs nor attempted to quantify the effect of the needed repairs on its market value-in-use. Thus, the Petitioners' assertions amount to little more than conclusory statements. Such statements, unsupported by factual evidence, are not sufficient to establish an error in assessment. *Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1120 (Ind. Tax Ct. 1998).
- c) The Petitioners stated an appraisal done three or four years ago valued the property at \$116,000. *Nnadi testimony*. The Petitioners did not provide a copy of the appraisal, nor did the Petitioners provide any details about who appraised the subject property or what the appraisal valuation date was. The Petitioners unsubstantiated statements do not constitute probative evidence. *Whitley Products*, 704 N.E.2d at 1119.
- d) The Petitioners stated the subject property was purchased in 1996 for \$125,000. The 2002 Real Property Assessment Manual (hereinafter "Manual") provides that for the 2002 general reassessment, a property's assessment must reflect its value as of January 1, 1999. 2002 REAL PROPERTY ASSESSMENT MANUAL at 4 (incorporated by reference at 50 IAC 2.3-1-2). The Petitioners did not explain how the purchase price was relevant to the valuation date of January 1, 1999. Furthermore, the Petitioners did not explain how the purchase price was relevant to the requested value of \$116,000.
- e) The Petitioners have failed to meet their burden of proving the current assessment is incorrect.

Conclusion

16. The Petitioners did not make a prima facie case. The Board finds in favor of the Respondent.

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. You must name in the petition and in the petition's caption the persons who were parties to any proceeding that led to the agency action under Indiana Tax Court Rule 4(B)(2), Indiana Trial Rule 10(A), and Indiana Code §§ 4-21.5-5-7(b)(4), 6-1.1-15-5(b). The Tax Court Rules provide a sample petition for judicial review. The Indiana Tax Court Rules are available on the Internet at <<http://www.in.gov/judiciary/rules/tax/index.html>>. The Indiana Trial Rules are available on the Internet at <http://www.in.gov/judiciary/rules/trial_proc/index.html>. The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>.