

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-026-02-1-5-01127
Petitioners: George & Waltraud Ehrlinger
Respondent: Department of Local Government Finance
Parcel #: 007-26-32-0176-0016
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 not held because the Petitioners claim to have not received a Form 11, Notice of Assessment. The Department of Local Government Finance (the DLGF) determined that the Petitioners' property tax assessment for the subject property was \$62,600.
2. The Petitioners filed the Form 139L petition on July 1, 2004.
3. The Board issued a notice of hearing to the parties dated March 31, 2005.
4. A hearing was held on May 4, 2005, in Crown Point, Indiana before Special Master Dalene McMillen.

Facts

5. The subject property is located on 954 Michigan Street, Hammond, North Township, in Lake County.
6. The subject property is a 1,596 square-foot frame dwelling.
7. The Special Master did not conduct an on-site visit of the property.
8. The DLGF determined that the assessed value of the subject property is \$12,500 for the land and \$50,100 for the improvements for a total assessed value of \$62,600.

9. The Petitioners did not request a specific assessed value on the Form 139L.
10. George Ehrlinger, property owner, and James Hemming, representing the DLGF, appeared at the hearing and were sworn as witnesses.

Issues

11. Summary of Petitioners' contentions in support of an alleged error in the assessment:
 - a. The assessed value exceeds the 1999 market value of the subject property. *Ehrlinger argument.*
 - b. The Petitioners cannot afford the substantial increase in property taxes due to numerous rising medical and home expenses. *Petitioner Exhibit 7-31; Ehrlinger testimony.*
 - c. The subject property appraised for \$50,500 on December 4, 2003. *Petitioner Exhibit 2; Ehrlinger testimony.*
12. Summary of Respondent's contentions in support of assessment:
 - a. The Respondent testified the subject property is correctly assessed at land \$12,500 improvements \$50,100 for an overall assessed value of \$62,600. *Respondent Exhibit 1; Yohler testimony.*
 - b. The Petitioners failed to submit the appraisal or supporting documentation showing how Bank Calumet arrived at the appraised value of \$50,500. *Yohler argument.* As a result, the DLGF cannot determine if the value was established by a certified appraiser or reflects the total market value-in-use of the subject. *Id.*
 - c. The subject is erroneously being assessed for central air, and this item should be removed from the assessment. *Respondent Exhibit 1; Yohler testimony.*
 - d. The Residential Neighborhood Valuation Form for neighborhood #02655 shows the average size lot for the subject area is 40 foot frontage. *Respondent Exhibit 4; Yohler testimony.* The subject lot has 50 feet of actual frontage. *Yohler testimony.* The DLGF erred in not giving the subject lot a negative influence factor of 4% due to excessive frontage. *Id; Respondent Exhibit 1.*

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. 1587,
- c. Exhibits:

Petitioner Exhibit 1 – Notice of Hearing on Petition,
Petitioner Exhibit 2 – Notice of Assessment of Land and Structures- Form 11/Lake County and a line of credit loan paper from Bank Calumet, dated December 4, 2003,
Petitioner Exhibit 3 – Receipt for affidavit for deduction of person 65 years of age or over, dated April 20, 2005,
Petitioner Exhibit 4 – Bank Calumet detailed billing statement and receipt for filing statement of mortgage or contract indebtedness,
Petitioner Exhibit 6 – Social Security Administration benefits for George and Waltraud Ehrlinger,
Petitioner Exhibit 7 – Hospital bill from the University of Illinois Medical Center, dated April 20, 2005,
Petitioner Exhibit 8 – Hospital bill from Saint Margaret Mercy Healthcare Centers, dated April 7, 2005,
Petitioner Exhibit 9 – Hospital bill from St. Margaret Mercy Healthcare Centers, dated April 25, 2005,
Petitioner Exhibit 10 – Metropolitan Property and Casualty Insurance Company homeowners' declaration, dated November 3, 2004,
Petitioner Exhibit 11 – Statement of Account from Saint Margaret Mercy Healthcare Centers, dated March 10, 2005,
Petitioner Exhibit 12 – Doctor bill from Mateo V. Guanzon MD, dated April 14, 2005,
Petitioner Exhibit 13 – Statement of Account from Saint Margaret Mercy Healthcare Centers, dated April 25, 2005,
Petitioner Exhibit 14 – Statement of Account from Saint Margaret Mercy Healthcare Centers, dated April 7, 2005,
Petitioner Exhibit 15 – Itemized statement from St. Margaret Mercy Healthcare Centers, dated April 7, 2005,
Petitioner Exhibit 16 – Monthly statement from NIPSCO, dated April 6, 2005,
Petitioner Exhibit 17 – Billing statement from GE Consumer Finance, dated April 4, 2005,
Petitioner Exhibit 18 – Medicare summary notice, dated March 1, 2005,
Petitioner Exhibit 19 – Payment and collection agreement prepared by Richard P. Komyatte & Associated, PC, dated July 2, 2003,
Petitioner Exhibit 20 – Record of premium payment from Gerber Life Insurance Company, dated December 3, 2004,
Petitioner Exhibit 21 – Account statement from Direct TV, dated January 26, 2005,

