

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-026-02-1-5-00486
Petitioner: Mary Ortiz
Respondent: Department of Local Government Finance
Parcel #: 007-24-30-0361-0014
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 December 2003. The Department of Local Government Finance (the "DLGF") determined that the assessment for the subject property is \$34,000 and notified the Petitioner on March 31, 2004.
2. The Petitioner filed a Form 139L on April 16, 2004.
3. The Board issued a notice of hearing to the parties dated October 4, 2004.
4. Special Master Kathy J. Clark held the hearing in Crown Point on November 8, 2004.

Facts

5. The subject property is located at 3931 Deal Street, East Chicago. The location is in North Township.
6. The subject property consists of a one-story frame dwelling.
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 \$11,100 Improvements \$22,900.
9. Assessed Value requested by Petitioner:
Land \$500 Improvements \$7,500.

10. Persons sworn in at hearing:
For Petitioner — Maria (Mary) Ortiz,
For Respondent — Diane Spenos.

Issues

11. Summary of Petitioner's contentions in support of an error in the assessment:
- a) The property was purchased in April of 1998 for \$8,000. The seller was a previous neighbor and contacted the Petitioner with the offer to sell. *Ortiz testimony.*
 - b) The dwelling has suffered fire damage at the rear of the structure. The attic ceiling is falling. The concrete floor in one area of the basement is crumbling and the rest of the basement floor is earth. The exterior stairs to the dwelling are damaged. *Petitioner Exhibit 1; Ortiz testimony.*
12. Summary of Respondent's contentions in support of the assessment:
- a) A comparable sales analysis was done using properties within the subject's neighborhood with similar lot sizes, square footage, ages, and grade ratings. Those properties have average condition ratings. The subject has fair condition rating. The assessed value reflects this difference. *Respondent Exhibits 2, 4, 5; Spenos testimony.*
 - b) The condition rating of the subject dwelling was lowered from average to fair as a result of Cole-Layer-Trumble's review of the Petitioner's photographs at the informal hearing in December 2003. *Respondent Exhibit 2; Spenos 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 County 457,
 - c) Exhibits:
 - Petitioner Exhibit 1: Photographs to show condition,
 - Respondent Exhibit 1: Form 139L petition,
 - Respondent Exhibit 2: Subject property record card ("PRC"),
 - Respondent Exhibit 3: Subject photograph,
 - Respondent Exhibit 4: Comparable Sales Analysis,
 - Respondent Exhibit 5: PRCs and photographs used in the analysis,
 - Board Exhibit A: Form 139L,
 - Board Exhibit B: Notice of Hearing,
 - Board Exhibit C: Sign in Sheet,

- d) These Findings and Conclusions.

Analysis

14. The most applicable cases and regulations 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) The Petitioner must submit probative evidence that adequately demonstrates the alleged error. Mere allegations, unsupported by factual evidence, will not be considered sufficient to establish an alleged error. *Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998); *Herb v. State Bd. of Tax Comm'rs*, 656 N.E.2d 1230 (Ind. Tax Ct. 1998).
- d) 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.
- e) **Condition** – A rating assigned each structure that reflects its effective age in the market. It is determined by inspection of the structure and by relating the structure to comparable structures within the subject's neighborhood. REAL PROPERTY ASSESSMENT GUIDELINE FOR 2002 – VERSION A, app. B (incorporated by reference at 50 IAC 2.3-1-2).

15. The Petitioner did not provide sufficient evidence to support her contentions in regard to either issue. This conclusion was arrived at because:

Market Value

- a) The Petitioner testified that she purchased the subject property for \$8,000 in April 1998 when the seller contacted her. She was not sure if the property had been advertised for sale. As described by Petitioner, the circumstances of this transaction do not meet the conditions required for it to be an indication of market value. 2002

REAL PROPERTY ASSESSMENT MANUAL at 10 (incorporated by reference at 50 IAC 2.3-1-2).

- b) Petitioner's testimony about purchasing the property was vague and general. The terms of the sale also are unsupported by any documentary evidence. Petitioner's opinion that she paid a fair price, when unsupported by supporting facts and explanation, will not be considered sufficient to establish an error. *Whitley Products*, 704 N.E.2d at 1113.

Condition

- c) The condition of the property was changed from average to fair as a result of the informal hearing. While the photographs submitted by the Petitioner support a less than average condition, the Petitioner failed to explain why the condition would be better represented by something less than fair. No evidence was presented about the cost to repair or exactly how the subject's condition would reflect its value in the marketplace. Without such evidence, the repair and condition problems do not prove that the condition rating must be lower. *Indianapolis Racquet Club*, 802 N.E.2d at 1022.
- d) 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, 1222 (Ind. Tax Ct. 2003).

Conclusion

- 16. The Petitioner failed to make a prima facie case. The Board finds in favor of Respondent.

Final Determination

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