

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-032-02-1-5-00017
Petitioner: Frank R. Sapyta
Respondent: Department of Local Government Finance
Parcel #: 009-22-12-0027-0011
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 in Lake County, Indiana. The Department of Local Government Finance (DLGF) determined that the Petitioner's property tax assessment for the subject property was \$149,600 and notified the Petitioner on March 26, 2004.
2. The Petitioner filed a Form 139L on April 2, 2004.
3. The Board issued a notice of hearing to the parties dated July 7, 2004.
4. Special Master Michael R. Schultz held the hearing in Crown Point on September 8, 2004.

Facts

5. The subject property is located at 10023 W. 93rd St., St. John, in St. John Township.
6. The subject property is a single family, tri-level home located on a .416-acre lot.
7. The Special Master did not conduct an on-site inspection of the property.
8. Assessed Value of subject property as determined by the DLGF:
Land: \$30,400 Improvements: \$119,200 Total: \$149,600.
9. Assessed Value requested by the Petitioner:¹
Land: Unknown Improvements: Unknown Total: \$140,000.

¹ On the Form 139L, the Petitioner did not indicate proposed individual values for the land and improvements.

10. The following persons were sworn as witnesses at the hearing:
For Petitioner: Frank R. Sapyta, property owner,
For Respondent: Larry Vales, Project Supervisor, Cole-Layer-Trumble.

Issue

11. Summary of Petitioner's contentions in support of alleged error in assessment:
- a) Petitioner introduced a Century 21 Executive Realty (Century 21) Comparative Market Analysis that estimated the total combined value of this parcel and an adjoining parcel to be \$140,000 as of July 24, 2000. *Sapyta testimony; Petitioner Exhibit 1.*²
 - b) Petitioner testified that the home needs a new roof, new furnace, new air conditioner and upgrading of the interior rugs. *Sapyta testimony; Petitioner Exhibit 1.*
 - c) Petitioner also asserted the Century 21 value is based on area sales and comparable properties. *Sapyta testimony; Petitioner Exhibit 1.*
12. Summary of Respondent's contentions in support of assessment:
- a) Respondent presented sales data of properties comparable to the subject property. *Vales testimony; Respondent Exhibit 4.*
 - b) Respondent discussed comparable #1, which is the same neighborhood as the subject property. Respondent testified that both properties are tri-level houses, the subject property was built in 1976, the comparable property was built in 1975, and both properties have 1,826 square feet. Additionally, both homes are of the same quality grade construction and both are in average condition. *Vales testimony; Respondent Exhibit 4.*
 - c) Respondent further observed that the subject property has less land than the comparable property, accounting for a difference in the land value. There was also a difference in the total value of the buildings. This difference resulted because, for the comparable property, the value of the outbuilding was not added into the price. *Vales testimony; Respondent Exhibit 4.*
 - d) Adjusting the sale price of the comparable property (the property sold for \$167,000 on December 21, 2001) to 1999 values resulted in a value of \$147,900. *Vales testimony; Respondent Exhibit 4.*
 - e) Respondent testified that the square foot price is \$56.08 for the comparable property and \$59.36 for the subject property. *Vales testimony; Respondent Exhibit 4.*
 - f) Respondent presented evidence that showed the first two purported comparable properties in the Petitioner's Comparative Market Analysis were from outside of St. John Township. These two properties are located in Hanover Township. *Vales testimony; Respondent Exhibit 6; Petitioner Exhibit 1.*
 - g) The purported deficiencies in the residence were accounted for in the condition rating of average. *Vales testimony.*
 - h) Respondent contended that the assessment is fair and consistent for the neighborhood. *Vales testimony.*

² The assessment of the adjoining parcel is being appealed separately in Petition #45-032-02-1-5-00018.

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 County #410.
 - c) Exhibits:
 - Petitioner Exhibit 1: Comparative Market Analysis by Century 21.
 - Petitioner Exhibit 2: Time adjusted calculation.
 - Respondent Exhibit 1: 139L Petition.
 - Respondent Exhibit 2: Property record card of the Petitioner's property.
 - Respondent Exhibit 3: Photograph of Petitioner's home.
 - Respondent Exhibit 4: Property record cards and photographs of comparable properties.
 - Respondent Exhibit 5: Map and aerial photograph.
 - Respondent Exhibit 6: Two property record cards of the Petitioner's comparable properties.
 - d) These Findings and Conclusions.

Analysis

14. The most applicable governing cases:
- 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 the Petitioner’s contention that the assessment should be lower than \$149,600. This conclusion was arrived at because:
- a) In support of his position, the Petitioner provided a Comparative Market Analysis prepared by Century 21 as of July 24, 2000.
 - b) This Comparative Market Analysis provided only a combined total value for two parcels of land and the improvements constructed on one of the parcels. It did not value the vacant parcel separately from the improved parcel containing the Petitioner’s home. Similarly, the Comparative Market Analysis offered no breakdown of the total value between land and improvements.

- c) Further, the Comparative Market Analysis consisted of a one-page cover letter that indicated a proposed total value of \$140,000 and several attachments of purported comparable properties. This analysis failed, however, to explain the manner in which the characteristics of the Petitioner's property compared to those of the purportedly comparable properties. Unsubstantiated conclusions concerning the comparability of properties do not constitute probative evidence. *Long v. Wayne Twp. Assessor*, No. 49T10-0404-TA-20, slip op. at 6-8 (Ind. Tax Ct. January 28, 2005); *Blackbird Farms Apts., LP v. Dep't of Local Gov't Fin.*, 765 N.E.2d 711 (Ind. Tax Ct. 2002); *Whitley Prods., Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).
- d) The Petitioner failed to present probative evidence to establish a value lower than the current total assessment of \$149,600 for the parcel under appeal. Petitioner failed to establish a prima facie case of error and Respondent's obligation to rebut was not triggered. See *Blackbird*, 765 N.E.2d at 715 (explaining that when a petitioner does not present a prima facie case, the duty to support the assessment with substantial evidence is not triggered).

Conclusion

- 16. The Petitioner failed to establish a prima facie case. The Board finds in favor of 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.