

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-001-02-1-5-00070A
Petitioners: Joseph R. & Ella Vernice Jones
Respondent: Department of Local Government Finance
Parcel #: 001-25-46-0109-0017
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 not held. The Department of Local Government Finance (DLGF) issued a Notice of Department Assessed Value Determination on March 31, 2004, notifying the Petitioners that their property tax assessment for the subject property had been changed from \$182,700 to \$272,300.
2. The Petitioners filed a Form 139L on April 8, 2004.
3. The Board issued a notice of hearing to the parties dated July 28, 2004.
4. Special Master S. Sue Mayes held the hearing in Crown Point on September 15, 2004.

Facts

5. The subject property is located at 7645 Lake Shore Drive, Gary, in Calumet Township.
6. The subject property is a 43 by 158 foot lake front parcel with a single-family dwelling.
7. The Special Master did not conduct an on-site inspection of the property.
8. Assessed Value of the subject property as determined by the DLGF:
Land \$134,400 Improvements \$137,900 Total \$272,300.

9. Assessed Value requested by Petitioners:¹
Land \$30,000 Improvements Unknown Total Unknown.

10. Persons sworn as witnesses at the hearing:
For Petitioners — Ella Vernice Jones, Owner,
For Respondent — Cathi Gould, Staff Appraiser, Cole-Layer-Trumble.

Issues

11. Summary of Petitioners' contentions in support of an alleged error in the assessment:
- a. On the Form 139L, the Petitioners contended the subject house is not connected to a sanitary district and there is no living space in the garage. *Board Exhibit A.*
 - b. The property was assessed twice. The first assessment, as of March 1, 2002, resulted in a value of \$182,700. The second assessment increased the value to a total of \$272,300. *Jones testimony.*
 - c. There is a great discrepancy in how the land is valued on the Petitioners' street. *Jones testimony.*
 - d. The Petitioners presented the following land values of neighborhood properties:

▪ Property two houses west of Petitioners	\$85,000
▪ Property directly west of Petitioners	\$107,000
▪ Property directly east of Petitioners	\$106,000
▪ Property two houses east of Petitioners	\$185,000
▪ Property three houses east of Petitioners	\$41,900

Jones testimony.
 - e. The subject property has lake frontage, but Petitioners' home is located 150 feet farther from the lake than some of the neighbors' houses. *Jones testimony.*
 - f. The Petitioners acknowledged it was "possible" the current assessment is close to the market value of the home. *Jones testimony.*
12. Summary of Respondent's contentions in support of the assessment:
- a. The second notice was the result of an administrative correction that increased the assessment. Possibly the DLGF reviewed the assessment and found that the lot actually fronted the lake. *Gould testimony.*²

¹ On the Form 139L the Petitioners did not request a value for either the improvements or for the total assessed value of the land and improvements combined. *Board Exhibit A.*

² The Notice of Department Assessed Value Determination from the DLGF indicated the increase was the result of "Changed land locational influence factors." *Board Exhibit A.*

- b. The land value is based on size. Without knowing the size of the neighboring properties identified by the Petitioners, there is no way to explain the differences between values pointed out by Petitioners. *Gould testimony.*
- c. The Petitioners indicated that a fair asking price for the subject property would be between \$300,000 to \$350,000. The current assessment is \$272,700, which is below the value indicated by the Petitioners on the Form 139L petition. *Board Exhibit A; Gould testimony.*
- d. Three comparable homes in the neighborhood sold for \$285,000, \$183,000 (200 square feet smaller than the subject home) and \$280,000, but these houses do not front on the water. *Respondent Exhibit 4: Gould 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. 177.
 - c. Exhibits:
 - Petitioners submitted no exhibits.
 - Respondent Exhibit 1: Form 139L.
 - Respondent Exhibit 2: Side one of the property record card (PRC) for the subject property.
 - Respondent Exhibit 3: Photograph of the subject property.
 - Respondent Exhibit 4: PRCs and photographs for three properties offered as comparables.
 - Board Exhibit A: Form 139L.
 - Board Exhibit B: Notice of Hearing.
 - Board Exhibit C: Sign-in sheet.
 - d. These Findings and Conclusions.

Analysis

- 14. 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.
15. The Petitioners did not provide sufficient evidence to support their contentions. This conclusion was arrived at because:
- a. The Petitioners contended the current land value is excessive. They presented testimony concerning the land values of neighboring properties. Petitioners presented no comparison of the size or shape of the other parcels. Without this information, the Petitioners have not demonstrated their parcel is assessed differently than similarly situated parcels. *Blackbird Farms Apts. v. Dep’t of Local Gov’t Fin.*, 765 N.E.2d 711, 715 (Ind. Tax Ct. 2002).
 - b. On the Form 139L, the Petitioners stated the subject house is not connected to a sanitary district, but instead has a septic system. This data on the PRC is informational only and does not affect the assessed value of the property. Petitioners failed to explain how this point would make any difference to the correct assessed value of their property. *Indianapolis Racquet Club*, 802 N.E.2d at 1022.
 - c. The Petitioners also contended the assessment erroneously included living space in the garage. Petitioners did not present evidence to show that the subject is assessed with living space in the garage. Only the front of the Petitioners’ PRC was introduced, making it impossible to determine the manner in which the improvements were assessed. Petitioners failed to explain how this point would make any difference to the correct assessed value of their property. *Id.*
 - d. The Petitioners acknowledged it was “possible” the current assessment is close to the market value of the home. Statements made by the Petitioners on the Form 139L petition support this testimony. The Petitioners indicated the property is insured for \$300,000. The Petitioners further indicated the asking price of the property would be \$300,000 to \$350,000 if they were to attempt to sell the property. These amounts exceed the current total assessment of \$272,300.

Conclusion

16. 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.