

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-002-02-1-5-00162
Petitioner: Dolores J. Callahan
Respondent: Department of Local Government Finance
Parcel #: 002-17-04-0009-0022
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 in Lake County, Indiana. The Department of Local Government Finance (DLGF) determined that the Petitioner's property tax assessment for the subject property was \$42,500, and notified the Petitioner on March 19, 2004.
2. The Petitioner filed a Form 139L on April 13, 2004.
3. The Board issued a notice of hearing to the parties on October 7, 2004.
4. A hearing was held on November 10, 2004 in Crown Point, Indiana before Special Master Peter Salvesson.

Facts

5. The subject property is located at 6205 West 177th Avenue, Lowell, Cedar Creek Township, Lake County.
6. The subject property is a garage and mobile home on 1.886 acres of land.
7. The Special Master did not conduct an on-site visit of the property.
 - a) Assessed Value of the subject property as determined by the DLGF:
Land \$39,400 Improvements \$3,100 Total \$42,500
 - b) Assessed Value requested verbally by the Petitioner during hearing:
Total \$25,000 (or less)

8. The persons indicated on the sign-in sheet (Board Exhibit C) were present at the hearing.
9. Persons sworn in at hearing:
 - For Petitioner: Dolores J. Callahan, Owner
 - For Respondent: John Toumey, DLGF

Issue

10. Summary of Petitioner's contentions in support of alleged error in assessment:
 - a) The assessment of the subject improvements increased from \$2,400 to \$7,400 from 2000 to 2001. *Callahan testimony*. Realtors have told the Petitioner that the assessment is too high. *Id.*
 - b) The subject garage has a gravel floor. *Id.*
 - c) The mobile home on the property is not livable, as there is no water or electricity. *Id.* No improvements have been made to the property since 1945. *Id.*
 - d) The Petitioner purchased the property from her sister on 11/30/98, but doesn't remember the purchase price. *Id.* No appraisal was done on the property, because it would be too expensive. *Id.*
11. Summary of Respondent's contentions in support of assessment:
 - a) A negative influence factor of 26% has been applied to the assessment to account for excess frontage. *Toumey testimony; Resp't Ex. 2*. The base rate used for the land assessment of \$265 per front foot accurately represents the market value of the subject's neighborhood. *Id.*
 - b) The garage and mobile home have both been assessed as "D" grade, and in "poor" condition. *Toumey testimony*. The mobile home assessment has been reduced by 95%, and its assessed value is only \$500.
 - c) In the absence of any market date provided by the Petitioner, the current assessment should be considered correct. *Toumey argument*.

Record

12. 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. 683.

c) Exhibits:

Petitioner's Exhibit 1:	Notice of Assessment dated October 17, 2003
Petitioner's Exhibit 2:	Notice of Final Assessment dated March 19, 2004
Petitioner's Exhibit 3:	Form 139L Petition
Petitioner's Exhibit 4:	Photographs of Subject Property
Respondent's Exhibit 1:	Form 139L Petition
Respondent's Exhibit 2:	Subject Property Record Card
Respondent's Exhibit 3:	Subject Property Photograph
Board Exhibit A:	Form 139L Petition
Board Exhibit B:	Notice of Hearing
Board Exhibit C:	Hearing Sign-In Sheet

d) These Findings and Conclusions.

Analysis

13. 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, by preponderance of the evidence, 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 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.

14. The Petitioner did not provide sufficient testimony to support the Petitioner's contentions. This conclusion was arrived at because:

- a) The Petitioner contends that the assessment is too high, and was improperly increased between 2000 and 2001.

- 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). The Manual further provides that for the 2002 general reassessment, a property’s assessment must reflect its market value-in-use as of January 1, 1999. MANUAL at 4. The Petitioner did not prove that the condition of the garage and the mobile home should be less than “Poor”.
- c) The record is devoid of any evidence from the Petitioner showing that the current assessed market value-in-use of the property is incorrect, or any evidence showing the correct market value of the subject property.
- d) The three-fold increase in the assessment from 2000 to 2001 may be explained by the change in calculating assessed value. In 2000 and prior, the assessed value was one-third of true tax value. In 2001 and subsequent, however, the assessed value is calculated to be 100% of market value.
- e) Regardless of the reason for this increase, however, the 2001 assessment is irrelevant to this case, as the Petitioner has appealed the 2002 assessment.
- f) For the reasons set forth, the Petitioner has failed to make a prima facie case of error in the assessment. Therefore, there is no change.

Conclusion

- 17. The Petitioner did not establish a prima facie case. 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. 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 Trail 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>.