

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-016-02-1-5-00017
Petitioner: Curtis L. Watters
Respondent: Department of Local Government Finance
Parcel #: 006-27-18-0229-0004
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 in Lake County, Indiana. The Department of Local Government Finance (DLGF) determined that the Petitioner's property tax assessment for the subject property was \$115,800 and notified the Petitioner on March 26, 2004.
2. The Petitioner filed a Form 139L on April 1, 2004.
3. The Board issued a notice of hearing to the parties dated June 24, 2004.
4. A hearing was held on August 31, 2004, in Crown Point, Indiana, before Special Master S. Sue Mayes.

Facts

5. The subject property is located at 847 Garfield Street, Hobart, in Hobart Township.
6. The subject property is a 50 by 127 foot parcel of land improved with a single-family ranch-style dwelling.
7. The Special Master did not conduct an on-site inspection of the property.
8. Assessed Value of the subject property as determined by the DLGF:
Land: \$19,900 Improvements: \$ 95,900 Total: \$115,800.
9. At the time of the 2002 reassessment, the Petitioner owned two adjoining parcels of land: 006-27-18-0229-0004 and 006-27-18-0229-0005. The Petitioner requested a combined total assessed value of \$115,000 for both parcels. The Petitioner filed a separate appeal for parcel 006-27-18-0229-0005.

10. Persons sworn as witnesses at the hearing:
For Petitioner: Curtis L. Watters, Homeowner,
For Respondent: Sharon S. Elliott, Staff Appraiser, Cole-Layer-Trumble.

Issue

11. Summary of Petitioner's contentions in support of an alleged error in the assessment:
- a. The Petitioner alleged that both the subject land and the house are assessed too high compared to neighboring parcels. *Petitioner Exhibit 2; Watters testimony.*
 - b. The Petitioner compared the net assessed values as shown on the printouts of the Real Property Maintenance screens (2005 pay 2006 for the subject, 2003 pay 2004 for the neighboring parcel at 844 Linda) to his own. *Petitioner Exhibit 2; Watters testimony.* Printouts of the Real Property Maintenance screens were provided for purported comparable parcels at 901 Garfield (showing the 2005 assessed values) and 908 Garfield (showing the 2003 assessed values). *Petitioner Exhibit 4.*
12. Summary of Respondent's contentions in support of the assessment:
- a. The 844 Linda parcel is adjacent to the Petitioner's backyard, but is in another neighborhood. The two parcels are not the same size. The 844 Linda parcel has 100 feet of frontage and has received a negative influence factor of eight percent due to excess frontage. In addition, the square foot living area of the purported comparable house is smaller. The 844 Linda property does not have an attached garage and has fewer exterior features. *Respondent Exhibits 2, 5, 6; Elliott testimony.*
 - b. The 908 Garfield properties are in the same neighborhood as the subject property. The land base rate is the same as that of the subject property. The difference in the total land values is due to the lots at 908 Garfield being smaller. The subject lot has a 50-foot frontage and the 908 Garfield parcels have 40-foot frontages. Due to being vacant, one of the lots at 908 Garfield received a negative influence factor of twenty percent. The 908 Garfield property does not have an attached garage. The Petitioner's home is also newer. *Respondent Exhibits 2, 7, 8; Elliott testimony.*
 - c. The comparable sales printout shows that the subject's value is in the same range as comparable properties in the neighborhood. *Respondent Exhibit 4; Elliott testimony.*

Record

13. The official record for this matter is made up of the following:
- a. The Petition and all subsequent submissions by either party,
 - b. The tape recording of the hearing labeled Lake Co. – 181,
 - c. Exhibits:
 - Petitioner Exhibit 1: Form 139L
 - Petitioner Exhibit 2: Comparison of the subject and the parcel at 844 Linda
 - Petitioner Exhibit 3: Spivey Addition Plat Map
 - Petitioner Exhibit 4: Assessment printouts for 901 and 908 Garfield
 - Petitioner Exhibit 5: Assessment printouts for 847 Garfield
 - Respondent Exhibit 1: Form 139L

- Respondent Exhibit 2: Property record card (PRC) for the subject property
 - Respondent Exhibit 3: Photograph of subject property
 - Respondent Exhibit 4: Comparables worksheet with PRCs and photographs for 823 Linda (parcel # 006-27-17-0032-0022) and 904 Water (parcel #006-27-17-0030-0019)
 - Respondent Exhibit 5: PRC for 844 Linda Street
 - Respondent Exhibit 6: Plat and aerial maps
 - Respondent Exhibit 7: PRCs for parcels at 908 Garfield
 - Respondent Exhibit 8: Plat and aerial maps
 - 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 prove that his land or house values are erroneous. This conclusion was arrived at because:
- a. The Petitioner compared the net assessed values of the subject property and the neighbor’s property at 844 Linda Street. The Petitioner failed, however, to establish these properties are comparable. Mere allegations that properties are comparable do not constitute probative evidence. *See Long v. Wayne Twp. Assessor*, No. 49T10-0404-TA-20, slip op. at 7(Ind. Tax Ct. January 28, 2005); *Blackbird Farms Apt., LP v. Dep’t of Local Gov’t Fin.*, 765 N.E.2d 711, 714-715 (Ind. Tax Ct. 2002); *Whitley Prods., Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998). The parcel at 844 Linda is located in another neighborhood and has a land base rate different from that of the subject property. Further, the parcel on Linda has 100 feet of frontage and has received a negative influence factor of eight percent due to excess frontage. Additionally, the house on Linda has less living area, fewer exterior features and no attached garage. *Respondent Exhibits 5, 6; Elliott testimony*. Without

some explanation or additional evidence, such differences deprive this comparable of any probative value regarding the subject property. *Id.*

- b. The Petitioner also compared the subject property to property located at 908 Garfield. But again, the Petitioner failed to establish these properties are comparable. The subject property and the property at 908 Garfield are both in the same neighborhood and the land base rate is the same for both properties. Consequently, some degree of comparability would be presumed based on proximity. *See Blackbird*, 765 N.E.2d at 711. The evidence in this case, however, indicates significant differences between these parcels and the subject property even though they are located not far apart. The difference in the total land values is due to the fact the lots at 908 Garfield are smaller. The subject lot has a 50-foot frontage, but the 908 Garfield parcels have 40-foot frontages. Due to being vacant, one of the lots at 908 Garfield received a negative influence factor of ten percent. Additionally, the house at 908 Garfield does not have an attached garage and the Petitioner's house is newer. *Respondent Exhibits 7, 8; Elliott testimony*. Therefore, the value of the property at 908 Garfield does not help to establish the market value of the subject property. *Long*, slip op. 7-8.
- c. The Petitioner also presented printouts showing the net assessed value of property located at 901 Garfield. *Petitioner's Exhibit 4*. These printouts refer to the assessed values for 2005. The Petitioner failed to explain the relevance of this data to the 2002 assessment. Accordingly, these documents also have no probative value. *Indianapolis Racquet Club*, 802 N.E.2d at 1022.

Conclusion

- 16. The Petitioner failed to satisfy his burden of proof regarding the alleged error in valuing his property. 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.