

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-002-02-1-5-00030
Petitioners: Jason & Kristen Hughes
Respondent: Department of Local Government Finance
Parcel #: 002020302850001
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 Petitioners filed a Form 139L on April 30, 2004.¹
2. The Board issued a notice of hearing to the parties dated July 20, 2004.
3. A hearing was held on August 25, 2004, in Crown Point, Indiana before Special Master Alyson Kunack.

Facts

4. The subject property is located at 17350 McKinley Place, in Lowell, Indiana.
5. The subject property is a private residence. The Special Master did not conduct an on-site inspection of the property.
 - a) Assessed Value of subject property as determined by the Department of Local Government Finance:
Land \$ 26,300 Improvements \$181,300.
 - b) Assessed Value requested by Petitioners:
Land \$ 6,000 Improvements \$0.
6. The following persons were present and sworn in at the hearing:

For Petitioners: Kristen Hughes, Petitioner
For Respondent: Larry Vales, Cole-Layer-Trumble.

¹ The Petitioners never received a Form 11- Notice of Assessment, and therefore were not able to participate in the informal hearing process with Cole-Layer-Trumble.

Issue

7. The Petitioners contend that, as of the assessment date, construction on the home and site had not been started. The current assessment reflects the completed structure.

Record

8. 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. #717.
 - c) Exhibits:
 - Petitioners Exhibit 1: Closing statement for construction loan.
 - Petitioners Exhibit 2: First loan draw statement and information.
 - Petitioners Exhibit 3: Second loan draw statement and information.
 - Petitioners Exhibit 4: Third and final loan draw statement and information.
 - Petitioners Exhibit 5: Letter from construction company regarding construction date.
- The Respondent presented no exhibits.
- Board Exhibit A: Form 139 L.
 - Board Exhibit B: Notice of Hearing.
 - Board Exhibit C: Sign in Sheet.
- d) These Findings and Conclusions.

Analysis

9. The most applicable law is:
- a) A Petitioner seeking review of a determination of the Department of Local Government Finance has the burden to establish a prima facie case proving, by a preponderance of the evidence, 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. Wash. Twp. Assessor*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004)
 - 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.

10. At the hearing, the Petitioner presented testimony and evidence including bank letters showing funds withdrawn for construction expenses (Petitioners Exhibits 2-4) and a letter from the builder stating construction had not begun as of the assessment date (Petitioners Exhibit 5). Additionally, a bank draw dated May 6, 2002 (Petitioners Exhibit 2) indicated the subject home was only 23% complete on that date. After reviewing the Petitioners' evidence, the Respondent recommended removing the improvement value from the total assessed value, and changing the land value, based on a negative 20% influence factor, to \$21,780. The Petitioners agreed with the Respondent's recommendations.

Conclusion

11. Based upon the undisputed testimony from both parties, the improvement value is subtracted from the assessed value (resulting in only a land value) and the subject property is assigned a negative 20% influence factor, resulting in a land value of \$21,780.

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.