

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-032-02-1-5-00394
Petitioners: George and Panagiota Vlahos
Respondent: Department of Local Government Finance
Parcel #: 009-22-12-0152-0015
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 (the DLGF) determined that the Petitioners' property tax assessment for the subject property is \$190,000. The DLGF's Notice of Final Assessment was sent to the Petitioners on March 26, 2004.
2. The Petitioners filed a Form 139L on April 26, 2004.
3. The Board issued a notice of hearing to the parties dated October 27, 2004.
4. A hearing was held on December 1, 2004, in Crown Point, Indiana before Special Master Barbara Wiggins.

Facts

5. The subject property is located at 8549 Heather Court, St. John, in St. John Township.
6. The subject property is a single family residence on 0.452 acres of land.
7. The Special Master did not conduct an on-site visit of the property.
8. The DLGF determined the assessed value of the subject property to be \$45,700 for the land and \$144,300 for the improvements for a total assessed value of \$190,000.
9. The Petitioners requested an assessed value of \$35,000 for the land and \$115,000 for the improvements for a total assessed value of \$150,000.

10. George Vlahos, one of the owners of the property, and Tom Bennington, with the DLGF, appeared at the hearing and were sworn as witnesses.

Issues

11. Summary of Petitioner's contentions in support of an alleged error in the assessment:
- a) Many items from the original construction (1995) of the dwelling are in need repair causing the property to be over-assessed. *Vlahos testimony*.
12. Summary of Respondent's contentions in support of the assessment:
- a) The value is fair and accurate as assessed. *Bennington 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 #899.¹
- c) Exhibits:

Petitioner Exhibits: None provided

Respondent Exhibit 1: Form 139L Petition

Respondent Exhibit 2: Subject Property Record Card (PRC)

Respondent Exhibit 3: Subject photograph

Board Exhibit A: Form 139 L Petition

Board Exhibit B: Notice of Hearing on Petition

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 at 475, 478 (Ind. Tax Ct. 2003); *see also, Clark v. State Board of Tax Commissioners*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998).

¹ Prior to the issuance of this order, through inadvertence the audio recording of this hearing was misplaced.

- b) In making its case, the taxpayer must explain how each piece of evidence is relevant to the requested assessment. *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 failed to provide sufficient evidence to support the Petitioner’s contentions. This conclusion was arrived at because:
- a) The Petitioner stated the subject property was purchased in 1994 on contract for \$160,000. Petitioner alleges that the market value now is \$150,000. *Vlahos testimony*. According to Petitioner, many items from the original construction of the dwelling are in need of repair due to settlement of the concrete. Some of those items expressed by the Petitioner were the blacktop driveway (cracking), the sidewalk (irregular and cracking), roof and siding (storm damage), the garage (separating from the driveway), the front door steps (tilting about 2 inches), the front plastic shield on the front door (improperly affixed), and the interior walls (just have primer, no paint). *Vlahos testimony & Board Exhibit A*. Because of these needed repairs the Petitioner contends that the assessed value is too high. *Id.*
- b) We interpret this to be an argument that the condition of the subject dwelling was improperly assessed. A condition rating is a “rating assigned each structure that reflects its effective age in the market.” *See REAL PROPERTY ASSESSMENT GUIDELINES, VERSION A, app. B, at 5, (incorporated by reference at 50 IAC 2.3-1-2)*. A condition rating is determined by relating the structure to comparable structures within the subject property’s neighborhood. *Id.* Presently, the dwelling is assessed as an “average” dwelling. A property of “average” condition has “normal wear and tear” for the neighborhood. *Id.* at Chap. 3, pg. 60. In an “average” dwelling, “there are typically minor repairs that are needed along with some refinishing.” *Id.* However, “most of the major components are still viable and are contributing to the overall utility and value of the property.” *Id.* A property in “fair” condition, on the other hand, shows “marked deterioration” in the structure. *Id.* “There are a substantial number of repairs that are needed” and “many items need to be refurbished, overhauled, or improved.” *Id.* A dwelling in “fair” condition has “deferred maintenance that is obvious.” *Id.*
- c) While Petitioner has testified that the house has settled and that the walls need painting, he submitted no photographs or evidence in support of those allegations. Further, according to Petitioner, the house has incurred storm damage, but that he repaired the damage. Petitioner has presented no evidence that that the heating,

plumbing or electrical components of the house are not still viable or that the types of repairs needed on the dwelling are not the type of repair normally expected in a house of its age. Repairs and the need for refinishing are anticipated in a dwelling of “average” condition. GUIDELINES, at Chap. 3, pg. 60. More importantly, the Petitioner provided no evidence that the condition of the subject property differs from other dwellings in the subject property’s neighborhood. Therefore, the Board finds that the Petitioner has failed raise a prima facie case that there the subject property is over-assessed. Moreover, Petitioner fell far short of proving that his property actually *lost* value after its purchase in 1994.

- d) Where the Petitioner has not supported his claim with probative evidence, the Respondent’s duty to support the assessment with substantial evidence is not triggered. *Lacy Diversified Indus. v. Dep’t of Gov’t Fin.*, 799 N.E.2d 1215, 1221-1222 (Ind. Tax Ct. 2003).

Conclusion

- 16. The Petitioner did not 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. 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>>.