

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-001-02-1-5-00543
Petitioners: Louis J. & Nancy C. Miller
Respondent: Department of Local Government Finance
Parcel #: 001152604010023
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 February 9, 2004, at Lake County, Indiana. The Department of Local Government Finance (DLGF) determined that the Petitioners' property tax assessment for the subject property was \$220,600 and notified the Petitioners on March 31, 2004.
2. The Petitioners filed a Form 139L on April 19, 2004.
3. The Board issued a notice of hearing to the parties dated July 28, 2004.
4. A hearing was held on September 14, 2004, in Crown Point, Indiana before Special Master Kathy J. Clark.

Facts

5. The subject property is located at: 1212 W. Lake Street, Griffith, in Calumet Township.
6. The subject property is a one and one half story single family dwelling located on a 70 feet by 132 feet 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: \$25,800 Improvements: \$194,800 Total: \$220,600.
9. Assessed Value requested by Petitioner:
Land: \$25,800 Improvements: \$178,800 Total: \$204,600.

10. The following persons were present and sworn in at the hearing:
- For Petitioner: Louis J. Miller, Owner
 - For Respondent: Sharon Elliott, Staff Appraiser, Cole-Layer-Trumble

Issues

11. The Petitioner contends that the square footage of the subject property's second floor is incorrect.
12. The Respondent agreed that there was an error in the square footage of the subject property and the assessment should be changed.

Record

13. 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 Lake Co. Tape #398.
 - c) Exhibits:
 - Petitioner Exhibit 1: As-built blueprint of subject dwelling.

 - Respondent Exhibit 1: Form 139L,
 - Respondent Exhibit 2: Subject property record card,
 - Respondent Exhibit 3: Photograph of subject property,
 - Respondent Exhibit 4: Comparable sales analysis, with property record cards and photographs.
 - d) These Findings and Conclusions.

Analysis

14. The most applicable governing cases:
- 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 provided sufficient evidence to support the Petitioner's contention that the assessment is incorrect. This conclusion was arrived at because:
- a) The Petitioner presented the blue print of the subject property showing an error in the square footage of the second floor of the subject home. *Petitioner's Exhibit A.*
 - b) The Respondent agreed that there was an error. The parties agreed that the home was being assessed for an 1140 square foot half story when in fact there is only 960 square feet. There is a section of the half story that is open to the first floor (10 x18) that was included in the finished living area. *Elliot Testimony.*
 - c) The Board accepts the agreement of the parties and finds that the assessment should be changed. The square footage for the upper floor should be corrected to reflect 960 square feet. There is a change in the assessment as a result of this issue.

Conclusion

16. The Petitioner provided sufficient evidence to support the Petitioner's contentions that there was an error in the assessment. The Respondent agreed that there was an error in the assessment. The half story should be changed from 1140 square feet to 960 square feet.

Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that there should be a change in the assessment.

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.