

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-032-02-1-5-00306
Petitioner: Patricia E. Joyce
Respondent: Department of Local Government Finance
Parcel #: 009201305310034
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 in Lake County, Indiana. The Department of Local Government Finance (DLGF) determined that the Petitioner's property tax assessment for the subject property was \$220,800 and notified the Petitioner on March 29, 2004.
2. The Petitioner filed a Form 139L on April 26, 2004.
3. The Board issued a notice of hearing to the parties dated October 1, 2004.
4. A hearing was held on November 4, 2004, in Crown Point, Indiana before Special Master Barbara Wiggins.

Facts

5. The subject property is a single family dwelling located at 7400 Forest Ridge Drive in Schererville, Indiana.
6. The Special Master did not conduct an on-site visit of the property
7. Assessed Value of subject property as determined by the DLGF:
Land \$51,700 Improvements \$169,100 Total \$220,800
8. Assessed Value requested by Petitioner on Form 139L petition:
Land \$49,200 Improvements \$140,000 Total \$189,200
9. The persons indicated on the sign-in sheet (Board Exhibit C) were present at the hearing.

10. Persons sworn in at hearing:

For Petitioner: Patricia E. Joyce, Owner

For Respondent: Diane Spenos, DLGF

Issues

11. At the beginning of the hearing, the Respondent and Petitioner stated they had agreed to certain changes in the assessment. The changes agreed to are as follows:

- a) The grade should be changed to B-1.
- b) The condition should be changed to Average.
- c) An adjustment for size and shape should be made to the land value.
- d) As a result of the above changes (grade, condition and land adjustment) the assessment of the subject property would be:
Land \$41,400 Improvements \$160,400 Total \$201,800.
- e) In addition, the square footage should be corrected. The total square footage of living area should be 2,278. The first floor should be 1,258 square foot and the second floor should be 1,020 square foot.
- f) The 100 square foot storage room attached to the garage does not have interior finish and should be assessed as part of the garage. The garage should be 700 square foot.
- g) As a result of the change to the square footage, the air conditioning will have to be adjusted since it is based on square footage.
- h) The parties did not present evidence showing the effect the square footage changes would have on the assessment.

12. Summary of Petitioner's contentions in support of an alleged error in the assessment:

- a) The Petitioner contends there is structural damage that affects the value of the subject property. *Joyce testimony.*
- b) The roof has cracks in the shingles and needs to be replaced. The Petitioner presented photos and an estimate of \$5,400 to replace the roof. *Joyce testimony; Pet'r Exs. 20, 21.*
- c) Two sections of the driveway have cracks. The Petitioner presented photos showing the cracks in the driveway and an estimate to repair one section of the driveway. *Joyce testimony; Pet'r Exs. 22, 23.*

d) There are cracks in the basement foundation. The largest crack is fifteen (15) feet long. *Joyce testimony; Pet'r Ex. 24.*

13. Summary of Respondent's contentions in support of the assessment:

- a) The problems with the roof and driveway appear to be normal wear and tear. *Spenos testimony.*
- b) The Respondent stated the house is only twelve (12) years old and the basement floor should not have settled and cracked. *Spenos testimony.*

Record

14. 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 #454.
- c) Exhibits:
 - Petitioner Exhibit 0: Summation
 - Petitioner Exhibit 1: Errors on subject property record card (PRC)
 - Petitioner Exhibit 2: Explanation of correct square footage
 - Petitioner Exhibit 3: Blueprint of foundation
 - Petitioner Exhibit 4: Blueprint of garage and garage storage room
 - Petitioner Exhibit 5: Photo of garage storage room
 - Petitioner Exhibit 6: Subdivision plot map
 - Petitioner Exhibit 7: Photos of 4 comparables
 - Petitioner Exhibit 8-13: PRC summary sheet and PRCs for 4 comparables
 - Petitioner Exhibit 14: Form 139L petition
 - Petitioner Exhibit 15: Notice of Assessment - original
 - Petitioner Exhibit 16: Notice of Final Assessment
 - Petitioner Exhibit 17: Summary of 4 comparables
 - Petitioner Exhibit 18: Property profiles for 4 comparables
 - Petitioner Exhibit 19: Structural assessment overview
 - Petitioner Exhibit 20: Photo of roof shingles
 - Petitioner Exhibit 21: Estimate to replace roof shingles
 - Petitioner Exhibit 22: Photo of defective concrete
 - Petitioner Exhibit 23: Estimate to replace concrete
 - Petitioner Exhibit 24: Photo of defective basement foundation
 - Petitioner Exhibit 25: Petitioner's proposed/modified value changes

 - Respondent Exhibit 1: Form 139L petition
 - Respondent Exhibit 2: Subject property record card (PRC)
 - Respondent Exhibit 3: Subject photograph

Respondent Exhibit 4: Comparable sales summary
Respondent Exhibit 5: Comparable sales PRCs and photographs

Board Exhibit A: Form 139L petition
Board Exhibit B: Notice of Hearing
Board Exhibit C: Sign in sheet

d) These Findings and Conclusions.

Analysis

15. The most applicable laws 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. Wash. 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

16. The parties agreed to the following changes should be made:

- a) The grade should be changed to B-1.
- b) The condition should be changed to Average.
- c) An adjustment for size and shape should be made to the land value.
- d) As a result of the change to the grade, condition and land, the assessment of the subject property should be:
Land \$41,400 Improvements \$160,400 Total \$201,800.
- e) In addition, the square footage should be corrected. The total square footage of living area should be 2,278. The first floor should be 1,258 square foot and the second floor should be 1,020 square foot.

- f) The 100 square foot storage room attached to the garage does not have interior finish and should be assessed as part of the garage. The garage should be 700 square foot.
 - g) As a result of the change to the square footage, the air conditioning will have to be adjusted because it is based on square footage.
 - h) The parties did not present evidence showing the effect the changes in square footage would have on the assessment.
17. The Petitioner failed to provide sufficient evidence to support her contentions regarding the structural damage. This conclusion was arrived at because:
- a) The Petitioner contends the subject property suffers from structural damage which affects the value of the subject property. The structural damage is a result of the roof shingles cracking, cracks in the driveway, and cracks in the basement. *Joyce Testimony*. The Petitioner presented estimates to repair the roof and driveway. *Pet'r Ex. 21, 23*.
 - b) The Petitioner must show the effect the structural damage has on the market value-in-use of the subject property.
 - c) The only evidence presented by the Petitioner aside from the estimates of repair was the Petitioner's testimony that the structural damage affects the value of the subject property. *Joyce testimony*. However, the Petitioner neither explained how the subject property was less desirable than other properties nor attempted to quantify the effect of structural damage on its market value-in-use. Thus, the Petitioner's assertions regarding the structural damage amount to little more than conclusory statements. Such statements, unsupported by factual evidence, are not sufficient to establish an error in assessment. *Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1119, 1120 (Ind. Tax Ct. 1998).

Conclusions

Agreement

18. Both the Petitioner and Respondent agreed to the changes listed in ¶16 above.

Damage

19. The Petitioner failed to make a prima facie case regarding structural damage to the subject property. 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 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>>