

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-026-02-1-5-00197
Petitioner: Maria Peña-Rodriguez
Respondent: Department of Local Government Finance
Parcel #: 007-24-30-0453-002
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 on January 13, 2004. The Department of Local Government Finance (the "DLGF") determined that the assessment for the subject property is \$22,700 and notified the Petitioner on March 31, 2004.
2. The Petitioner filed a Form 139L on April 30, 2004.
3. The Board issued a notice of hearing to the parties dated September 24, 2004.
4. Special Master S. Sue Mayes held the hearing in Crown Point on November 3, 2004.

Facts

5. The subject property is located at 3815 Melville Avenue, East Chicago. The location is in North Township.
6. The subject property is a single-family dwelling located on a parcel measuring 23.5 feet by 120 feet.
7. The Special Master did not conduct an on-site inspection of the property.
8. Assessed value of subject property determined by the DLGF:
Land \$6,100 Improvements \$16,600 Total \$22,700.
9. Assessed value requested by Petitioner:
Land \$600 Improvements \$6,000 Total \$6,600.

10. Persons sworn as witnesses at the hearing:
For Petitioner — Maria D. Peña, property owner,
Eddie Peña, son of Maria D. Peña,
For Respondent — Stephen H. Yohler, Assessor/Auditor.

Issue

11. Summary of Petitioner's contentions in support of an alleged error in the assessment:
 - a. The Petitioner presented an appraisal prepared by Michael C. Genger, an Indiana licensed appraiser. The appraisal estimates the market value of the subject property, as of October 29, 2004, to be \$10,500. *Petitioner Exhibit 7.*
 - b. The Petitioner contended the house is in need of major repairs, as indicated by photographs of the property. *E. Peña testimony; Petitioner Exhibits 3-8.*
12. Summary of Respondent's contentions in support of the assessment:
 - a. For homes in the proximity of the Petitioner's property, sales data shows an average sales price of \$66.99 per square foot. Petitioner's home is valued at \$31.53 per square foot, less than half of the average sales price. *Yohler testimony; Respondent Exhibits 2, 4.*
 - b. The home was built in 1950. It was assessed with a grade of D-1 and a condition rating of poor. *Respondent Exhibit 2.*
 - c. The condition of the home has been considered in the valuation. The assessment is correct. *Yohler testimony; Respondent Exhibits 2, 4.*

Record

13. The official record for this matter is made up of the following:
 - a. The Form 139L Petition,
 - b. The tape recording of the hearing labeled Lake Co. 224,
 - c. Exhibits:
Petitioner Exhibit 1 — Form 139L Petition,
Petitioner Exhibit 2 — Summary of arguments,
Petitioner Exhibit 3 — Photographs of house interior,
Petitioner Exhibit 4 — Photographs of foundation,
Petitioner Exhibit 5 — Photographs of bathroom,
Petitioner Exhibit 6 — Photographs of lower level,

Petitioner Exhibit 7 — Uniform Residential Appraisal Report prepared by Sandridge Appraisals,
Respondent Exhibit 1 — Form 139L Petition,
Respondent Exhibit 2 — Subject property record card,
Respondent Exhibit 3 — Subject photograph,
Respondent Exhibit 4 — Sales comparison sheet,
Respondent Exhibit 5 — Property record cards and photographs for three properties,
Board Exhibit A — Form 139L Petition,
Board Exhibit B — Notice of Hearing,
Board Exhibit C — Sign-in sheet,

d. These Findings and Conclusions.

Analysis

14. The most applicable cases are:
- a. A Petitioner seeking review of a determination of the Department of Local Government Finance 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 presented an appraisal that estimates the market value of the subject property to be \$10,500 as of October 29, 2004. The Petitioner failed to explain how this value supports the requested value on the Form 139L Petition of \$6,600.
 - b. Indiana’s assessment regulations provide that for the 2002 general reassessment, a property’s assessment must reflect its value as of January 1, 1999. *Long v. Wayne Township Assessor*, 821 N.E.2d 466, 471, (Ind. Tax Ct. 2005); 2002 REAL PROPERTY

ASSESSMENT MANUAL at 4 (incorporated by reference at 50 IAC 2.3-1-2).

Consequently, a party relying on an appraisal to establish the market value-in-use of a property must provide some explanation as to how the appraised value demonstrates, or is relevant to, the property's value as of January 1, 1999. *Id.*

- c. The appraisal's valuation date is October 29, 2004 (more than five years after the valuation date). Petitioner did not explain how the appraised value demonstrates, or is relevant to, the property's value as of January 1, 1999. Accordingly, the appraisal is not probative of the value of the property. *Id.*
- d. Petitioner presented photographs purporting to show the condition of the structure and asserted that the house needed major repairs. The home was built in 1950. It was assessed with a grade of D-1 and a condition rating of poor.
- e. Poor is defined as the condition where "[t]he 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." REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 – VERSION A, app. B at 7 (incorporated by reference at 50 IAC 2.3-1-2).
- f. There is only one residential condition rating below poor. That one is very poor. *Id.*
- g. Very poor condition is defined as follows: "Conditions in the structure render it unusable. It is extremely unfit for human habitation or use. There is extremely limited value in use and it is approaching abandonment. The structure needs major reconstruction to have any effective economic value." *Id.*
- h. The Petitioner did not establish any link between the photographs and a reduction in the condition rating. For example, some photographs reveal the presence of clothing, a laundry basket, a sofa, and a blender in the home. Petitioner did not explain the manner in which these photographs of clothing, furniture, and kitchen appliances (or any of the other photographs) indicate a home that is "unusable" or "extremely unfit for human habitation," as required for a condition rating of very poor.
- i. Without any comparison linking the claimed deficiencies of the home to the condition ratings, the photographs are not probative evidence of error. *Bernacchi v. State Bd. of Tax Comm'rs*, 727 N.E.2d 1133 (Ind. Tax Ct. 2000).
- j. The Petitioner failed to establish the condition of the home was not properly identified with the current condition rating of poor.
- k. Based on the foregoing, the Petitioner has failed to establish a prima facie case of error in the assessment.

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.