

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-001-02-1-5-01061
Petitioner: Ethel J. Williams
Respondent: Department of Local Government Finance
Parcel #: 001-25-47-0026-0051
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 February 17, 2004. The Department of Local Government Finance (the "DLGF") determined that the assessment for the subject property was \$30,700 and notified the Petitioner on April 1, 2004.
2. The Petitioner filed a Form 139L on April 21, 2004.
3. The Board issued a notice of hearing to the parties dated September 24, 2004.
4. A hearing was scheduled for November 3, 2004. At the request of the Petitioner, the hearing was continued to November 9, 2004.
5. Special Master S. Sue Mayes held the hearing in Crown Point, Indiana, on November 9, 2004.

Facts

6. The subject property is a two-family dwelling located at 509 E. 36th Avenue, Gary, in Calumet Township.
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 \$2,900 Improvements \$27,800 Total \$30,700.
9. Assessed value requested by Petitioner:
Land \$2,900 Improvements \$13,900 Total \$16,800.

10. Persons sworn as witnesses at the hearing:
For Petitioner — Ethel J. Williams, Owner,
For Respondent — Terry Knee, Assessor/Auditor, DLGF.

Issue

11. Summary of Petitioner's contentions in support of an alleged error in the assessment:
 - a. The Petitioner paid \$15,300 for the house in 1992. The Petitioner testified that she was overcharged for the house because electrical and drywall work were required to make the house livable. *Petitioner Exhibits 1– 3; Williams testimony.*
 - b. The home was in livable condition on the assessment date, but the house is still in the process of being rehabilitated. The work has not been completed. The upstairs is not in livable condition. *Petitioner Exhibit 4; Williams testimony.*
12. Summary of Respondent's contentions in support of the assessment:
 - a. Although the Petitioner purchased the house in 1992 for \$15,300, that purchase price is not relevant to the 2002 reassessment. *Knee testimony.*
 - b. The property value of \$30,700 is based on the house being in fair condition relative to its neighborhood. The \$30,700 assessment is a correct value. *Knee 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 Co. 553,
 - c. Exhibits:
 - Petitioner Exhibit 1: Note for home loan dated June 23, 1992,
 - Petitioner Exhibit 2: Proposal for electrical work dated October 23, 1996,
 - Petitioner Exhibit 3: Copy of check dated October 25, 1996, for electrical repairs,
 - Petitioner Exhibit 4: Copies of photographs of the house,
 - Respondent Exhibit 1: Form 139L,
 - Respondent Exhibit 2: Subject property record card,
 - Respondent Exhibit 3: Photograph of the subject property,
 - Respondent Exhibit 4: Comparable sales sheet,
 - Respondent Exhibit 5: Property record cards and photographs,
 - Board Exhibit A: Form 139 L,
 - Board Exhibit B: Notice of Hearing,
 - Board Exhibit C: Sign-in sheet,

d. These Findings and Conclusions.

Analysis

14. The most applicable 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 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 Petitioner did not provide sufficient evidence to support her contentions. This conclusion was arrived at because:
- a. Indiana’s assessment regulations provide that, for the 2002 general reassessment, a property’s assessment must reflect its value as of January 1, 1999. 2002 REAL PROPERTY ASSESSMENT MANUAL at 4.
 - b. The Petitioner failed to explain how a purchase price of \$15,300 in 1992 demonstrates the subject property’s value as of January 1, 1999. *Indianapolis Racquet Club*, 802 N.E.2d at 1022. *See also Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005)(holding that Petitioner must provide some explanation that demonstrates how the evidence is indicative of the value of the property as of January 1, 1999). Without such explanation, evidence concerning the 1992 purchase price has no probative value. *Id.*
 - c. The Petitioner further contended that the assessment does not correctly reflect the deterioration experienced by the home. She testified that, at the time of purchase, the house was just a shell. Electrical and drywall work in 1992 and 1996 were required to make the lower level of the house livable. She further contended that the upstairs is still unlivable. The Petitioner also presented photographs to show that the house is in the process of being rehabilitated. These photographs show a drywall ceiling that

- has not been painted, a wall with plaster missing at an electrical switch, and deterioration of the siding and windows.
- d. Condition is a “rating assigned each structure that reflects its effective age in the market.” REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002-VERSION A, app. B at 5 (incorporated by reference at 50 IAC 2.2-1-2). The subject property has been valued with a condition rating of fair.
 - e. There are two residential condition ratings below fair. They are poor and very poor. *Id.*, ch. 3 at 60.
 - f. Fair condition means “[m]arked deterioration is evident in the structure. It is rather unattractive or undesirable but still quite useful. The condition indicates that there are a substantial number of repairs that are needed. Many items need to be refurbished, overhauled, or improved. There is deferred maintenance that is obvious.” *Id.*
 - g. Poor condition means “[d]efinite deterioration is obvious in the structure. It is definitely undesirable or barely useable. Extensive repair and maintenance are needed on painted surfaces, the roof, and the plumbing and heating systems. There may be some functional inadequacies or substandard utilities. There is extensive deferred maintenance.” *Id.*
 - h. Very poor condition is defined as follows: “Conditions in the structure render it unusable. It is extremely unfit for human habitation or use. There is extremely limited value in use and it is approaching abandonment. The structure needs major reconstruction to have any effective economic value.” *Id.*
 - i. The Petitioner testified the home was in livable condition on the assessment date. The dwelling therefore is not “extremely unfit for human habitation,” as required for a condition rating of very poor.
 - j. The Petitioner’s evidence also does not establish the condition rating should be changed to poor. Although the Petitioner presented evidence of repairs made to the home, no discussion was presented to explain the impact of these repairs on the value of the dwelling. For example, no evidence of comparable properties was presented to establish that similarly situated properties received a different condition rating. Similarly, no market data such as evidence of the sales of comparable properties was presented to establish an error in the overall value.
 - k. Additionally, the Petitioner did not explain how the photographs of the property specifically demonstrate characteristics of a building in poor rather than fair condition. Photographs without explanation are merely conclusory statements and not probative. *Bernacchi v. State Bd. of Tax Comm’rs*, 727 N.E.2d 1133 (Ind. Tax Ct. 2000).

- l. The Petitioner has failed to demonstrate that the deficiencies in the property are not reflected in the current condition rating of fair. The Petitioner's unsubstantiated conclusions do not constitute probative evidence. *Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).
- m. The Petitioner failed to make a prima facie case for her proposed new value of \$16,800. Therefore, Respondent's obligation to support the current assessment with substantial evidence was not triggered. *Lacy Diversified Indus. v. Dep't of Local Gov't Fin.*, 799 N.E.2d 1215, 1222 (Ind. Tax Ct. 2003).

Conclusion

16. The Petitioner failed to make 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.