

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-001-02-1-5-00798
Petitioners: Karl M. & Becky A. Grimmer, Sr.
Respondent: Department of Local Government Finance
Parcel #: 001-15-26-0444-0032
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 Lake County, Indiana. The Department of Local Government Finance (the DLGF) determined that the Petitioners' property tax assessment for the subject property was \$156,900 and notified the Petitioners on March 31, 2004.
2. The Petitioners filed a Form 139L on April 30, 2004.
3. The Board issued a notice of hearing to the parties dated January 27, 2005.
4. Special Master S. Sue Mayes held the hearing in Crown Point on March 1, 2005.

Facts

5. The subject property is located at 724 Forest Avenue, Griffith. The location is in Calumet Township.
6. The subject property is a single-family dwelling located on a 70 by 150 foot parcel.
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 DLGF:
Land \$33,300 Improvements \$123,600 Total \$156,900.
9. Assessed value requested by Petitioners:
Land \$33,000 Improvements \$110,600 Total \$143,900.

10. Persons sworn in as witnesses at the hearing:
Karl M. Grimmer, Sr., Owner
Stephen H. Yohler, Assessor/Auditor, DLGF

Issue

11. Summary of Petitioners' contentions in support of an alleged error in the assessment:
 - a. The value of the property is overstated by \$12,000 to \$13,000 due to its being improperly assessed as a two-story structure. The subject house is not a two-story house. *Board Exhibit A, Petitioner Exhibits 5-14; Grimmer testimony.*
 - b. The property record card from September 1993 shows the house as a one level bi-level with a full basement; that has not changed. *Petitioner Exhibit 2; Grimmer testimony.*
 - c. The house is a bi-level, but it is not a raised ranch bi-level. The house has a finished basement in the ground. *Petitioner Exhibit 15; Grimmer testimony.*
 - d. The house was originally valued at \$180,400. At the informal hearing, Petitioners provided an appraisal for \$156,900. CLT lowered the value to \$156,900, but they would not change anything else. *Petitioner Exhibit 1; Grimmer testimony.*
12. Summary of Respondent's contentions in support of the assessment:
The whole purpose of the reassessment is to value property on market value-in-use. The appraisal report provided at the informal hearing by the Petitioners themselves gives a value of \$156,900. The current assessment of \$156,900 is correct. *Yohler 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. 1156,
 - c. Exhibits:
 - Petitioner Exhibit 1: Notice of Final Assessment,
 - Petitioner Exhibit 2: Property record card, 9/23/93,
 - Petitioner Exhibit 3: Property record card 1/02/04,
 - Petitioner Exhibit 4: Property plat,
 - Petitioner Exhibit 5: Definitions, REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002- VERSION A,
 - Petitioner Exhibit 6: GUIDELINES, ch. 3 at 19,
 - Petitioner Exhibit 7: GUIDELINES, ch. 3 at 24,
 - Petitioner Exhibit 8: GUIDELINES, ch. 3 at 25,
 - Petitioner Exhibit 9: GUIDELINES, ch. 3 at 15,
 - Petitioner Exhibit 10: GUIDELINES, ch. 3 at 11,
 - Petitioner Exhibit 11: Photograph of subject property,
 - Petitioner Exhibit 12: Photograph of foundation,
 - Petitioner Exhibit 13: Photographs of two two-story houses,

- Petitioner Exhibit 14: Photograph of a two-story house,
- Petitioner Exhibit 15: Photograph and diagram of bi-level house,
- Petitioner Exhibit 16: Two photographs of a bi-level house,
- Respondent Exhibit 1: Form 139L,
- Respondent Exhibit 2: Subject property record card,
- Respondent Exhibit 3: Photograph of the subject property,
- Respondent Exhibit 4: Height design, GUIDELINES, Glossary at 36,
- Board Exhibit A: Form 139 L,
- Board Exhibit B: Notice of Hearing,
- Board Exhibit C: Sign-in sheet,
- 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 the Petitioners’ contentions. This conclusion was arrived at because:
 - a. The Petitioners contend that the subject property should be assessed as a one-story house with a basement, as is shown on the property record card dated June 30, 1999. The Petitioners contend that the house did not change. *Petitioner Exhibit 2; Grimmer testimony*.
 - b. The Petitioners’ assertion is incorrect. Each tax year stands alone. *Glass Wholesalers, Inc. v. State Bd of Tax Comm'rs*, 568 N.E.2d 1116, 1124 (Ind. Tax Ct. 1991). Consequently, property is to be assessed separately and distinctly each year (i.e., a 1995 assessment will not be considered probative evidence of the proper tax assessment for a later year).
 - c. The Petitioners agreed that the subject house is a bi-level; however, they contended that it should not be assessed as a two-story structure as prescribed by the GUIDELINES, ch. 3 at 26. Petitioners contrasted the subject property to photographs of two-story houses and a raised ranch style house. They provided the definitions of ground story, one story and basement from the GUIDELINES. Petitioners contend that

- the structure is a one-story house over a finished basement. *Petitioner Exhibits 5, 7, 8, and 11-15; Grimmer testimony.*
- d. The house is a bi-level; neither party disputes that. The parties, however, do disagree on the methodology of assessing a bi-level.
 - e. The Petitioners believe the lower level should be assessed as a basement because four feet of that level is below grade. *Petitioner Exhibit 12; Grimmer testimony.*
 - f. A basement is a building story that is wholly or partly below the grade level with either no windows or minimum number of windows. GUIDELINES, Glossary at 3. *See also, Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230, 1244 (Ind. Tax Ct. 1998). Basements have different reproduction costs than other floors, but that fact does not mean that a basement cannot be considered a story. *Id.*
 - g. The Petitioners also submitted as an exhibit the definition of a bi-level from the GUIDELINES. The definition is clear, "A bi-level is a two-level design with the first floor partially below grade and the entry at a level between the first and second floor". Note the definition says "first floor" and "second floor". *Petitioner Exhibit 11.*
 - h. The Petitioners also submitted a picture of a bi-level (raised ranch) with a diagram illustrating the levels and the most typical uses of the levels. The same exhibit shows the pricing levels; the lower level is considered the 1st floor and the upper level is considered the 2nd floor. *Petitioner Exhibit 15.*
 - i. Petitioners did not present probative evidence that the lower level of their house was improperly identified as a first story. In fact, their own evidence establishes that the subject was correctly assessed. Their unsubstantiated conclusions do not constitute probative evidence. *Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax ct. 1998).
 - j. The Petitioners contended that the original measurements of the dwelling were incorrect and they were unsure if CLT had corrected them as promised. The measurements were corrected as is shown on Respondent Exhibit 2. Therefore, the Board will not address this issue.
 - k. The current assessment of \$156,900 is based on an appraisal provided by the Petitioners at the informal hearing. The Petitioners agreed that the appraisal is correct.
 - l. Based on the foregoing, the Petitioners have failed to establish a prima facie case of error in the assessment.

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. 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>.