

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-041-02-1-5-00284
Petitioners: Henry & Geraldine Harmon
Respondent: Department of Local Government Finance
Parcel #: 003-23-09-0421-0010
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 November 3, 2003 between the Petitioner and the Respondent. The Department of Local Government Finance (DLGF) determined that the Petitioner's property tax assessment for the subject property was \$187,400 and notified the Petitioners on March 12, 2004.
2. The Petitioners filed a Form 139L on April 12, 2004.
3. The Board issued a notice of hearing to the parties on July 29, 2004.
4. A hearing was held on September 15, 2004, in Crown Point before Special Master Barbara Wiggins.

Facts

5. The subject property is located at 1320 S. Hayes, Crown Point, in Center Township.
6. The subject property is a single-family home on 0.416 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 \$29,000 Improvements \$158,400 Total \$187,400
9. Assessed Value requested by the Petitioner during hearing:
Land \$29,000 Improvements \$146,000 Total \$175,000

10. Persons sworn as witnesses at the hearing:
For Petitioner — Henry and Geraldine Harmon, Owners
For Respondent — David Depp, Senior Appraiser, Cole-Layer-Trumble

Issue

11. Summary of Petitioners' contentions in support of alleged error in assessment:
 - a. The house has foundation problems. *G. Harmon testimony; Petitioners' Exhibit 4.*
 - b. The tri-level house being improperly valued as a two-story structure with a basement. *H. Harmon testimony.*
 - c. The Petitioners provided a certified appraisal of the property. The appraisal used three comparable sales that took place during March and April 1999. The appraisal is based on 1999 value and concludes the market value of the subject property was \$165,000. *Petitioners' Exhibit 2.*
12. Summary of Respondent's contentions in support of assessment:
 - a. The methodology used to assess the tri-level was state-mandated and standard for all homes of this type. *Depp testimony.*
 - b. Based on three allegedly comparable sales for homes of similar style, the property is fairly assessed. *Depp testimony; Respondent's Exhibit 4.*

Record

13. The official record for this matter is made up of the following:
 - a. The Petition and all subsequent pre-hearing submissions by either party.
 - b. The tape recording of the hearing labeled Lake Co. 256.
 - c. Exhibits:
 - Petitioners' Exhibit 1: Notice of Final Assessment
 - Petitioners' Exhibit 2: Appraisal of subject property
 - Petitioners' Exhibit 3: Form 139L Petition
 - Petitioners' Exhibit 4: Photographs of subject basement
 - Respondent's Exhibit 1: Form 139L
 - Respondent's Exhibit 2: Subject property record card
 - Respondent's Exhibit 3: Subject photograph
 - Respondent's Exhibit 4: Property record cards and photographs of three other properties offered as comparables
 - d. These Findings and Conclusions.

Analysis

14. The most applicable governing cases 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. The Petitioners provided sufficient evidence to support their contention for a reduction in assessed value. This conclusion was arrived at because:
 - a. Although the Petitioners presented several arguments in support of their position, the Board finds the appraisal to be the most relevant and persuasive part of their case. The appraisal incorporates consideration of the other issues Petitioners raised about things like their foundation problems and how portions of the house should be identified.
 - b. The appraisal of the home is based on the market approach to value and signed by a certified appraiser in May 2004. The appraisal arrived at a 1999 fair market value of the subject property of \$165,000 based on sales that closed in March and April 1999. There is no reason to believe these sales are not a good indication of the market value of these properties as of the valuation date. This evidence is probative and a substantial indication of what the 2002 assessment should be. *Long v. Wayne Twp. Assessor*, No. 49T10-0404-TA-20, slip op. at 8 (Ind. Tax Ct. January 28, 2005).
 - c. The Petitioners have therefore made a prima facie case that the assessment is in error.
 - d. The Respondent disagreed with the square footage shown on the appraisal and with the style of the properties used because one was a ranch and one was a two-story, but these points have little or no probative value as rebuttal to Petitioners' appraisal.

- e. In support of the current assessment, the Respondent relied on three sales of what it identified as similar homes, but also acknowledged significant differences between those properties and the subject property. The time adjusted sales prices for the Respondent's comparables were \$146,129, \$148,000 and \$160,131. The limited information Respondent provided is not enough to prove comparability. "[A] conclusory statement that something is comparable does not constitute probative evidence. Because [Petitioners] did not present evidence that the [other properties] were comparable to its own, [they] did not present a prima facie case." *Blackbird Farms Apts., LP v. Dep't of Local Gov't Fin.*, 765 N.E.2d 711, 715 (Ind. Tax Ct. 2002). Statements that another property "is similar" or "is comparable" are only conclusions that do not constitute probative evidence. Specific reasons must be provided as to why one believes a property is comparable. *Long*, slip op. at 6-7; *see also Lacy Diversified Indus., Ltd. V. Dep't of Local Gov't Fin.*, 799 N.E.2d 1215, 1221 (Ind. Tax Ct. 2003); *Whitley Prods. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).
- e. The Petitioners' professional appraisal is specific to the property. Therefore, it has more validity and reliability than Respondent's opinion about the market value of this property or its value derived from a mass appraisal. Furthermore, the range of the Respondent's comparable sales is considerably lower than the current assessed value of this property. The range is actually closer to the Petitioners' appraised value and, if anything, tends to support their appraisal.
- f. The Respondent failed to rebut the Petitioners' prima facie case.

Conclusion

- 16. The Petitioners made a prima facie case for a reduction in the assessed value of the property. The Respondent's evidence did not rebut the Petitioners' case with substantial evidence. 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 to \$165,000.

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.