

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-028-02-1-5-00022
Petitioners: Draga Tonevich
Respondent: Department of Local Government Finance
Parcel #: 00832301310020
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 at Lake County, Indiana. The Department of Local Government Finance (DLGF) determined that the Petitioners' property tax assessment for the subject property was \$130,100 and notified the Petitioner on March 31, 2004.
2. The Petitioner filed a Form 139L on April 7, 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: 9735 Grant Place, Crown Point in Ross Township.
6. The subject property is one half of a two story, row-type duplex.
7. The Special Master did not conduct an on-site visit of the property
8. Assessed Value of subject property as determined by the DLGF:

Land: \$24,500 Improvements: \$105,600 Total: \$130,100.
9. Assessed Value requested by Petitioner: \$100,000 - \$110,000.
10. The persons indicated on the attached sign-in sheet (*Board Exhibit C*) were present at the hearing.

11. Persons sworn in at hearing:
- For Petitioner: Draga Tonevich, Owner
Debra McCune, Owner's daughter
- For Respondent: Sharon Elliott, Staff Appraiser, CLT

Issues

12. Summary of Petitioner's contentions in support of alleged error in assessment:
- a) Petitioner contends that there is an error on the assessment concerning the division of three integral garages and the second story living area square footage.
13. Summary of Respondent's contentions in support of a correction to the assessment:
- a) Ms. Elliott agrees that there has been an error in the data recorded during the assessment of the subject property.

Record

14. 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 #398.
- c) Exhibits:
- Petitioner Exhibit 1: Form 11,
Petitioner Exhibit 2: Notice of Final Assessment,
Petitioner Exhibit 3: Provisional Tax Installments – 02/03,
Petitioner Exhibit 4: Provisional Tax Installments,
Petitioner Exhibit 5: Reconciliation Tax Bill,
Petitioner Exhibit 6: Signed Purchase Agreement for \$110,900 dated August 26, 2004.
- 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 cards and photographs.
Respondent Exhibit 5: Adjoining unit's property record card.
- d) These Findings and Conclusions.

Analysis

15. The most applicable governing cases:
- 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).

16. The Petitioner provided sufficient evidence to support the Petitioner's contention that the assessment is incorrect. The evidence collectively shows that the assessed value should be \$107,500. This conclusion was arrived at because:

- a) The Petitioner and Respondent agreed that the subject property was being assessed for a 5 feet by 10 feet section of living area at the rear of integral garage (section F of existing property record card) that is actually garage space. It was also agreed that the subject property contained only a 10 feet by 20 feet section of living area above integral garage (section C of existing property record card). The Respondent contended that if these items were corrected the assessed value would be \$107,500. *Petitioner and Respondent testimony.*
- b) The Petitioner supplied a signed Purchase Agreement dated August 29th, 2004 for \$110,900. *Petitioner Exhibit 6.*

Conclusion

17. The Petitioner provided sufficient evidence to support the Petitioner's contentions that the assessment should be lower than \$130,100. The Respondent furnished testimony that the assessment should be \$107,500 when assessed using the correct property information. The Petitioner supplied a signed Purchase Agreement showing a 2004 Market Value of \$110,900. The Board finds that the total assessment value of the subject property should be \$107,500.

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 \$107,500.

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.