

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-032-02-1-5-00027
Petitioners: Leroy N. & Barb J. Absher
Respondent: Department of Local Government Finance
Parcel #: 009-20-13-0279-0040
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 January 9, 2004, at Lake County, Indiana. The Department of Local Government Finance (DLGF) determined that the Petitioner's property tax assessment for the subject property was \$177,900 and notified the Petitioner on March 26, 2004.
2. The Petitioner filed a Form 139L on March 29, 2004.
3. The Board issued a notice of hearing to the parties dated June 1, 2004.
4. A hearing was held on July 9, 2004, in Crown Point, Indiana before Special Master Kathy J. Clark.

Facts

5. The subject property is located at: 125 Juniper Drive, Schererville, Indiana.
6. The subject property is a two-bedroom, row-type, one-story residence with a full basement, which sits on a 61' x 150' lot.
7. The Special Master did not conduct an on-site visit of the property
8. Assessed Value of subject property as determined by the DLGF:

Land: \$29,000 Improvements: \$148,900

9. Assessed Value requested by Petitioner: Land: 24,400 Improvements: \$145,100.
10. Leroy Absher, David Depp, and Kurt Barrow were present at the hearing.
11. Persons sworn in at hearing:

For Petitioner: Leroy Absher, Owner

For Respondent: David Depp, Senior Appraiser, CLT

Issues

12. Summary of Petitioner's contentions in support of alleged error in assessment:
 - a) The Petitioner contends that he had been unfairly assessed twice for the same exterior wood deck. *Absher testimony.*
 - b) The Petitioner also contends that his land had been assessed at a higher rate than duplex owners on either side of him. Petitioner contends that his rate is \$476 per front foot while his neighbors are \$418 per front foot. *Absher testimony.*
13. Summary of Respondent's contentions in support of assessment:
 - a) The Respondent explained that the property record card the Petitioner was referring to was an outdated version, and that the Petitioner's assessed value of \$177,900 did not include the duplicate deck. *Depp testimony.*
 - b) The Respondent contended that all of the duplex lots in question were being priced accurately and uniformly. All lots are being priced with a base land rate of \$475 per front foot. All lots contain different front foot sizes. Larger lots receive an adjustment for excessive frontage, in accordance with the rules stated in the Real Property Assessment Guideline. *Depp testimony.*

Record

14. The official record for this matter is made up of the following:
 - a) The Petition and all subsequent pre-hearing submissions by either party.
 - b) The tape recording of the hearing labeled BTR #309.
 - c) Exhibits:

Petitioner Exhibit 1: Notice of Assessment of Land & Structures.

Petitioner Exhibit 2: Notice of Final Assessment.

Petitioner Exhibit 3: Subject Property Record Card, Record Card of 127 Juniper, Record Card of 117 Juniper.

Petitioner Exhibit 4: Profiles of 125 & 127 Juniper Drive.

Petitioner Exhibit 5: Profiles of 115 & 117 Juniper Drive.

- Respondent Exhibit 1: 139L Petition.
 - Respondent Exhibit 2: Subject Property Record Card.
 - Respondent Exhibit 3: Photograph of Subject Property.
 - Respondent Exhibit 4: Comparable Sales Analysis.
 - Respondent Exhibit 5: Comparable Record Card.
 - Respondent Exhibit 6: Photograph of parcel 009-20-13-0444-0024.
 - Respondent Exhibit 7: Comparable Record Card.
 - Respondent Exhibit 8: Photograph of parcel 009-20-13-0505-0009.
- d) 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. Wash. 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. The Petitioner did not provide sufficient evidence to support the Petitioner’s contentions. This conclusion was arrived at because:

Land Value

- a) The Petitioner had taken information from a website and extrapolated a price per front foot for his property and a neighbor’s property. *Pet’r Exs. 4, 5*. Absher claims these calculations showed that his land is effectively valued at \$475 per front foot, while the neighbor is at \$418 per front foot. *Absher testimony*. However, Petitioner’s calculations failed to take into account an influence factor given to the neighbor for excessive frontage.¹ The Petitioner’s own Exhibits 3 and 5 show that both properties are assessed at the same base rate of \$475 per front foot. As explained by the Respondent, each lot’s value is effected by its’ size and shape, and adjustments are made for

¹ The dwellings at issue are “duplexes.” Absher owns only one half of his building, and has 61 front feet. *See Pet’r Ex. 3*. The neighbor (Zernik) owns both sides of the building and has 110 front feet – thus the influence factor for excessive frontage. *Pet’r Ex. 5*.

excessive frontage. Petitioner has not shown any disparate treatment in the valuation of his land.

The Deck

- b) Absher also presented a property record card for his property that showed he had been improperly assessed twice for a wood deck. *See Pet'r Ex. 3*. The Respondent explained that the property record card Absher presented was outdated and presented an updated property record card that shows the deck correctly assessed. *See Resp't Ex. 2*. The Board finds no error in the assessment as a result of this issue.

Conclusion

17. The Petitioner failed to make a prima facie case. The Board finds in favor of Respondent for the total assessed value of \$177,900.

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.