

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-037-02-1-5-00018
Petitioners: Joseph & Gina Bender
Respondent: Department of Local Government Finance
Parcel #: 010-10-01-0196-0002
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 Notice of Assessment of Land and Structures (Form 11) was returned in the mail. The Petitioners therefore did not participate in an informal hearing as described in Ind. Code § 6-1.1-4-33. According to the Form 11, dated November 17, 2003, the Petitioners' property tax assessment for the subject property was \$330,600.
2. The Petitioners filed a Form 139L on April 12, 2004.
3. The Board issued a notice of hearing to the parties dated July 21, 2004.
4. Special Master S. Sue Mayes held the hearing, in Crown Point on August 26, 2004.

Facts

5. The subject property is located at 18783 White Oak, Lowell in West Creek Township.
6. The subject property is a 9.89-acre parcel improved with a single-family dwelling and a utility shed.
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 Department of Local Government Finance (DLGF):
Land \$64,600 Improvements \$266,000 Total \$330,600.
9. Petitioners requested a total assessed value of \$302,500.

10. Persons sworn as witnesses at the hearing:
For Petitioners — Joseph Bender, Homeowner
For Respondent — David M. Depp, Senior Appraiser, Cole-Layer-Trumble.

Issues

9. Summary of Petitioners' contentions in support of an alleged error in the assessment:
 - a. An appraisal dated May 21, 2003, indicates the total value of the house and land is \$302,500 as of that date. *Petitioners Exhibit 2.*
 - b. The square foot area of the house is computed incorrectly. The assessment is for 3,146 square feet. The appraisal indicated 3,037 square feet. *Petitioners Exhibit 2, page 7.* The Petitioners measured the house and recomputed the area at 3,059 square feet. *Bender testimony.*
 - c. The grade and design factor should be reduced from a B-1 to a C+1 or C grade. The house is just a normal house with vinyl siding and Pergo flooring. The only outstanding feature is the porch design and shape. The Petitioners built the house at the end of 1998 for \$209,000. Other homes in the neighborhood are brick, have hardwood floors and cherry cabinets, but are graded as C grade. *Bender testimony.*
 - d. The size of the shed is 12 feet by 12 feet. It has been valued incorrectly as 12 feet by 14 feet. *Bender testimony.*
 - e. The Petitioners have a letter from the Lake County Planning Commission stating that the land is zoned A-1, agricultural. The land is farmed. In the past, Dan Sutton farmed the land. Since 2002, Kevin Reicher has been raising alfalfa on the land. *Bender testimony.*
 - f. The Petitioners withdrew the utilities issue, as they now realize that this does not impact the assessed value. *Bender testimony.*
10. Summary of Respondent's contentions:
 - a. The Respondent agreed to adjust the square foot area to agree with the blueprint of the house. *Respondent Exhibit 4; Depp testimony.*
 - b. The Respondent stated that he did not agree with the grade currently on the house, but could not justify this house as a C grade house. The subject house has multiple cuts, semi-turret, two or three roof styles and dormers. *Depp testimony.* The Respondent agreed the grade and design factor is best described as a C+1. *Respondent Exhibit 4.*
 - c. The Respondent agreed to adjust the size of the shed to 12 feet by 12 feet. *Respondent Exhibit 4; Depp testimony.*

- d. The Respondent agreed to value land that is being farmed as agricultural. *Respondent Exhibit 4; Depp testimony.*
- e. With all of the above changes, the value of the improvements should be \$236,300 and the value of the land should be \$38,200. The total assessed value on this property should be \$274,500. *Respondent Exhibit 4.*

Record

- 11. 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. 160,
 - c. Exhibits:
 - Petitioners Exhibit 1: Blueprint of subject house,¹
 - Petitioners Exhibit 2: Appraisal dated May 21, 2003,
 - Respondent Exhibit 1: Form 139L,
 - Respondent Exhibit 2: Property record card (PRC) and photograph for subject parcel,
 - Respondent Exhibit 3: Comparison sheet with PRCs and photographs for parcels #010-10-01-0130-0001, 010-10-01-0062-0011 & 010-10-01-0050-0007,
 - Respondent Exhibit 4: PRC of subject property with adjustments,²
 - Board Exhibit A: Form 139L,
 - Board Exhibit B: Notice of Hearing,
 - Board Exhibit C: Sign-in Sheet,
 - d. These Findings and Conclusions.

Analysis

Issue 1 – Area of House

- 12. The claimed error on the assessed area of the house was established. The parties agreed that the area of the first and second floors together should be changed to only 3,036 square feet.

¹ Blueprint was viewed, but was not copied for the file because it agreed with Petitioners Exhibit 2, page 7.

² This exhibit was presented subsequent to the hearing. As indicated, the parties reached agreement upon all issues. This exhibit merely reduces the verbal agreements to writing.

Issue 2 – Grade of House

13. The Petitioners provided sufficient evidence to support their contention that the grade of the house was erroneous. This conclusion was arrived at because:
 - a. The Petitioners stated that the house was a normal house, not an excessive house. The home is best described as a C+1 or C grade dwelling.
 - b. The Respondent asserted the home has several features exceeding those found in C grade homes, including multiple cuts, semi-turret, two or three roof styles and dormers.
 - c. The Respondent does not agree with the current grade of B-1. The Respondent agreed the grade of the house is best described as a C+1.

Issue 3 –Size of Shed

15. The claimed error on the size of the shed was established. The parties agreed that shed size is only 12 feet by 12 feet.

Issue 4 – Land Type

14. The claimed error that the land valued as excess acreage should be valued as agricultural land was established. The Respondent agreed that the land was being farmed and should be assessed as agricultural land, except for the one-acre homesite.

Conclusions

15. Undisputed testimony indicated the correct square footage of the house is 3,036. There is a change in the assessment as a result of this issue.
16. Undisputed testimony indicated the grade of the house is best described as C+1. There is a change in the assessment as a result of this issue.
17. Undisputed testimony indicated that the correct dimensions of the shed are 12 feet by 12 feet. There is a change in the assessment as a result of this issue.
18. Undisputed testimony indicated 8.89 acres should be classified as agricultural. There is a change in the assessment as a result of this issue.

Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now accepts the agreements and undisputed evidence offered by the parties. It determines that the assessment should be changed to land \$38,200 and improvements \$236,300.

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.