

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition: 45-037-02-1-5-00081
Petitioners: Gary A. and Beverly J. Bult
Respondent: Department of Local Government Finance
Parcel: 010-29-04-0162-0003
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. The Department of Local Government Finance (the DLGF) determined that the tax assessment for the subject property is \$127,800 and notified the Petitioners on March 23, 2004.
2. The Petitioners filed a Form 139L on April 19, 2004.
3. The Board issued a notice of hearing to the parties dated November 9, 2004.
4. Special Master Barbara Wiggins held the hearing in Crown Point on December 9, 2004.

Facts

5. The subject property is located at 277 Arrowhead Drive, Lowell, Indiana.
6. The subject property is a single-family residence.
7. The Special Master did not conduct an on-site inspection of the property.
8. The assessed value of the property as determined by the DLGF is:
land \$23,900 improvements \$103,900 total \$127,800.
9. Petitioners requested a total assessed value of \$117,000.
10. The following persons were sworn as witnesses at the hearing:
For Petitioners - Beverly J. Bult, owner,
For Respondent - Sharon Elliott, assessor/auditor.

Issues

11. Summary of Petitioners' contentions in support of an alleged error in the assessment:
 - a) Petitioners bought the property for \$105,000 in 1993. *Bult testimony.*
 - b) Petitioners insured the dwelling for \$116,800 during the period October 1997 through October 1998. They insured the dwelling for \$124,100 during the period October 1999 through October 2000. *Petitioners Exhibit 3-1.*
 - c) A home market evaluation indicates the value of the home was \$125,000 to \$133,500 as of November 24, 2003. *Petitioners Exhibit 3-2.* Two of the homes (615 Mohawk and 630 Cheyenne) identified as comparable on this evaluation are in the same neighborhood as Petitioners' property. *Bult testimony.*
 - d) House assessments on Arrowhead Drive range from \$78,300 to \$145,900. *Petitioners Exhibit 3-3.*
 - e) Petitioners' wood deck was assessed for a greater amount than the deck of a nearby home. Petitioners' wood deck is attached to the home. *Bult testimony; Petitioners Exhibit 4.*

12. Summary of Respondent's contentions in support of the assessment:
 - a) Most homes in Petitioners' subdivision are ranch style dwellings. *Elliott testimony.*
 - b) The property is valued fairly based on comparable sales in the neighborhood. Petitioners' property is assessed at \$63.14 per square foot. The average square foot value in Petitioners' neighborhood is \$75.07. *Elliott testimony; Respondent Exhibit 4.*
 - c) Petitioners did not identify the amenities present in other homes on their street. Different amenities in the properties can account for different values. *Id.*
 - d) The two-level wood deck is assessed as an item in the summary of improvements because it is attached to the pool rather than the house. *Elliott 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 County 1009,
 - c) Petitioners Exhibit 1 - Form 139L,
Petitioners Exhibit 2 - Summary of arguments,

- Petitioners Exhibit 3/1 - Insurance documents,
 - Petitioners Exhibit 3/2 - Home market evaluation,
 - Petitioners Exhibit 3/3 - Neighborhood assessment data,
 - Petitioners Exhibit 4 - Two property record cards and photographs of wood decks,
 - Respondent Exhibit 1 - Form 139L,
 - Respondent Exhibit 2 - Subject property record card,
 - Respondent Exhibit 3 - Subject photograph,
 - Respondent Exhibit 4 - Top 20 Comparables and Statistics,
 - Respondent Exhibit 5 - Comparable property record cards and photographs,
 - Board Exhibit A - Form 139L,
 - Board Exhibit B - Notice of Hearing,
 - Board Exhibit C - Sign-in sheet,
- d) These Findings and Conclusions.

Analysis

14. The most applicable laws 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. Petitioners did not provide sufficient evidence to support their contentions. This conclusion was arrived at because:
- a) Petitioners presented insurance documents indicating the dwelling was insured for \$116,800 during the period October 1997 through October 1998. The dwelling was insured for \$124,100 during the period October 1999 through October 2000. The assessed value of both the land and improvements combined (\$127,800) exceeds these insured amounts. Although the land value is included in the assessment, it is not included in the insurance coverage. The assessed value of the dwelling alone is only \$99,300, well below its insured value. In fact, the combined assessed value of the dwelling and the other improvements (wood deck, patio, utility shed and pool) is

\$103,900, still well below the insured value. Accordingly, these insurance documents do not establish error in the assessment.

- b) Petitioners also presented a home market evaluation, dated November 24, 2003, indicating the value of the home on that date was \$125,000 to \$133,500. The total assessed value of the property, \$127,800, is within the range of values identified by Petitioners' home market valuation.
- c) Two of the homes (615 Mohawk and 630 Cheyenne) identified as comparable on the market evaluation are in the same neighborhood as Petitioners' property. Although the home market evaluation does not identify the sale dates of the comparable properties, these two homes sold for \$127,000 and \$129,000. *Petitioners Exhibit 3-2*. These amounts are almost identical to the assessed value of Petitioners' property. Petitioners contended the comparable properties have additional features, such as an extra bedroom and bath, making these homes more valuable. Petitioners further contended the home market evaluation represents values as of November 2003 rather than the valuation date of January 1, 1999. Nevertheless, the realtor who prepared the home market evaluation clearly considered the four selected properties as comparable to Petitioners' parcel. Petitioners presented no probative evidence to support their claim that an adjustment is required for the additional rooms or to quantify the amount of any necessary adjustment. Furthermore, the burden is on Petitioners to make a link between the valuation date of January 1, 1999, and the home market evaluation date of November 24, 2003. *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). Again, Petitioners presented no probative evidence or explanation to establish this link. The home market evaluation therefore does not establish any error in the assessment.
- d) Petitioners presented a list of house assessments on Arrowhead Drive. Petitioners must establish the comparability of the properties to their own property. Conclusory statements that a property is "similar" or "comparable" to another property do not constitute probative evidence of the comparability of the two properties. Instead, the party must explain the characteristics of the subject property and how those characteristics compare to those of purportedly comparable properties as well as how any differences between the properties affect the relative market values-in-use. *See Id.* at 470-471. Petitioners provided no basis to establish the comparability of any of the other homes on Arrowhead Drive. Petitioners' list of house assessments has no probative value.
- e) Petitioners asserted the wood deck is attached to the home and should be assessed as an exterior feature. The wood deck is currently assessed as a separate item in the summary of improvements.¹ Petitioners' photograph indicates the wood deck bridges the space between the home and the pool. The deck is currently assessed as grade D

¹ Actually, the property record card indicates that Petitioners are assessed for a 12' x12' wood deck valued at \$1,300 and for a 10' x17' wood deck valued at \$1,500. This separation is consistent with the testimony that the deck has two levels. The evidence Petitioners presented does not support their claim that the deck of a nearby home is assessed for less, nor does it establish a basis of comparability between the two.

construction, in fair condition, and with 28% depreciation. Identifying the deck as an exterior feature would result in including it in the assessment of the dwelling. The home is assessed with C grade quality of construction, in average condition, and gets 26% depreciation. The current method of assessment actually benefits Petitioners. Accordingly, there is no change in the assessment of the wood deck.

Conclusion

16. Petitioners did not make a prima facie case of error in the assessment. 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

- 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>.