

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-032-02-1-5-00021
Petitioners: David & Dorothy Sewnig
Respondent: Department of Local Government Finance
Parcel #: 009-22-12-0005-0070
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 September 9, 2004, in Lake County, Indiana. The Department of Local Government Finance (DLGF) determined that the Petitioners' property tax assessment for the subject property was \$137,300 and notified the Petitioners on March 26, 2004.
2. The Petitioners filed a Form 139L on March 31, 2004.
3. The Board issued a notice of hearing to the parties dated July 7, 2004.
4. Special Master Michael R. Schultz held the hearing in Crown Point on September 9, 2004.

Facts

5. The subject property is located at 8560 Mattson Drive, St. John, in St. John Township.
6. The subject property is a single family dwelling on a lot that is 100 feet x 190 feet.
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: \$21,600 Improvements: \$115,700 Total: \$137,300.
9. Assessed Value requested by the Petitioners:
Land: \$18,600 Improvements: \$115,700 Total: \$134,300.

10. The following persons were present and sworn as witnesses at the hearing:
- a) For Petitioners — David Sewnig, owner;
 - b) For Respondent — Larry Vales, appraiser, Cole-Layer-Trumble.

Issue

11. Summary of Petitioners' contentions in support of alleged error in assessment:
- a) The land value was lowered from \$23,900 to \$21,600 at the informal hearing, but the correct land value should be \$18,800. *Sewnig testimony*. Petitioners presented a plat map from the Assessors office showing their lot is exactly the same size as the neighboring lot. The neighboring land is assessed for \$18,800. *Petitioners Exhibit 1; Sewnig testimony*.
 - b) Previously there was a dirt street in the neighborhood. When the street was paved, ten feet were removed from the front of the lots. *Sewnig testimony*. Petitioners have only a 100 feet x 190 feet lot. *Petitioners Exhibit 1; Sewnig testimony*. The Petitioners agreed that the lot size was corrected at the informal hearing, but still dispute the land value. *Sewnig testimony*.
12. Summary of Respondent's contentions in support of assessment:
- a) The lot size was previously corrected by the DLGF to reflect an area of 100 feet x 190 feet, which is .436 acre. *Vales testimony; Respondent Exhibit 2*.
 - b) The neighboring property appears to be assessed incorrectly. At the time the dirt road was paved and ten feet was removed from each parcel, apparently too much was removed for the road frontage on the neighboring property. *Vales 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-418
 - c) Exhibits:
 - Petitioner Exhibit 1: Plat map
 - Petitioner Exhibit 2: Property record card (PRC) of the neighboring property
 - Respondent Exhibit 1: 139L Petition
 - Respondent Exhibit 2: PRC of the subject property
 - Respondent Exhibit 3: Photograph of the subject property
 - Respondent Exhibit 4: Comparables Result Sheet
 - Respondent Exhibit 5: Comparable PRC and photograph
 - Respondent Exhibit 6: This exhibit was not presented
 - Respondent Exhibit 7: Comparable PRC and photograph
 - Respondent Exhibit 8: This exhibit was not presented
 - Respondent Exhibit 9: Comparable PRC and photograph
 - Respondent Exhibit 10: Original property record card
 - Respondent Exhibit 11: Tax map;
 - d) These Findings and Conclusions.

Analysis

14. The most applicable governing cases:
 - 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 Petitioners did not provide sufficient evidence to support their contention that the land assessment should be lower than \$21,600. This conclusion was arrived at because:
 - a) Petitioners asserted their current land value exceeds the value placed on the neighboring parcel of identical size. *Sewnig testimony*.
 - b) Respondent determined the neighboring parcel may have been incorrectly assessed. The PRC of the neighboring property indicated total acreage of only .430 acre. This measurement may not be accurate. *Vales testimony; Petitioners Exhibit 2*.
 - c) A possible error in the land measurement of a neighboring parcel is insufficient reason to reduce the Petitioners’ assessment.
 - d) It is impossible to reach any conclusion about the correct value of Petitioners’ land based upon a difference in value between the subject property and one neighboring parcel.
 - e) The Petitioners’ lot size was corrected to be an area of 100 feet x 190 feet, or .436 acre. Petitioners testified this adjustment resulted in the correct lot size. *Sewnig testimony*.
 - f) Petitioners did not contend that the adjusted base rate of \$49,600 per acre was incorrect. *Id.*
 - g) The agreed lot size (.436 acres) multiplied by the uncontested adjusted base rate (\$49,600 per acre) results in a land value of \$21,630, rounded to \$21,600. This is the current assessed land value.

Conclusion

16. The Petitioners failed to establish 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.