

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition: 45-001-002-1-5-00044A
Petitioners: Patrick & Shirley Donley
Respondent: Department of Local Government Finance
Parcel: 003-23-09-0227-0019
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. An informal hearing as described in Ind. Code § 6-1.1-4-33 was held. The Department of Local Government Finance (the DLGF) determined that the assessment for the subject property is \$146,600 and notified the Petitioners on March 12, 2004.
2. The Petitioners filed a Form 139L on April 12, 2004.
3. The Board issued a notice of hearing to the parties on September 13, 2004.
4. Special Master Peter Salveson held the hearing in Crown Point on October 13, 2004.

Facts

5. The subject property is located at 501 Dexter Drive, Crown Point.
6. The subject property is a single-family home on 0.256 acres of land.
7. The Special Master did not conduct an on-site visit of the property.
8. Assessed value of the subject property as determined by the DLGF:
Land \$33,600 Improvements \$113,000.
9. Assessed value requested by the Petitioners:
Land \$24,000 Improvements \$96,200.
10. Persons sworn as witnesses at the hearing:
Patrick V. Donley, Owner,
Larry Vales, Staff Appraiser, Cole-Layer-Trumble.

Issue

11. Summary of Petitioners' contentions in support of alleged error in assessment:
 - a) The subject property is assessed higher than market value as shown in an independent appraisal of the property. *Donley Testimony; Petitioner Exhibit 7.*
 - b) The subject property is over-assessed in comparison the assessments of similar homes in superior locations. *Donley Testimony; Petitioner Exhibit 5.*
12. Respondent provided evidence, but Respondent did not support the current assessment. *Vales Testimony; Respondent Exhibits 1-4.*

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. 523,
 - c) Exhibits:
 - Petitioner Exhibit 1: Form 139L Petition,
 - Petitioner Exhibit 2: Summary of Petitioner's Argument,
 - Petitioner Exhibit 3: Outline of Evidence,
 - Petitioner Exhibit 4: Notice of Final Assessment,
 - Petitioner Exhibit 5: Comparable Properties and Assessed Value,
 - Petitioner Exhibit 6: Photos of Homes in Immediate Neighborhood,
 - Petitioner Exhibit 7: Appraisal of Petitioner's Property,
 - Petitioner Exhibit 8: Assessed Value of Two Properties from the Appraisal,
 - Respondent Exhibit 1: Form 139L Petition,
 - Respondent Exhibit 2: Subject property record card,
 - Respondent Exhibit 3: Subject photo,
 - Respondent Exhibit 4: Comparable property record cards and photos,
 - 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 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, by preponderance of the evidence, 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) 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. Petitioners provided sufficient evidence to support their contentions. Respondent did not rebut Petitioners' evidence. This conclusion was arrived at because:
- a) Petitioners established that the assessment was incorrect and what the correct assessment should be based on an appraisal of the subject property with a valuation of \$120,200 as of June 1999.
 - b) Respondent did not rebut or impeach the appraisal. The parties agreed that the assessment should be changed to reflect the value shown on the appraisal.

Conclusion

16. Petitioners established a prima facie case. Respondent did not rebut Petitioners' evidence. The Board finds in favor of Petitioners.

Final Determination

In accordance with the above findings and conclusions, the Indiana Board of Tax Review now determines that the assessment should be changed to \$120,200.

ISSUED: _____

Commissioner,
Indiana Board of Tax Review

- 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>.