

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #'s: 45-001-02-1-5-00472; 45-001-02-1-5-00472A
Petitioners: Felix A. & Cecilia A. Maranon
Respondent: Department of Local Government Finance
Parcel #'s: 001-15-26-0152-0039; 001-15-26-0152-0042
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 with regard to parcel no. 001-15-26-0152-0039 ("parcel 0039") on February 10, 2004, in Lake County, Indiana. The Department of Local Government Finance ("DLGF") determined that the Petitioners' property tax assessment for that parcel was \$4,200 and notified the Petitioners on March 31, 2004. The DLGF determined that the Petitioners' assessment for parcel no. 001-15-26-0152-0042 ("parcel 0042") was \$160,800 and notified the Petitioners on April 2, 2004.
2. The Petitioners filed a Form 139L Petition for Review of Department of Local Government Finance Action for Lake County Residents ("Form 139L") for each parcel on April 14, 2004.
3. The Board issued a notice of hearing to the parties dated July 28, 2004.
4. On September 14, 2004, Special Master Barbara Wiggins conducted a consolidated hearing at which the above captioned petitions were heard together with petition no. 45-001-02-1-5-00471 filed by Willie and Luchie Wright. The hearing occurred in Crown Point, Indiana.

Facts

5. Although there are two separate parcels at issue in this case, they relate to one property owned by the Petitioners located at: 124 N. Cline Avenue, Griffith, Calumet Township.
6. The subject property consists of Lots 37 & 38 of Ridgewood Addition in Griffith, Indiana and contains one-half of a duplex home.

7. The Special Master did not conduct an on-site visit of the property.
8. Assessed Values as determined by the DLGF:

Parcel no. 0039	Land \$4,200	Improvements \$0	Total \$4,200
Parcel no. 0042	Land \$8,400	Improvements \$152,400	Total \$165,800
9. Assessed Value requested by Petitioners:

Land \$8,400	Improvements \$75,000	Total \$83,400
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10. The persons indicated on the sign-in sheet (Board Exhibit C) were present at the hearing in addition to two observers from the public.
11. Persons sworn in at hearing:

For Petitioners:	Cecilia Maranon, Owner and Luchie Wright, Daughter
For Respondent:	David Depp, Representing the DLGF

Issues

12. Summary of Petitioners' contentions in support of an alleged error in the assessment:
 - a. The Petitioners live in one-half of a duplex. *Wright testimony*. The duplex sits on four lots – lots 37-40 of Ridgewood Addition in Griffith, Indiana. *Id*; *Petitioner Exhibit 1 (pets. 472, 472A)*. The Petitioners bought the duplex and all four lots in 2000 for \$228,000. *Petitioner Exhibit 4 (pets. 472, 472A)*; *Wright testimony*; *Maranon testimony*.¹ The Petitioners then sold lots 39 and 40 together with one-half of the duplex to their daughter and son-in-law, Willie and Luchie Wright, for \$138,000 in 2002. *Wright testimony*. The Petitioners retained lots 37 and 38 together with the one-half of the duplex situated on those lots. *Id*.
 - b. The Petitioners received two different notices of assessment. One notice was for parcel 0039. *Board Exhibit A (pet.472)*. That notice purported to assess Lots 37 & 38 of Ridgewood Addition and reflected an assessment for land in the amount of \$4,200. *Id*. It did not contain any assessment for improvements. *Id*. The other notice was for parcel 0042. *Board Exhibit A (pet. 472A)*. That notice purported to assess Lot 40 of Ridgewood Addition and reflected an assessment of \$16,800 for land and \$149,000 for structures. *Id*.
 - c. The Petitioners contend that the assessment for parcel 0042 reflects a value for the entire duplex, which already has been assessed to the parcel owned by the Wrights. The Petitioners believe that they should be assessed only for Lots 37 & 38 and for one-half of the duplex. *Board Exhibit A (pet.472)*; *Maranon testimony*; *Wright testimony*.

¹ Cecilia Maranon testified that the Petitioners bought the property for \$218,000 or \$220,000. *Maranon testimony*. Petitioner Exhibit 6 (pet. 471), however, indicates that the Petitioners bought the property for \$228,000.

13. Summary of Respondent's contentions in support of the assessment:
- a. When the County separated the parcels, the split was incorrect. *Depp testimony*. Unfortunately, the County has refused to correct the error. *Id.*
 - b. One-half of the duplex should be assessed on parcel 0039. *Depp testimony*. The value of that structure should reflect the changes proposed by the Respondent to the other half of that structure owned by the Wrights.² The land amount on parcel 0039 also should be corrected, because the property record card lists only half of the land area encompassed by Lots 37 & 38. *Id.* The Petitioners' property, both land and structures, is identical to the property owned by the Wrights. *Id.*
 - c. The assessment for parcel 0042 should be deleted entirely. *Depp testimony*.

