

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-026-02-1-5-00652
Petitioner: Linda K. Branham
Respondent: Department of Local Government Finance
Parcel #: 007-26-34-0020-0038
Assessment Year: 2002

The Indiana Board of Tax Review (“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 February 2004. The Department of Local Government Finance (“DLGF”) determined that the assessment for the subject property was \$101,900 and notified the Petitioner on March 31, 2004.
2. The Petitioner filed a Form 139L on April 28, 2004.
3. The Board issued a notice of hearing to the parties dated September 20, 2004.
4. Special Master Dalene McMillen held the hearing in Crown Point on October 20, 2004.

Facts

5. The subject property is located at 234 Conkey Street, Hammond. It is in North Township.
6. The subject property is a two-story frame dwelling and a 598 square foot detached garage located on a 50’ x 124’ lot.
7. The Special Master did not conduct an on-site visit of the property.
8. The assessed value of the subject property as determined by the DLGF:
Land \$22,500 Improvements \$79,400 Total \$101,900.
9. The Petitioner did not request a specific assessed value on the Form 139L.

10. The following persons were sworn as witnesses at the hearing:
For the Petitioner — Linda K. Branham, owner,
For the DLGF — Sharon S. Elliott, Staff Appraiser, Cole-Layer-Trumble.

Issue

11. Summary of Petitioner's contentions in support of alleged error in assessment:
- a. The assessed value exceeds the market value of the subject property. Petitioner request the property be assessed at land \$22,500 and improvements between \$50,000 and \$55,000. *Branham testimony.*
 - b. Petitioner testified that the value of the improvements is overstated due to cracks in the walls and foundation, basement floods, and the house is old. *Board Exhibit A; Branham testimony.*
12. Summary of Respondent's contentions in support of assessment:
- a. The subject property is correctly assessed at land \$22,500, improvements \$79,400 for an overall assessed value of \$101,900. *Elliott testimony.*
 - b. Respondent submitted other properties as comparables to demonstrate the subject property is valued fair and consistent for the subject area. *Respondent Exhibit 4; Elliott testimony.*
 - c. The DLGF has addressed the structural maintenance needed on the subject dwelling through the application of the condition rating of fair. *Respondent Exhibit 5; Elliott 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. 347.
 - c. The following exhibits were presented:
Petitioner submitted no exhibits,
Respondent Exhibit 1 – A copy of the Form 139L petition,
Respondent Exhibit 2 – A copy of the subject property record card,
Respondent Exhibit 3 – A photograph of the subject property,
Respondent Exhibit 4 – The top 20 comparables and statistic sheet with three comparable properties with exterior photographs for Vidal Munoz, Alonzo McQuater, and Frederick Burton,

Respondent Exhibit 5 – Copies of the pages from the 2002 REAL PROPERTY ASSESSMENT GUIDELINES discussing condition ratings,
Board Exhibit A – Form 139L petition,
Board Exhibit B – Notice of Hearing on Petition,
Board Exhibit C – Hearing 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 Petitioner did not provide sufficient evidence to support her contentions. This conclusion was arrived at because:

- a. Petitioner did not present any probative evidence showing that the current assessment is incorrect. Petitioner merely made a conclusory statement that the current assessment is excessive in consideration of the cracked walls, the age of the dwelling, the wet basement and the musty odors. Petitioner concluded that the assessed value of the dwelling should be between \$50,000 and \$55,000 rather than \$74,900.
- b. Conclusory statements do not constitute probative evidence and are not sufficient to establish a prima facie case. *Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998); *CDI, Inc. v. State Bd. of Tax Comm'rs*, 725 N.E.2d 1015, 1019 (Ind. Tax Ct. 2000).

- c. Where the Petitioner did not support the claim with probative evidence, the Respondent's duty to support the assessment with substantial evidence is not triggered. *Lacy Diversified Indus. v. Dep't of Local Gov't Fin.*, 799 N.E.2d 1215, 1222 (Ind. Tax Ct. 2003).

Conclusion

- 16. The Petitioner 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.