

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-032-02-1-5-00461
Petitioner: Mary Ann Galanis
Respondent: Department of Local Government Finance
Parcel #: 009221201130003
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 in Lake County, Indiana. The Department of Local Government Finance (the DLGF) determined that the Petitioner's property tax assessment for the subject property is \$293,200 and notified the Petitioner on March 26, 2004.
2. The Petitioner filed a Form 139L on April 29, 2004.
3. The Board issued a notice of hearing to the parties dated October 15, 2004.
4. A hearing was held on November 17, 2004, at 9:15 a.m. in Crown Point, Indiana before Special Master Dalene McMillen.

Facts

5. The subject property is located at 11943 Louis Drive, St. John, in St. John Township.
6. The subject property is a two-story dwelling on a 120' x 180' lot.
7. The Special Master did not conduct an on-site visit of the property.
8. The DLGF determined the assessed value of the subject property to be \$64,600 for the land and \$228,600 for the improvements for a total assessed value of \$293,200.
9. The Petitioner did not request a specific assessed value on the Form 139L petition.

10. Mary Ann Galanis, the owner of the property, and Steven McKinney, representing the DLGF, appeared at the hearing and were sworn as witnesses.

Issues

11. Summary of Petitioner's contentions in support of alleged error in assessment:
 - a. The Petitioner contends the assessed value of the land is overstated because the property is mushy, has standing water and a drainage problem. The Petitioner testified that 1/3 to 1/2 of her backyard is impacted by the flooding. *Galanis testimony.*
 - b. In support of this contention, the Petitioner presented photographs of the subject showing the backyard has water standing and is mushy. *Petitioner Exhibits 1, 2, and 3.* The Petitioner testified that in the past the Town of St. John has attempted to fix the drainage problem however, the problem still exists. *Galanis testimony.*
 - c. Petitioner also alleges that the assessment on the land doubled. *Galanis testimony.* Petitioner contends that this is "unfair" based on the continued drainage problem. The Petitioner stated the land should be assessed for \$31,900 and the improvements for \$228,600 for an overall value of \$260,500. *Galanis testimony.*
12. Summary of Respondent's contentions in support of assessment:
 - a. The Respondent testified the subject property is correctly assessed with land at \$64,600 and improvements at \$228,600 for an overall assessed value of \$293,200. *McKinney testimony; Respondent Ex. 2.*
 - b. The Respondent testified the overall assessed valued of \$293,200 is fair and consistent with other properties within the subject area. *McKinney 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. #647.
 - c. The following exhibits were presented:
 - Petitioner Exhibit 1 – Two photographs of the subject property.
 - Petitioner Exhibit 2 – Three photographs of the subject property.
 - Petitioner Exhibit 3 – One photograph of the subject property.

Respondent Exhibit 1 – A copy of the Form 139L petition, dated April 29, 2004.
Respondent Exhibit 2 – A copy of Mary Ann Galanis’ 2002 property record card.
Respondent Exhibit 3 – An exterior photograph of the subject dwelling.

Board Exhibit A – Form 139L petition, dated April 29, 2004
Board Exhibit B – Notice of Hearing on Petition, dated October 15, 2004
Board Exhibit C – Hearing sign-in sheet.

- 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 Township Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also, Clark v. State Board of Tax Commissioners*, 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 Township 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 Insurance Company 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 the Petitioner’s contentions. This conclusion was arrived at because:
- a. The Petitioner contends that the assessed value of the land is overstated. *Galanis testimony*. In support of this contention, the Petitioner submitted photographs to show the subject property has experienced some drainage problems. *Galanis testimony; Petitioner Exhibits 1, 2 and 3*. The Petitioner argued that this condition makes the property less desirable on the market. *Galanis testimony*.

- b. Generally, land values in a given neighborhood are determined through the application of a Land Order that was developed by collecting and analyzing comparable sales data for the neighborhood and surrounding areas. *See Talesnick v. State Bd. of Tax Comm'rs*, 693 N.E.2d 657, 659 n. 5 (Ind. Tax Ct. 1998). However, properties often possess peculiar attributes that do not allow them to be lumped with each of the surrounding properties for purposes of valuation. The term "influence factor" refers to a multiplier "that is applied to the value of land to account for characteristics of a particular parcel of land that are peculiar to that parcel." PROPERTY ASSESSMENT GUIDELINES OF 2002, glossary at 10. Petitioner has the burden to produce "probative evidence that would support an application of a negative influence factor and a quantification of that influence factor." *See Talesnick v. State Bd. of Tax Comm'rs.*, 756 N.E.2d 1104, 1108 (Ind. Tax Ct. 2001). While the property's potential drainage difficulties may be relevant to the issue of whether a negative influence factor should apply here, the Petitioner failed to show how this condition would impact the market value-in-use of the subject property, or show what the actual market value of the property is. *See Talesnick*, 756 N.E.2d at 1108; *see also, Hoogenboom-Nofziger*, 715 N.E.2d at 1024 (holding that taxpayer failed to make a prima facie case when he offered conclusory statements and photographs without further explanation)
- c. The Petitioner also alleges that the assessment on the land almost doubled and that this increase is "unfair" given the drainage issues on the property. The Petitioner is mistaken in her reliance on a previous assessment. Each assessment and each tax year stand alone. *Fleet Supply, Inc. v. State Bd. of Tax Comm'rs*, 747 N.E.2d 645, 650 (Ind. Tax Ct. 2001) (citing *Glass Wholesalers, Inc. v. State Bd. of Tax Comm'rs*, 568 N.E.2d 1116, 1124 (Ind. Tax Ct. 1991)). Thus, evidence as to a property's assessment in one tax year is not probative of its true tax value in a different tax year. *See, Id.*
- d. The Petitioner requested a value of \$31,900 for the land and \$228,600 for the improvements. The Petitioner provided no explanation or evidence to support the requested values. In addition to demonstrating that the assessment is invalid, the petitioner also bears the burden of presenting sufficient probative evidence to show what assessment is correct. *See Blackbird Farms Apartment, LP v. Department of Local Government Finance*, 765 N.E.2d 711 (Ind. Tax Ct. 2002). Without probative evidence supporting the alleged assessed values, there can be no change in the assessment. Moreover, Petitioner conceded that the market value of her home was "probably higher" than its assessed value. *See Board Exhibit A*. Thus effectively negating her argument that the assessment was in error.
- e. The Board finds the Petitioner did not provide sufficient evidence to establish a prima facie case. Where the Petitioner has not supported 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, 1221-1222 (Ind. Tax Ct. 2003).

Conclusion

16. The Petitioner failed to make a prima facie case regarding an error in the assessment.
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. 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>.