Petitioner Exhibit 22 – Medicare summary notice, dated March 22, 2005,
Petitioner Exhibit 23 – Medicare summary notice, dated March 30, 2005,
Petitioner Exhibit 24 – Account statement from Hammond Water Department,
April 7, 2005,
Petitioner Exhibit 25 – Account statement and receipt from Lake Imaging LLC,
dated March 14, 2005,
Petitioner Exhibit 26 – Account statement and receipt from Lake Imaging LLC,
dated March 14, 2005,
Petitioner Exhibit 27 – Medicare summary notice, dated March 18, 2005,
Petitioner Exhibit 28 – Checking/savings transaction history from Bank Calumet,
dated January 21, 2005,
Petitioner Exhibit 29 – Renewal bill from Drive Insurance, dated January 3, 2005,
Petitioner Exhibit 30 – Medicare summary notice, dated March 21, 2005,
Petitioner Exhibit 31 – Account statement and receipt from Lake Imaging LLC,
dated March 14, 2005,
Petitioner Exhibit 32 – First page from the Form 139L petition,
Petitioner Exhibit 33 – Summary of hospital bills for George Ehrlinger,
Petitioner Exhibit 34 – Summary of monthly expenses for George and Waltraud
Ehrlinger,

Respondent Exhibit 1 – Subject property record card,
Respondent Exhibit 2 – Exterior photograph of the subject,
Respondent Exhibit 3 – Plat map of the subject area,
Respondent Exhibit 4 – Residential Neighborhood Valuation Form for
neighborhood #02655,
Respondent Exhibit 5 – Top 20 comparables and statistic sheet, property record
cards and photographs for the following comparables; Jeffery Wilson, Randall
Thrall and Neshelle Muhammad,

Board Exhibit A – Form 139L petition,
Board Exhibit B – Notice of Hearing on Petition,
Board Exhibit C – Hearing sign-in sheet,

- d. These Findings and Conclusions.

Analysis

14. The most applicable cases are:
- a. A Petitioner seeking review of a determination of assessing officials 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 Township Assessor*, 805 N.E.2d 475, 478

(Ind. Tax Ct. 2003); *see also*, *Clark v. State Board of Tax Commissioners*, 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 Township 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 Insurance Company 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.

Market Value

15. The Petitioners did not provide sufficient evidence to support the Petitioner’s contentions. This conclusion was arrived at because:
 - a. The Petitioners contend the assessment of the subject property exceeds its market value.
 - b. Taxpayers may offer evidence relevant to the fair market value-in-use of the subject property to rebut their assessment and to establish the actual true tax value of the property. *See* 2002 REAL PROPERTY ASSESSMENT MANUAL at 5 (incorporated by reference at 50 IAC 2.3-1-2). The types of evidence that may be used for those purposes include actual construction cost, sales information regarding the subject or comparable properties, and appraisals prepared in accordance with generally recognized appraisal practices. *Id.*
 - c. The Petitioners did not submit any of the above described types of market evidence to support their contention. Instead, the Petitioners relied solely upon their conclusory statements that with the rise in medical and home expenses, the Petitioners cannot afford a substantial increase in property taxes. In making its case, the taxpayer must explain how each piece of evidence is relevant to the requested assessment. *See Indianapolis Racquet Club*, 802 N.E.2d 1018, 1022. The Board, however, finds this argument to be unrelated to the actual market value of the property.
 - d. The valuation date for the 2002 general reassessment is January 1, 1999. 2002 REAL PROPERTY ASSESSMENT MANUAL at 12 (incorporated by reference at 50 IAC 2.3-1-2). Because the 2002 assessment must reflect the value of the property as of that date, any evidence of value presented by the Petitioners must

include an explanation of how this evidence demonstrates the subject property's value as of January 1, 1999. Lacking such explanation, evidence of value applicable to any valuation date other than January 1, 1999, has no probative value. *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466 (Ind. Tax Ct. 2005).

- e. The Bank Calumet loan statement was prepared for the purpose of obtaining a maximum line of credit loan, and has a valuation date of December 4, 2003. The Petitioners failed to provide an explanation of how that estimate of value is relevant to January 1, 1999, or to demonstrate the market value of the property as of January 1, 1999. Therefore, the estimate of value presented has no probative value in this matter. *Id.*
- f. Where the Petitioner has not supported the 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). As such, no change in the assessment is warranted as a result of this issue.

Valuation of Central Air Conditioning

- 16. During the hearing, the parties agreed that the dwelling does not contain central air conditioning, and therefore it should be removed from the assessment of the dwelling.

Valuation of the Land

- 17. During the hearing, the parties agreed that the average size lot for neighborhood number #02655 is 40 feet of frontage. The subject lot has 50 foot of actual frontage, and therefore the parties agreed that the subject lot is entitled to a 4% negative influence factor for excess frontage.

Conclusion

Market Value

- 18. The Petitioners failed to make a prima facie case regarding an error in the assessment. The Board finds in favor of the Respondent.

Valuation of Central Air Conditioning

- 19. The parties agreed the central air conditioning be removed from the assessed value of the dwelling. The Board finds in favor of the Petitioners.

Valuation of the Land

20. The parties agreed the average size lot for neighborhood number #02655 is 40 foot frontage and that the subject lot has 50 foot of actual frontage, therefore the subject lot should receive a 4% negative influence factor for excess frontage. 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 assessment should 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/inde.html. The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code>