

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-001-02-1-4-00999
Petitioners: Marshall & Tethel Bridge
Respondent: Department of Local Government Finance
Parcel #: 001-25-45-0068-0005
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 Department of Local Government Finance (the DLGF) issued a Notice of Department Assessed Value Determination adjusting the Petitioners' property tax assessment for the subject property to \$99,200 and notified the Petitioners on March 31, 2004
1. The Petitioners filed a Form 139L on April 28, 2004.
2. The Board issued a notice of hearing to the parties dated June 27, 2005.
4. Special Master Ellen Yuhan held a hearing on July 27, 2005, in Crown Point, Indiana.

Facts

5. The subject property is located at 2700 W. 11th Avenue, Gary. The location is in Calumet Township.
6. The subject property consists of a commercial building and a one story dwelling on a 6,000 square foot 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 \$16,600 Improvements \$82,600 Total \$99,200.
9. Assessed value requested by Petitioners is:
Land \$5,000 Improvements \$40,000 Total \$45,000.

10. Persons sworn in as witnesses at the hearing:
Marshall and Tethel Bridge, Owners,
Phillip E. Raskosky, II, Assessor/Auditor, Department of Local Government Finance.

Issues

11. Summary of Petitioners' contentions in support of an error in the assessment:
- The property is old and is in a deteriorating neighborhood. There are many vacant and abandoned buildings and this affects the value of the subject property. Customers actually feel in danger coming here due to the environment around the building. *Petitioner Exhibit 2; M. & T. Bridge testimony.*
 - Water, ice, and snow settle in front of the building. There is no parking. Repeated complaints to the city about the sidewalks and streets have produced no results. *M. & T. Bridge testimony.*
 - A large apartment building directly across the street has been vacant and for sale for 15 years. If the property was good, someone would have bought it. *T. Bridge testimony.*
 - The estimate in the report from Mr. Hughes is more valid than the assessed value because he actually inspected the property. Furthermore, we are in a better position to make a judgment about the building and the surroundings, as we have been there since 1979. *Petitioner Exhibit 1; T. Bridge testimony.*
 - The land value is excessive at \$16,600. If the building was not there, who would pay \$16,600 for the land? *M. Bridge testimony.*
12. Summary of Respondent's contentions:
- The report by Mr. Hughes is not a full-blown appraisal; it is an opinion of value. The photographs are of surrounding buildings, but are not actually comparable to the subject. The subject property consists of two buildings, a commercial barber/beauty shop and a small residence with attached garage. *Petitioner Exhibits 1 and 2; Raskosky testimony.*
 - The assessment took into consideration that residential properties in this neighborhood required further adjustment. After review, the residential building has been corrected and reduced from \$41,700 to \$14,700 through the application of a 65% reduction. The DLGF, however, believes the assessment on the commercial building is correct. *Respondent Exhibits 1 and 5; Raskosky testimony.*
 - The Petitioners are unable to justify the opinion that the land value is excessive. *Raskosky testimony.*

Record

13. The official record for this matter is made up of the following:
- The Petition,
 - The tape recording of the hearing labeled Lake County 1915,
 - Exhibits:
Petitioner Exhibit: Appraiser's report on the subject property
Petitioner Exhibit 2: Photo layout of West 11th Avenue

- Respondent Exhibit 1: Subject property record card,
 - Respondent Exhibit 2: Subject photographs,
 - Respondent Exhibit 3: Land calculations/NBHD summary sheet,
 - Respondent Exhibit 4: Plat map and aerial map,
 - Respondent Exhibit 5: Corrected property record card,
 - Respondent Exhibit 6: Property record cards for surrounding residential properties,
 - Board Exhibit A: Form 139L,
 - Board Exhibit B: Notice of Hearing,
 - 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 Petitioners did not establish a prima facie case. This conclusion was arrived at because:
- a. The Petitioners contend that the building is old and the surrounding area has deteriorated and affects the value of the property.
 - b. In support of their contention, the Petitioners submitted an opinion of value from Mr. Charles Hughes and a photo layout showing vacant buildings and vacant lots on West 11th Avenue located within a five-block radius of the subject property. *Petitioner Exhibits 1 and 2*.
 - c. The opinion of value states that Mr. Hughes inspected and appraised the property. His opinion is that the property had a market value of \$50,000-\$52,000 as of February 11, 2005.
 - d. Indiana’s assessment regulations state that a property’s assessment was to reflect the value as of January 1, 1999. 2002 REAL PROPERTY ASSESSMENT MANUAL at 12 (incorporated by reference at 50 IAC 2.3-1-2). If documentation is submitted that establishes a value for a date other than the statutory valuation date, an explanation as to how these values demonstrate, or are relevant to, the subject value as of January 1,

- 1999, is required if those documents are to have probative value. *William & Dorothy Long v. Wayne Twp Assessor*, 821 N.E.2d 466 (Ind. Tax Ct. 2005)
- e. The Petitioners did not show how the 2005 value of the appraisal was relevant to the statutory valuation date.
 - f. The Petitioners contend that the condition of the neighborhood affects the value of the subject property, but again did not quantify the loss in value for the January 1, 1999 valuation date.
 - g. The Respondent testified that due to special circumstances in that neighborhood residential dwellings had been adjusted. Because the subject dwelling is considered to be in fair condition, this results in a 65% adjustment and reduces the residential dwelling to \$14,700.

Conclusion

16. The Petitioners did not provide sufficient evidence to establish a prima facie case. However, based on the Respondent's testimony, the Board finds that the assessed value of the residential dwelling should be changed to \$14,700.

Final Determination

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