

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition: 45-032-02-1-5-00569
Petitioners: Gene & Sandra Koehler
Respondent: Department of Local Government Finance
Parcel: 009-12-14-0131-0042
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 on January 17, 2004. The Department of Local Government Finance (the DLGF) determined that the property tax assessment for the subject property is \$141,100.
2. The Petitioners filed a Form 139L on April 20, 2004.
3. The Board issued a notice of hearing to the parties on October 27, 2004.
4. Special Master Peter Salveson held the hearing in Crown Point on December 1, 2004.

Facts

5. The subject property is located at 514 Audrey Court, Dyer. The location is in St. John Township.
6. The subject property is a single-family home on 0.339 acres of land.
7. The Special Master did not conduct an on-site visit of the property.
8. Assessed value of the subject property as determined by the DLGF:
Land \$31,700 Improvements \$109,400 Total \$141,100.
9. Assessed value requested by the Petitioners on the Form 139L petition:
Land \$31,700 Improvements \$104,300 Total \$136,000.

10. Persons sworn as witnesses at the hearing:
For Petitioner — Gene Koehler, owner,
For Respondent — Joseph Lukomski, Jr., assessor/auditor.

Issue

11. Summary of Petitioners' contentions in support of alleged error in assessment:
- a. The canopy is incorrectly assessed as a roof extension (RFX) rather than a conventional shed type. The photograph submitted shows that the canopy is not attached to the house. *Petitioner Exhibits 3, 5; Koehler testimony.*
 - b. The improvement listed as a detached garage should be assessed as a utility shed. No automobiles are stored there. There is no available land for paving an access road to this structure and no automobile access gate allowing entrance to the back yard. *Petitioner Exhibits 3, 2.*
12. Summary of Respondent's contentions in support of assessment:
- a. The assessment considers the total value of the subject property. *Lukomski testimony.*
 - b. The comparable sales for improved properties support the current valuation of the improved parcel. *Lukomski testimony; Respondent Exhibit 4.*

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. 894,
 - c. Exhibits:
 - Petitioner Exhibit 1: Form 139L,
 - Petitioner Exhibit 2: Summary of Petitioner's arguments,
 - Petitioner Exhibit 3: Informal hearing presentation,
 - Petitioner Exhibit 4: REAL PROPERTY ASSESSMENT GUIDELINES, ch. 1, page 6
 - Petitioner Exhibit 5: REAL PROPERTY ASSESSMENT GUIDELINES, app. C, pages 1, 9, 13, and 15,
 - Respondent Exhibit 1: Form 139L,
 - Respondent Exhibit 2: Subject property record card,
 - Respondent Exhibit 3: Subject photograph,
 - Respondent Exhibit 4: Comparable sales sheet,
 - Respondent Exhibit 5: Comparable property record cards and photographs,
 - Respondent Exhibit 6: REAL PROPERTY ASSESSMENT GUIDELINES, Glossary, page

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 governing cases are:
- a. A petitioner seeking review of a determination of an assessment 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 at 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 Petitioners provided sufficient evidence to support their contentions for a reduction in assessed value. This conclusion was arrived at because:
- a. Petitioners provided photographic evidence that clearly showed the canopy is not a roof extension because it is positioned away from the residence. Respondent agreed the feature should not be considered a roof extension. It is free-standing and is clearly separated from the dwelling.
 - b. Petitioners testified that the improvement listed as a detached garage has never been used as garage. Access to the structure by an automobile is not physically possible. The improvement listed as a detached garage should be valued as a storage shed. Respondent did not dispute that this feature is better characterized as a storage shed, rather than a garage.
 - c. Petitioners made a prima facie case that the assessment is in error.
 - d. Respondent attempted to rebut Petitioners' case by establishing that the assessment considers the total value of a property and that sales support the current valuation. Respondent offered some basic data and sale prices about allegedly comparable

properties, but failed to prove comparability with probative evidence. The conclusory opinion that the properties are similar and comparable, without specific supporting facts, is not probative evidence. *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 470 (Ind. Tax Ct. 2005); *Blackbird Farms Apts. v. Dep't of Local Gov't Fin.*, 765 N.E.2d 711, 715 (Ind. Tax Ct. 2002). Accordingly, the sales information offered by Respondent does not rebut or impeach the case Petitioners presented.

- e. Respondent did not address the specific issues appealed by the Petitioner and therefore did not provide sufficient rebuttal to the Petitioners' prima facie case.

Conclusion

- 16. Petitioners made a prima facie case for a reduction in the assessed value of the property. Respondent's evidence did not rebut that case. The Board finds in favor of the Petitioner. The "canopy" must be priced as a shed-type rather than a roof extension and the improvement previously identified as a detached garage must be priced as a utility shed.

Final Determination

Accordingly, the Indiana Board of Tax Review now determines that the assessment must 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.

