

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-037-02-1-5-00006
Petitioners: Philip F. & Mary E. Rothrock
Respondent: Department of Local Government Finance
Parcel #: 010-10-01-0155-0001
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. On March 23, 2004, the Department of Local Government Finance (the "DLGF") issued an administrative correction. The DLGF determined that the Petitioners' property tax assessment for the subject property was \$318,700.
2. The Petitioners filed a Form 139L on April 13, 2004.
3. The Board issued a notice of hearing to the parties dated July 21, 2004.
4. Special Master S. Sue Mayes held the hearing in Crown Point on August 26, 2004.

Facts

5. The subject property is a 2,415 square foot single-family dwelling with an 896 square foot detached garage on 17.80 acres of land located at 14176 West 181st Avenue, Lowell in West Creek Township.
6. The Special Master did not conduct an on-site visit of the property.
7. Assessed Value of the subject property as determined by the DLGF:
Land \$86,200 Improvements \$232,500 Total \$318,700.
8. Assessed Value requested by Petitioners:
Land \$50,000 Improvements \$200,000 Total \$250,000.

9. Persons sworn as witnesses at the hearing:
For Petitioners — Philip F. and Mary E. Rothrock, Taxpayers,
For Respondent — David M. Depp, Senior Appraiser, Cole, Layer, and Trumble.

Issues

10. Summary of Petitioners' contentions in support of an alleged error in the assessment:
- a. The land, house, and detached garage are overvalued when compared to similar properties in the immediate area. The appraisal of the subject property also shows that the property is overvalued at \$318,700.
 - b. The land is zoned for agricultural use and should be valued on an agricultural basis as the surrounding properties are.
11. Summary of Respondent's contentions in support of the assessment:
- a. A comparison of the subject house to similar, but smaller, properties in the immediate neighborhood that sold near the valuation date supports the value of \$318,700.
 - b. The subject property is not farmed and cannot be valued on an agricultural basis.

Record

12. 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 167,
 - c. Exhibits:
 - Petitioner Exhibit 1: The property record card for parcel #010-10-01-0068-0015 offered as comparable land.
 - Petitioner Exhibit 2: The property record card for parcel #010-10-01-0088-0012 offered as comparable land,
 - Petitioner Exhibit 3: The property record card for parcel #010-10-01-0088-0010 offered as comparable land,
 - Petitioner Exhibit 4: The property record card for parcel #010-10-01-0068-0001 offered as comparable land,
 - Petitioner Exhibit 5: The property record card for parcel #010-10-01-0068-0007 offered as comparable land,
 - Petitioner Exhibit 6: The property record card for parcel #010-10-01-0155-0003 offered as a comparable house,
 - Petitioner Exhibit 7: The property record card for parcel #010-10-01-0150-0001 offered as a comparable detached garage,

Petitioner Exhibit 8: The property record card for parcel #010-10-01-0069-0016 offered as a comparable detached garage,
Petitioner Exhibit 9: The property record card for parcel #010-10-01-0171-0001 offered as a comparable garage,
Petitioner Exhibit 10: The property record card for parcel #010-10-01-0069-0018 offered as a comparable house with a detached garage,
Petitioner Exhibit 11: A letter from Lake County Planning Commission pertaining to the zoning for the subject property,
Petitioner Exhibit 12: An appraisal for the subject property dated January 24, 2003,
Respondent Exhibit 1: A copy of the Form 139L,
Respondent Exhibit 2: The property record card and a photograph of subject property,
Respondent Exhibit 3: A sales comparison sheet with the property record card and photograph for parcels #010-10-01-0089-0029, #010-10-01-0193-0002 and #010-10-01-0085-0002,
Respondent Exhibit 4: Informal hearing sheet,
Respondent Exhibit 5: Land influence factor chart,
Respondent Exhibit 6: The property record card and photograph for 2 additional sales offered as comparables to the subject property,
Board Exhibit A: The Form 139 L,
Board Exhibit B: The Notice of Hearing,
Board Exhibit C: The Hearing Sign in Sheet,

d. These Findings and Conclusions.

Analysis

13. 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 proving 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.