Record

14. 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. #432.
 - c. Exhibits:

Petitioner Exhibit 1 (pet. 472, 472A): Survey Plat
Petitioner Exhibit 2 (pet. 472, 472A): Party Wall Agreement
Petitioner Exhibit 3 (pet. 472, 472A): Property record cards
Petitioner Exhibit 4 (pet. 472, 472A): Closing statement from May 2000³

Petitioner Exhibit 1 (pet. 471): Plat of Survey
Petitioner Exhibit 2 (pet. 471): Closing Statement
Petitioner Exhibit 3 (pet. 471): Party Wall Agreement
Petitioner Exhibit 4 (pet. 471): Warranty Deed
Petitioner Exhibit 5 (pet. 471): Property record card
Petitioner Exhibit 6 (pet. 471): Closing statement from May 2000⁴

Board Exhibit A (pet. 472): Form 139 L
Board Exhibit B (pet. 472): Notice of Hearing

² The Board held the hearing on the Wrights' appeal at the same time as the subject appeals. At the hearing, the Respondent's representative, David Depp, testified that he had made some adjustments to the quality grade and measurements of the Wrights' one-half of the duplex and recommend that the total assessment for Wrights' property be lowered to reduced to \$161,900. *Depp testimony*. Depp did not specifically identify his proposed changes or submit a revised property record card.

³ This was additional information requested by the Special Master. The Respondent did not object to the request.

⁴ This is the same as Petitioner Exhibit 4 (pet. 471).

Board Exhibit C (pet. 472): Sign in Sheet

Board Exhibit A (pet. 472A): Form 139 L

Board Exhibit B (pet. 472A): Notice of Hearing

Board Exhibit C (pet. 472A): Sign in Sheet

d. These Findings and Conclusions.

Analysis

15. 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.

16. The Petitioners provided sufficient testimony to support a change in assessment. This conclusion was arrived at because:

- a. It is undisputed that the assessments do not accurately reflect the real property owned by the Petitioners. The assessment for parcel 0039 correctly describes the lots owned by the Petitioners, but completely omits the presence of the one-half of the duplex situated on those lots. That assessment also describes the total land area as being half of the area set forth both in the plat of survey submitted by the Petitioners and the property record card for the parcel owned by the Wrights. *Petitioners Exhibits 1*(pets. 472, 472A), 3 (pets. 472, 472A), 5 (pet. 471). The assessment for parcel 0042 shows the presence of a structure, but describes land owned by the Wrights, not the Petitioners.

- b. The Board's review is hampered somewhat by the parties' failure to submit a property record card for parcel 0042 with the structure reflected on it.⁵ Nonetheless, the Board finds that the assessments should be changed to reflect the existence of one-half of the duplex on the property record for parcel 0039. The information concerning the improvement should match the information existing on the property record card for parcel 001-15-26-0152-0040 owned by the Wrights. The area encompassed by the subject land should also be changed to match the area reflected for the Wrights' parcel. The assessment for parcel 0042 should be eliminated entirely.
- c. The Board still must determine what the correct value of the land and structures should be. The Respondent contends that the Petitioners' property is identical to the property owned by the Wrights, and that its value should match the value assigned to the Wrights' parcel. The Respondent believes that the correct value for each property is \$161,900, which represents a slight reduction from the current valuation of the Wrights' property. *Depp testimony*. The Respondent, however, did not provide the calculations it used to arrive at its proposed value. The Petitioners contend that the values for both properties should be more in line with amount paid by the Petitioners to purchase the entire property in 2000.
 - a. The purchase price of a subject property is generally the best evidence of that property's market value. That general rule is subject to the caveat that, for purposes of the 2002 general reassessment, a property's assessment must reflect its value as of January 1, 1999. 2002 REAL PROPERTY ASSESSMENT MANUAL 2 (incorporated by reference at 50 IAC 2.3-1-2). Here, the Petitioners submitted evidence concerning two sales relating to the subject property. The first of those sales – the Petitioners' purchase of the entire property - occurred reasonably close in time to the relevant valuation date of January 1, 1999. The second sale – the Wrights' purchase of one-half of the duplex property - demonstrates that the property appreciated in value over time. Consequently, the Petitioners presented a prima facie case that the market value-in-use of each half of the property as of January 1, 1999, did not exceed \$114,000 (one-half of the 2000 sale price for the entire property).
 - b. The burden therefore shifted to the Respondent to rebut or impeach the Petitioners' evidence concerning the 2000 sale price of the property. *See Meridian Towers*, 805 N.E.2d at 479. The Respondent's representative, David Depp, attempted to rebut the Petitioners' evidence in essentially two ways: (1) by contending that the Wrights' 2002 purchase of the subject property from the Petitioners was not an arms length transaction; and (2) by asserting that his calculations regarding the value of the duplex, including unspecified changes to measurements and an undisclosed change in quality grade, were correct.

⁵ While the Petitioner submitted a property record card that purports to be for parcel 0042, that card contains only a land valuation. *Petitioner Exhibit 3*. The card, therefore, does not match the value contained in the final notice of assessment, which contains a value for both land and improvements.

- c. With regard to the Respondent's first contention, questioning the validity of 2002 sale of one-half of the duplex property does little to impeach the Petitioners' evidence regarding the amount for which they bought the entire property in 2000. With regard the Respondent's second contention, Depp provided no evidence to support his assertion that his calculations regarding the value of the duplex were correct, or why calculations under the mass appraisal approach used by the Respondent would provide a better indication of market value than the actual sale of the property in question.
- e. Based on the foregoing, the preponderance of the evidences supports finding the current assessment is incorrect, and that it should be changed to reflect a total value of \$114,000.

Conclusion

- 17. The Petitioners made a prima facie case for a change in value. The Respondent agreed the property assessment was in error. 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 property record should be changed to reflect the correct land and improvement data and a total assessed value of \$114,000.

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 Trial 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>.