

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-001-02-1-5-00728
Petitioners: James L. & Laura L. Wilson
Respondent: Department of Local Government Finance
Parcel #: 001-01-39-0024-0083
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 December 2003 in Lake County, Indiana. The Department of Local Government Finance (DLGF) determined that the Petitioners' property tax assessment for the subject property was \$70,900 and notified the Petitioners on March 31, 2004.
2. The Petitioners filed a Form 139L on April 28, 2004.
3. The Board issued a notice of hearing to the parties dated September 2, 2004.
4. A hearing was held on October 7, 2004, in Crown Point, Indiana before Special Master Barbara Wiggins.

Facts

5. The subject property is located at: 4000 W. 51st Street, Griffith, Calumet Township.
6. The subject property is a single-family rental home.
7. The Special Master did not conduct an on-site visit of the property.
 - a) Assessed Value of subject property as determined by the DLGF:
Land \$10,400 Improvements \$60,500 Total \$70,900
 - b) Assessed Value requested by Petitioners at hearing:
Land \$10,400 Improvements \$43,600 Total \$54,000

8. The persons indicated on the sign-in sheet (Board Exhibit C) were present at the hearing.
9. Persons sworn in at hearing:
 - For Petitioners: James L. Wilson, Co-Owner
 - For Respondent: David Depp, Representing the DLGF

Issues

10. Summary of Petitioners' contentions in support of an alleged error in the assessment:
 - a) James Wilson testified that the subject property's assessment is too high for the area in which the subject property is located. *Wilson testimony.*
 - b) The Petitioners presented two comparable properties that sold for less than the subject's assessment. *Id.; Board Exhibit A.*
11. Summary of Respondent's contentions in support of the assessment:
 - a) The Respondent presented comparable neighborhood sales in support of the current assessment. *Depp testimony; Respondent Exhibits 3-5.*
 - b) The Respondent testified the Petitioners' comparables were in a different neighborhood than the subject property. *Depp testimony.*

Record

12. The official record for this matter is made up of the following:
 - a) The Petition, and all subsequent submissions by either party.
 - b) The tape recording of the hearing labeled Lake Co. #508.
 - c) Exhibits:

Petitioners' Exhibits: No further evidence submitted at hearing

Respondent's Exhibit 1: Form 139L Petition

Respondent's Exhibit 2: Subject Property Record Card

Respondent's Exhibit 3: Subject Photograph

Respondent's Exhibit 4: Summary of 3 Comparable Sales, Record Cards &
Photographs for each

Respondent's Exhibit 5: Property Record Cards for Petitioners' Comparables

Board Exhibit A: Form 139 L
Board Exhibit B: Notice of Hearing
Board Exhibit C: Sign in Sheet

d) These Findings and Conclusions.

Analysis

13. 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.

14. The Petitioners did not provide sufficient evidence to support the their contentions. This conclusion was arrived at because:

- a) The Petitioners contends that a value of \$54,000 more closely represents the fair market value of the subject property. In support of this position, the Petitioners point to information attached to their 139L petition concerning the sale of two purportedly comparable properties. *See Board Exhibit A*.
- b) The 2002 REAL PROPERTY ASSESSMENT MANUAL (“Manual”) defines the “true tax value” of real estate as “the market value-in-use of a property for its current use, as reflected by the utility received by the owner or a similar user, from the property.” 2002 REAL PROPERTY ASSESSMENT MANUAL at 2. The Manual further provides that a taxpayer may be permitted to use evidence consistent with the Manual’s definition of true tax value, such as comparable sales data that is relevant to a property’s market value-in-use, to establish the actual true tax value of a property. MANUAL at 5.
- c) The Manual further provides that for the 2002 general reassessment, a property’s assessment must reflect its value as of January 1, 1999. MANUAL at 4. Consequently,

- in order for comparable sales data to be probative of a property's true tax value, a taxpayer must explain how that data relates to the market value-in-use as of the property at issue as of January 1, 1999. *See Long v. Wayne Twp. Assessor*, Cause No. 49T10-0404-TA-20 at 8-9 (Ind. Tax Ct. corrected original opinion dated January 28, 2005) (holding that an appraisal indicating value for December 10, 2003 lacked probative value).
- d) The Petitioners presented two MLS property detail sheets with regard to the purportedly comparable sales upon which they rely. The first sheet references a property located on West 50th avenue, which sold in March 2003 for \$50,000. *Wilson testimony*; *See Board Exhibit A*. The second sheet references a property located at 5000 Roosevelt Place, which sold on August 7, 2003, for \$37,000. *Id.*
 - e) The Petitioners failed to present any evidence or explanation regarding how the sale prices related to the market values of those respective properties, or to the market value-in-use of the subject property, as of January 1, 1999. Consequently, the Petitioners failed to establish a prima facie case based upon the sales data they presented.
 - f) In addition, the Petitioners did not engage in any significant comparison of the features of the purportedly comparable properties and the subject property. *See Long*, slip op. at 4 (holding that the petitioners failed to explain how the characteristics of the subject property compared to those of purportedly comparable properties or how any differences between the properties affected the properties' relative market values-in-use). While the MLS listing sheets submitted by the Petitioners contain some information concerning features of the purportedly comparable houses, a petitioner must do more than simply present raw data. Instead, he must explain the relevance of that information to his contentions. *See Indianapolis Racquet Club*, 802 N.E.2d at 1022 (“[I]t is the taxpayer’s duty to walk the Indiana Board ... through every element of the analysis”).
 - f) The only evidence presented by the Petitioners aside from the sales of the purportedly comparable properties discussed above, was James Wilson’s testimony that the subject house was hand-built and is not a desirable home. *Wilson testimony*. However, the Petitioners neither explained how the subject house was less desirable than other homes nor attempted to quantify the effect of its lack of desirability on its market value-in-use. Thus, the James Wilson’s assertions in that regard amount to little more than conclusory statements. Such statements, unsupported by factual evidence, are not sufficient to establish an error in assessment. *Whitley Products, Inc. v. State Bd. of Tax Comm’rs*, 704 N.E.2d 1119, 1120 (Ind. Tax Ct. 1998).
 - g) Based on the foregoing, the Petitioners failed to establish a prima facie case for a change in assessment.

Conclusion

15. The Petitioners failed to 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.