

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-001-02-1-5-00061A
Petitioners: Delmas & Marian June Maddox
Respondent: Department of Local Government Finance
Parcel #: 001-4149-0221-0040
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. An informal hearing as described in Ind. Code § 6-1.1-4-33 was held between the Petitioners and the Respondent. The Department of Local Government Finance (DLGF) determined that the Petitioners' property tax assessment for the subject property was \$2,800 and notified the Petitioners on March 31, 2004.
2. The Petitioners filed a Form 139L on April 7, 2004.
3. The Board issued a notice of hearing to the parties on September 14, 2004.
4. A hearing was held on October 14, 2004 in Crown Point, Indiana before Special Master Peter Salvesson.

Facts

5. The subject property is located at 7056 W. 25th Avenue, Gary, in Calumet Township.
6. The subject property is 6,500 square feet of vacant land adjacent to owners' residence.
7. The Special Master did not conduct an on-site visit of the property.

8. Assessed Value of the subject property as determined by the DLGF:
Land \$2,800 Improvements \$0 Total \$2,800

Assessed Value requested by the Petitioner during hearing:
Land \$800 Improvements \$0 Total \$ 800

9. The persons indicated on the sign-in sheet (Board Exhibit C) were present at the hearing.
10. Persons sworn in at hearing:

For Petitioner: Delmas Maddox, Owner
For Respondent: Larry Vales, Representing the DLGF

Issue

11. Summary of Petitioners' contentions in support of alleged error in assessment:
- a. On their Form 139L, the Petitioners contend that the subject property has limited marketability due to the fact that it is landlocked. *Board Exhibit A; Maddox Testimony*
 - b. The Petitioners further contend that the value of the subject property should be changed to reflect value determined by an appraisal of that property. *Maddox Testimony; Petitioner Exhibit A.*
12. The Respondent did not provide any testimony or evidence in support of the assessment.

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. #526.
 - c. Exhibits:

Petitioners Exhibit A: Appraisal of Property

Board Exhibit A: Form 139 L Petition

Board Exhibit B: Notice of Hearing

Board Exhibit C: Sign in Sheet

- d. These Findings and Conclusions.

Analysis

14. The most applicable governing cases 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*

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Findings & Conclusions

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v. Washington Twp. Assessor, 805 N.E.2d at 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. Wash. 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 provided sufficient evidence to support the Petitioners' contention for a reduction in assessed value. This conclusion was arrived at because:
- a. The Petitioners rely on an independent appraisal of the subject property to support their claim for a reduction in its assessment. *Petitioners Exhibit A*.
 - b. The 2002 REAL PROPERTY ASSESSMENT MANUAL ("Manual") defines the "true tax value" of real estate as "the market value-in-use of a property for its current use, as reflected by the utility received by the owner or a similar user, from the property." 2002 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.3-1-2). A taxpayer may be permitted to use evidence consistent with the Manual's definition of true tax value, such as appraisals that are relevant to a property's market value-in-use, to establish the actual true tax value of a property. MANUAL at 5.
 - c. The Manual further provides that for the 2002 general reassessment, a property's assessment must reflect its value as of January 1, 1999. MANUAL at 4. Consequently, in order to present evidence probative of a property's true tax value, a party relying on an appraisal should explain how the value estimated by an appraisal relates the property's value as of January 1, 1999. *See Long v. Wayne Twp. Assessor*, Cause No. 49T10-0404-TA-20 at 8-9 (Ind. Tax Ct. corrected original opinion dated January 28, 2005) (holding that an appraisal indicating value for December 10, 2003 lacked probative value).
 - d. Here, the Petitioners presented an independent appraisal of the subject property estimating its market value to be between \$800 and \$900 as of December 31, 1999. The appraisal did not specifically explain how the final estimate of value as of December 1, 1999, related to the market value of the subject property on January 1, 1999. However, the appraisal relied, in part, upon sales of comparable properties occurring between August 28, 1998, and October 21, 1999. The appraisal applied an upward adjustment of \$50 to the October 28, 1998, sale to account for elapse of time between the date of that sale and December 31, 1999.

- e. The Board determines that the Petitioners have presented at least some evidence to demonstrate that the estimated value of the subject property set forth in the appraisal closely relates to the market value-in-use of the subject property as of January 1, 1999. The Board reaches this conclusion based upon the close proximity in time between the dates of the comparable sales relied upon in the appraisal and the relevant valuation date under the Manual, as well as upon the appraisal's recognition that only minimal changes in value occurred during the period between August 28, 1998, and December 31, 1999.
- f. Thus, the Petitioners presented a prima facie case in support of their claim that the assessment of the subject property is excessive and should be reduced to \$800. The burden therefore shifted to the Respondent to rebut or impeach the appraisal submitted by the Petitioners.
- g. The Respondents offered no evidence to rebut or impeach the appraisal submitted by the Petitioners.

Conclusion

- 16. The Petitioners made a prima facie case for a reduction in the assessed value of the property. The Respondent did not rebut the Petitioners' evidence. The Board finds in favor of the Petitioners.

Final Determination

In accordance with the above findings and conclusions, the Indiana Board of Tax Review now determines that the assessment should be changed to \$800.

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.