

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petitions: 45-041-02-1-5-00475
45-041-02-1-5-00476
45-041-02-1-5-00477
Petitioners: Kenneth White & Joan Puckett
Respondent: Department of Local Government Finance
Parcels: 003-23-09-0085-0026
003-23-09-0085-0025
003-23-09-0085-0027
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. There is no record of an informal hearing being held as described in Ind. Code § 6-1.1-4-33. Petitioners asserted the tax bills were their first notice of the increase in these assessments.
2. Petitioners filed the Forms 139L on July 15, 2004, with the Lake County Assessor.
3. The Board issued notices of hearing to the parties dated February 25, 2005.
4. Special Master Paul Stultz held the hearing on March 30, 2005, in Crown Point.

Facts

5. The subject properties are located at 554 East Anderson, Crown Point. The location is in Center Township.
6. The subject properties are three contiguous parcels. One parcel, 003-23-09-0085-0026, has a single-family dwelling with a detached garage and a utility shed. The remaining two parcels are assessed as vacant land.
7. The Special Master did not conduct an on-site inspection of the property.

8. For Petition 45-041-02-1-5-00475, the assessed value of the subject property as determined by the Department of Local Government Finance (the DLGF) is:

Land \$15,000	Improvements \$24,700	Total \$39,700.
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 Petitioners requested a total assessed value of \$15,000 on the Form 139L for this parcel.

9. For Petition 45-041-02-1-5-00476, the assessed value of the subject property as determined by the DLGF is:

Land \$12,000	Improvements \$-0-	Total \$12,000.
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 The assessed value requested by Petitioners on the Form 139L for this parcel is:

Land \$1,500	Improvements \$-0-	Total \$1,500.
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10. For Petition 45-041-02-1-5-00477, the assessed value of the subject property as determined by the DLGF is:

Land \$12,000	Improvements \$-0-	Total \$12,000.
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 The assessed value requested by Petitioners on the Form 139L for this parcel is:

Land \$1,500	Improvements \$-0-	Total \$1,500.
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11. The following persons were sworn as witnesses at the hearing:
 - For Petitioners - Kenneth White, owner,
 - Charles Puckett, nephew,
 - For Respondent - Don Adair, assessor/auditor.

Issue

12. Summary of Petitioners' contentions in support of alleged error in the assessment:
 - a) The dwelling has no insulation, no crawl space, no central air conditioning and is in poor condition. *Respondent Exhibit 1 for Petition 45-041-02-1-5-00475.* It is currently assessed in "fair" condition. *Respondent Exhibit 2 for Petition 45-041-02-1-5-00475.*
 - b) The two vacant parcels are located next to commercial properties used to store junk. *Respondent Exhibit 1 for Petition 45-041-02-1-5-00476 and Petition 45-041-02-1-5-00477.*
 - c) The tax increase is too large. *White and Puckett testimony.*
 - d) The house has a kitchen, small bedroom, and a living room. *Puckett testimony.*

13. Summary of Respondent's contentions in support of the assessment:
 - a) The DGLF has evidence to support the value on all three parcels and requested the Board affirm the values. *Adair testimony.*

- b) The subject should be valued as a whole and a change in any data characteristics, such as grade, condition, or neighborhood factor, does not necessarily warrant a reduction in the value of the subject property. *Id.*

Record

- 14. The official record for this matter is made up of the following:
 - a) Petition,
 - b) Tape recording of the hearing labeled Lake Co. 1423,
 - c) Exhibits for Petition 45-041-02-1-5-00475:
 - Petitioners Exhibit - None,
 - Respondent Exhibit 1 - Form 139L,
 - Respondent Exhibit 2 - Subject property record card,
 - Respondent Exhibit 3 - Photograph of subject property,
 - Respondent Exhibit 4 - List of comparable properties,
 - Respondent Exhibit 5 - Property record cards and photographs of four properties,
 - Respondent Exhibit 6 - Aerial map of a portion of the subject neighborhood,
 - Board Exhibit A - Form 139L,
 - Board Exhibit B - Notice of Hearing,
 - Board Exhibit C - Sign-in sheet,
 - d) Exhibits for Petition 45-041-02-1-5-00476:
 - Petitioners Exhibit - None,
 - Respondent Exhibit 1 - Form 139L,
 - Respondent Exhibit 2 - Subject property record card,
 - Respondent Exhibit 3 - Photograph of subject property,
 - Respondent Exhibit 4 - Aerial map of a portion of the subject neighborhood,
 - Respondent Exhibit 5 - Copy of Ind. Code § 6-1.1-5-16, Consolidation of contiguous parcels into single parcel,
 - Board Exhibit A - Form 139L,
 - Board Exhibit B - Notice of Hearing,
 - Board Exhibit C - Sign-in sheet,
 - e) Exhibits for Petition 45-041-02-1-5-00477:
 - Petitioners Exhibit - None,
 - Respondent Exhibit 1 - Form 139L,
 - Respondent Exhibit 2 - Subject property record card,
 - Respondent Exhibit 3 - Aerial map of a portion of the subject neighborhood,
 - Board Exhibit A - Form 139L,
 - Board Exhibit B - Notice of Hearing,
 - Board Exhibit C - Sign-in sheet,
 - f) These Findings and Conclusions.

