

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition: 45-026-02-1-5-01013
Petitioners: John & Elaine Grigoriadis
Respondent: Department of Local Government Finance
Parcel: 007-28-29-0055-0022
Assessment Year: 2002

The Indiana Board of Tax Review (the Board) issues this determination in the above matter. The Board finds and concludes as follows:

Procedural History

1. The informal hearing as described in Ind. Code § 6-1.1-4-33 was held. The Department of Local Government Finance (the DLGF) determined that the Petitioners' property tax assessment for the subject property is \$176,000 and notified the Petitioners on April 1, 2004.
2. The Petitioners filed a Form 139L on April 29, 2004.
3. The Board issued a notice of hearing to the parties dated November 4, 2004.
4. Special Master Ellen Yuhan held the hearing on December 7, 2004, in Crown Point.

Facts

5. The subject property is located at 1644 La Porte Street, Whiting. The location is in North Township.
6. The subject property is a residential dwelling with one extra living unit. The subject is located on a platted lot that measures 30 feet by 122 feet.
7. The Special Master did not conduct an on-site visit of the property.
8. Assessed value as determined by the DLGF:
Land \$20,600 Improvements \$155,400 Total \$176,000.
9. Assessed value requested by Petitioner:
Land \$20,600 Improvements \$90,000 Total \$110,600.

10. Persons sworn as witnesses at the hearing:
Paul Grigoriadis, owners' son,
Sharon Elliott, assessor/auditor.

Issues

11. Petitioners contend the property is over assessed because the building is over 130 years old and it requires interior and exterior repairs. *Grigoriadis testimony; Petitioner Exhibit 1.*
12. Summary of Respondent's contentions regarding the assessment:
- a. There was no mention of condition at the informal hearing. There was a change in the number of hot water heaters and there should be a change in the value of the air-conditioning because only the first floor has central air-conditioning. *Elliott testimony; Respondent Exhibit 2.*
 - b. The subject property is assessed at \$63.22 per square foot; the average of the twenty comparables is \$59.75. The difference is within the acceptable range. *Elliott testimony; Respondent Exhibit 4.*
 - c. Respondent stated that a deduction to the value of the air-conditioning should be made. The air-conditioning value should be \$2,300, not \$3,600. *Elliott 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 Co. 950,
 - c. Petitioner Exhibit 1 – Construction receipts,
Petitioner Exhibit 2 – Details of two Whiting properties,¹
Petitioner Exhibit 3 – Notice of Circuit Breaker Tax Relief,
Respondent Exhibit 1 – Form 139L,
Respondent Exhibit 2 – Subject property record card (PRC),
Respondent Exhibit 3 – Photograph of subject,
Respondent Exhibit 4 – Comparable sheet,
Respondent Exhibit 5 – PRCs and photographs of comparables,
Board Exhibit A– Form 139L,
Board Exhibit B – Notice of Hearing,
Board Exhibit C – Sign in Sheet,

¹ Withdrawn during the hearing.

- 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 did not provide sufficient evidence to support their contention for a reduction in the assessed value based on condition. Nevertheless, there is sufficient evidence to require a change. This conclusion was arrived at because:
- a. Petitioners presented testimony that the building is old and requires interior and exterior repairs. Numerous receipts show some of the cost for materials to repair the bathroom, kitchen, and one bedroom. There is, however, no probative evidence to establish the impact of these repairs on the market value of the property on the assessment date. Petitioners' conclusory opinions on the point have no weight in determining what the assessment should be. *Whitley Products v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).
 - b. The condition rating applied to the subject property is "average". The definition of "average" is "The structure has been maintained like and is in the typical physical condition as the majority of structures in the neighborhood. It offers the same utility as the majority of structures in the neighborhood. It has the same location influences as the majority of structures in the neighborhood." REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002, app. B, Table B-1.

- c. Petitioners did not present sufficient documentation to support a reduction based on condition. No interior or exterior photographs were submitted to show the condition or utility was not typical for the neighborhood.
- d. 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 Local Gov't Fin.*, 799 N.E.2d 1215, 1222 (Ind. Tax Ct. 2003).
- e. Respondent admitted that a reduction in the value of the air-conditioning should be made. The air-conditioning value should be reduced to \$2,300.

Conclusion

The Petitioners did not establish a prima facie case regarding condition. Nevertheless, Respondent testified that the value of the air-conditioning should be corrected. Reducing the value of the air-conditioning component on the dwelling is the only required change.

Final Determination

The Indiana Board of Tax Review now determines that the assessment should be changed as to the air-conditioning value only.

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>.