Land Value

14. The Petitioners did not provide sufficient evidence to support their contention that the land should be valued using agricultural land rates. This conclusion was arrived at because:
- a. The Petitioners presented a letter from the Lake County Planning Commission to show that the land is zoned for agricultural use. While this evidence establishes that the subject property is zoned for agricultural use, this evidence does not show that the land value is incorrect. The use of land determines the method of valuation. “In assessing or reassessing land, land shall be assessed as agricultural land only when it is devoted to agricultural use.” Ind. Code § 6-1.1-4-13.
 - b. The Petitioners submitted the property record cards for five properties that border the subject parcel to the south, west and north to show neighboring properties are valued as agricultural land. None of those other five parcels have improvements. They are all land only assessments. The Petitioners testified that, while the subject property is not used as a farm, these five properties are not used as farms either. The fact that Petitioners allegedly sold some timber¹ from this property, and might do so again, is not sufficient to establish that this land is devoted to agricultural use. Evidence that neighboring properties are valued using an agricultural rate does not show that the land value of the subject property is incorrect.

Garage

15. The Petitioners did not provide sufficient evidence to support their contention that the value established for the detached garage is overstated. This conclusion was arrived at because:
- a. The Petitioners presented the property record cards for four properties with detached garages or outbuildings as comparable assessments for their detached garage. Although, that evidence shows that the other detached garages and outbuildings are valued between \$2,900 and \$7,500, this evidence does not show that the subject garage is overvalued. The Petitioners did not show that the others were actually comparable to the subject garage. The subject garage is frame construction while three of the others are pole barn construction and the fourth building is a utility shed. Additionally, all four of the structures offered as comparables are D grade buildings in fair condition, but the subject garage is a C grade building in average condition. These are substantial differences that were not accounted for by Petitioners, who simply opined that these other structures are comparable. Without specific facts to support them, however, such opinions do not qualify as probative evidence and they carry no weight in establishing a prima facie case. *Long v. Wayne Twp. Assessor*, No.

¹ Petitioners offered no specific evidence about timber sales, such as when the sale took place, to whom, how much was sold or the consideration paid. Without such evidence, it is not possible to give any significance to this point in regard to determining land use.

49T10-0404-TA-20, slip op. at 6-8 (Ind. Tax Ct. January 28, 2005); *Lacy Diversified Indus. v. Dep't of Local Gov't Fin.*, 799 N.E.2d 1215, 1221-1222 (Ind. Tax Ct. 2003).

- b. The Petitioners testified that the subject garage had been constructed seven or eight years ago for \$7,000. The cost to construct is often viewed as an indication of value; however, this testimony does not serve to prove the value of the subject garage. Rather, this testimony serves only to show what the subject detached garage cost in 1992 or 1991. It does not serve to show what the cost to construct or value was relevant to the valuation date of 1999. *Long*, slip op. at 8-9.

Value of the Dwelling

16. The Petitioners did not provide sufficient evidence to support the Petitioners' contention that the house value was overstated. This conclusion was arrived at because:
 - a. The Petitioners compared the property assessment for the subject dwelling with two other dwellings offered as comparable structures, but failed to prove that the other properties are actually comparable. While the evidence shows that the subject dwelling is assessed for more than the alleged comparables, the evidence does not show that the value of the subject dwelling is incorrect. *Id.* at 6-8.
 - b. The subject dwelling is a one-story ranch style home with a C+2 grade factor. One of the proffered comparables is a two-story home graded C+1 and the other property has a greater square foot area than the subject and is 10 years older with a C+1 grade factor. Both properties are located in a different neighborhood than the subject property. Petitioners failed to establish how these properties are comparable.
 - c. No conclusion about the value of Petitioners' house can be reached from the case that Petitioners have presented. *Id.*

The Appraisal of Market Value

17. The Petitioners did not provide sufficient evidence to support their contention that the subject property is overvalued at \$318,700. This conclusion was arrived at because:
 - a. The Petitioners submitted an appraisal as evidence of value. Its sales comparison analysis used sales from February and June 2002. The appraisal estimates the market value of the subject property at \$260,000 as of January 24, 2003. Nothing in the record relates that appraisal opinion back to a value as of January 1, 1999. Consequently, the appraisal carries no probative value. *Long*, slip op. at 8-9 (stating that taxpayers are required to explain how their evidence demonstrates or is relevant to the value of the subject property as of January 1, 1999).
 - b. 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*, 799 N.E.2d at 1222.

Conclusion

18. The Petitioners failed to make a prima facie case regarding any of its claims. 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.