

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-044-02-1-5-00008
Petitioners: David W. & Nancy J. Fargo
Respondent: Department of Local Government Finance
Parcel #: 011445400440012
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 not held. The Petitioners received an Administrative Correction Notice dated March 31, 2004. This notice from the Department of Local Government Finance (DLGF) determined that the Petitioners' property tax assessment for the subject property was \$293,800.
2. The Petitioners filed a Form 139L on April 8, 2004.
3. The Board issued a notice of hearing to the parties dated June 29, 2004.
4. A hearing was held on September 10, 2004, in Crown Point, Indiana before Special Master Kathy J. Clark.

Facts

5. The subject property is located at: 5755 E. 105th Place, Crown Point, Indiana (Winfield Township, Lake County).
6. The subject property is a two story brick and frame single family dwelling that sits on 1.476 acres.
7. The Special Master did not conduct an on-site inspection of the property.
8. Assessed Value of subject property as determined by the DLGF:
Land: \$55,700 Improvements: \$238,100 Total: \$293,800.
9. Assessed Value requested by Petitioners:
Land: \$55,700 Improvements: \$201,900 Total: \$257,600.
10. Persons present at the hearing and sworn in:
For Petitioners: Nancy J. Fargo, Owner
For Respondent: Sharon Elliott, Staff Appraiser, Cole-Layer-Trumble

Issues

11. The Petitioners contend that a garage addition that was built in 1997 was incorrectly assessed as living area.
12. The Respondent agrees that there has been an error in the assessment of the subject property. The Respondent agreed that the addition added in 1997, 22 feet by 24 feet (a 528 square foot section labeled as section F on the Property Record Card for the subject property) should not be assessed as living area.

Record

13. The official record for this matter is made up of the following:
 - a) The Petition and all subsequent pre-hearing submissions by either party.
 - b) The tape recording of the hearing labeled Lake Co. Tape #375.
 - c) Exhibits:
 - Petitioners Exhibit 1: Form 139L.
 - Petitioners Exhibit 2: Summary of Petitioners' arguments.
 - Petitioners Exhibit 3: Written outline of evidence.
 - Petitioners Exhibit 4: Notice of Final Determination.
 - Petitioners Exhibit 5: Notice of Assessment – Form 11.
 - Petitioners Exhibit 6: Subject property record card.
 - Petitioners Exhibit 7: Building Permit for garage addition.
 - Petitioners Exhibit 8: Certificate of Occupancy – residential garage.
 - Petitioners Exhibit 9: Photograph of garage interior.
 - Petitioners Exhibit 10: Photograph of garage interior.
 - Petitioners Exhibit 11: Photograph of garage interior.
 - Petitioners Exhibit 12: Photograph of garage from rear of house.
 - Petitioners Exhibit 13: Assessor's office letter.

 - Respondent Exhibit 1: Form 139L.
 - Respondent Exhibit 2: Subject property record card.
 - Respondent Exhibit 3: Photograph of subject property.
 - Respondent Exhibit 4: Comparable sales analysis, with property record card and photograph.
 - d) These Findings and Conclusions.

Analysis

14. 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. *See generally, Heart City Chrysler v. State Bd. of Tax Comm'rs*, 714 N.E.2d 329, 333 (Ind. Tax Ct. 1999).
 - b) The Board will not change the determination of the DLGF unless the Petitioner has established a prima facie case and, by a preponderance of the evidence, proven both

the alleged errors in the assessment and specifically what assessment is correct. *See Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998); *North Park Cinemas, Inc. v. State Bd. of Tax Comm'rs*, 689 N.E.2d 765 (Ind. Tax Ct. 1997).

15. The Petitioners provided sufficient evidence to support the Petitioners' contention that the assessment is incorrect. The Petitioners provided photographs and a building permit showing the addition was indeed being used as a garage and was not living space. The Respondent agreed that the 22 by 24 foot section was incorrectly assessed as living area and should be changed to garage space. Based on this agreement at the hearing, there is a change in the assessment of the subject property.

Conclusion

16. The Petitioners provided sufficient evidence to support the Petitioners' contentions that the assessment was incorrect. The Petitioners provided evidence indicating a 22 by 24 foot section (identified on the Property Record Card as section F of the subject property, measuring 528 square feet) was incorrectly assessed as living space. The Respondent agreed that this section should have been assessed as garage space.

Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that there should be a change in the assessment.

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.