Analysis

15. 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.
16. Petitioners did not provide sufficient evidence to support their contentions. This conclusion was arrived at because:
- a) Petitioners contend on Form 139L the total assessed value of the parcel containing the dwelling (parcel 003230900850026) should be \$15,000. Petitioners did not address this contention at the hearing. Petitioners offered no probative evidence or explanation about how they concluded the total assessed value for this parcel should be \$15,000. Petitioners failed to produce any market data, such as sales or evidence of the assessment of comparable properties, to support this proposed value. Petitioners’ 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).
 - b) Petitioners also contend on Form 139L the dwelling has no insulation, no crawl space, and no central air conditioning. Petitioners did not address these contentions at the hearing. Petitioners presented no photographs, building plans, or other evidence to support Petitioners’ claims and they presented no probative evidence to establish how these facts change the market value of the property. Again, unsubstantiated conclusions do not constitute probative evidence. *Id.*
 - c) Petitioners further contend on Form 139L the dwelling is in poor condition. It currently is assessed in “fair” condition. “Condition” is “a rating assigned each structure that reflects its effective age in the market. It is determined by inspection of the structure and by relating the structure to comparable structures within the

subject's neighborhood." REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 – VERSION A, app. B at 5 (incorporated by reference at 50 IAC 2.3-1-2).

- d) "Fair" condition rating indicates the "structure suffers from minor deferred maintenance and demonstrates less physical maintenance than the majority of structure within the neighborhood. It suffers from minor inutilities in that it lacks an amenity that the majority of the structures in the neighborhood offer. It is in a less desirable location within the neighborhood than the majority of structures." *Id.* at 7.
- e) "Poor" condition rating indicates the "structure suffers from extensive deferred maintenance. It suffers from major inutilities in that it lacks several amenities that the majority of structures in the neighborhood offer. It is in a poor location within the neighborhood." *Id.*
- f) In order to prevail on the issue of condition, Petitioners must show both (1) the level of deterioration of the property, and (2) the manner in which the deterioration affected the remaining usefulness of the building. *Fleet Supply, Inc. v. State Bd. of Tax Comm'rs*, 747 N.E.2d 645 (Ind. Tax Ct. 2001). Petitioners did not address this contention at the hearing. Petitioners presented no discussion of the level of deterioration of the property or the manner in which the deterioration has affected the dwelling's remaining usefulness. Accordingly, Petitioners failed to meet their burden of proof that the current condition rating is incorrect.
- g) Petitioners also contended on the Forms 139L the two vacant parcels (parcel 003-23-09-0085-0025 and parcel 003-23-09-0085-0027) are located next to commercial properties used to store junk. Petitioners asserted each parcel should be valued at \$1,500. Petitioners did not address this contention at the hearing. Petitioners offered no explanation to support how they concluded each parcel should be valued at \$1,500. Petitioners failed to produce any market data, such as sales or evidence of the assessment of comparable properties, to support these proposed values. Again, unsubstantiated conclusions do not constitute probative evidence. *Whitley*, 704 N.E.2d at 1119.
- h) Petitioners also asserted the tax increase was too large. The amount of tax increase, however, is not probative evidence of any error in the assessments. Petitioners failed to establish any specific error in the assessments based on this point.

Conclusion

17. Petitioners failed to make a prima facie case. The Board finds in favor of Respondent.

Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessments 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>>.