

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition: 45-032-02-1-5-00392
Petitioner: Crystal Cooper-Sklivas
Respondent: Department of Local Government Finance
Parcel: 009-09-11-0171-0001
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 (the DLGF) determined that the assessment for the property is \$354,700 and notified the Petitioner on March 26, 2004.
2. The Petitioner filed a Form 139L on April 26, 2004.
3. The Board issued a notice of hearing to the parties dated January 27, 2005.
4. Special Master Barbara Wiggins held the hearing on March 4, 2005.

Facts

5. The subject property is located at 8075 Oakdale Street in Dyer. The location is in St. John Township.
6. The subject property is a single-family residence.
7. The Special Master did not conduct an on-site inspection of the property.
8. Assessed value as determined by the DLGF:
Land \$37,300 Improvements \$317,400.
9. Assessed value requested by Petitioner on the Form 139L:
Land \$27,000 Improvements \$250,000.
10. Persons sworn as witnesses at the hearing:
Crystal Cooper-Sklivas, owner,
Stephen Yohler, assessor/auditor.

Issue

11. The Petitioner contends that both the land and improvements are assessed higher than other homes and lots in the area.
12. The Respondent contends the property is assessed correctly.

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 BTR 1210,
 - c) Petitioner Exhibit 1 – Printouts from the assessor’s online database,
Respondent Exhibit 1 – Form 139L,
Respondent Exhibit 2 – Property record card for subject property,
Respondent Exhibit 3 – Photograph of subject property,
Respondent Exhibit 4 – Summary of comparable properties,
Respondent Exhibit 5 – Property record cards and photographs of comparables,
Respondent Exhibit 6 – Residential land valuation form,
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 Twp. 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 Twp. 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 Petitioner did not make a prima facie case to support her contentions. This conclusion was arrived at because:
- a) The Petitioner attempted to show the subject property is over assessed by comparing it to other homes in the same area. The Petitioner presented several printouts from the assessor's website showing assessed value of the other homes in the area. *Pet'r Ex. 1*.
 - b) The Petitioner must provide a comparison between the subject property and those purported comparable properties. Specific reason must be provided as to why a property is comparable. *Lacy Diversified Indus., Ltd. v. Dep't of Local Gov't Fin.*, 799 N.E.2d 1215, 1221 (Ind. Tax Ct. 2003) Conclusory statements are not probative evidence. *Id.* The Petitioner is further required to explain to the Board the characteristics of their own property, how those characteristics compared to those of the purportedly comparable properties, and how any differences affected the relevant market value-in-use of the properties. *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005).
 - c) The Petitioner failed to provide specific reasons why the subject property is comparable to her purported comparable properties. The Petitioner testified that the square footages of the properties with the subject were comparable. The Petitioner, however, fails to go into detail regarding the characteristics, condition, quality of material, and other details to show they are actually comparable.
 - d) Furthermore, the subject property has a grade of B+2 and the other homes in the area all have a grades between B-1 and C+1. The subject property was built in 1994 and the other homes in the area were constructed between 1895 and 1978. The Petitioner failed to explain how the differences in age and grade affected the market value-in-use of the properties. The Petitioner failed to show the subject is comparable to the other properties in the neighborhood.
 - e) The Petitioner failed to make a prima facie case that the subject property is over assessed. The burden of defending the current assessment never shifted to the Respondent. The Board finds for the Respondent.

Conclusion

16. The Petitioners failed to make a prima facie case. The Board finds in favor of 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>.