

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-026-02-1-5-01278
Petitioners: Philip Charles & Mary Ellen Wagner
Respondent: Department of Local Government Finance
Parcel #: 007-18-28-0110-0009
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 on January 18, 2004, in Lake County, Indiana. The Department of Local Government Finance (DLGF) determined that the Petitioner's property tax assessment for the subject property was \$226,600, and notified the Petitioner on March 31, 2004.
2. The Petitioner filed a Form 139L on April 29, 2004.
3. The Board issued a notice of hearing to the parties on October 4, 2004.
4. A hearing was held on November 9, 2004, in Crown Point, Indiana before Special Master Peter Salvesson.

Facts

5. The subject property is located at 8437 Northcote Avenue, Munster, in North Township.
6. The subject property is a single-family home on 0.418 acres of land.
7. The Special Master did not conduct an on-site visit of the property.
 - a) Assessed Value of the subject property as determined by the DLGF:
Land \$46,900 Improvements \$179,700 Total \$226,600
 - b) Assessed Value requested verbally by the Petitioner during hearing:
Land \$46,900 Improvements \$159,100 Total \$206,000

8. The persons indicated on the sign-in sheet (Board Exhibit C) were present at the hearing.
9. Persons sworn in at hearing:

For Petitioner: Philip C. Wagner, Owner

For Respondent: John Toumey, DLGF

Issue

10. Summary of Petitioner's contentions in support of alleged error in assessment:
 - a) The improvement assessment is too high. *Wagner argument.*
 - b) An appraisal of the subject property, dated October 21, 2003, places the value at \$271,000. *Wagner testimony; Board Ex. A.*
 - c) The Petitioner's analysis of the comparable properties used for the appraisal shows that assessments are lower than market values. *Wagner argument; Board Ex. A; Pet'r Ex. 1.* The average assessment of comparable improvements is \$159,100; therefore, the subject improvement's assessment should be lowered to that amount. *Id.*
 - d) Petitioner purchased the subject property on April 16, 2001, for \$300,000, which included approximately \$30,000 of personal property. *Wagner testimony.*
 - e) Market values, rather than selling prices, should be the basis for the assessment. *Wagner argument.*
11. Summary of Respondent's contentions in support of assessment:
 - a) The Petitioner is attempting to establish the market values of comparable properties based on assessments. *Toumey argument.* At issue should be the market value of the subject property as of January 1, 1999. *Id.*
 - b) The October 21, 2003, appraisal of the property for \$271,000 supports the current assessment. *Id.* Based on sales in the area, a time adjustment multiplier of 83.128% should be applied to the appraisal value to bring the value to January 1, 1999, and the result of applying this factor is a computed value of \$225,280. *Toumey testimony.*
 - c) The Petitioner's purchase price of \$270,000 (not including personal property) also supports the assessment. *Toumey argument.*

Record

12. The official record for this matter is made up of the following:
- a) The Petition and all subsequent pre-hearing submissions by either party.
 - b) The tape recording of the hearing labeled Lake Co - 589
 - c) Exhibits:

Petitioner's Exhibit A: Comparable Property Assessments

Respondent's Exhibit 1: Form 139L Petition

Respondent's Exhibit 2: Subject Property Record Card

Respondent's Exhibit 3: Subject Property Photograph

Board Exhibit A: Form 139L Petition

Board Exhibit B: Notice of Hearing

Board Exhibit C: Hearing Sign-In Sheet

- d) These Findings and Conclusions.

Analysis

13. 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 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 at 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”).
 - a) 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.
14. 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 assessment is too high, based on an appraisal of the subject property, and an analysis of comparable properties' market value to assessed value ratios.
- b) The 2002 Real Property Assessment Manual ("Manual") defines the "true tax value" of real estate as "the market value-in-use of a property for its current use, as reflected by the utility received by the owner or a similar user, from the property." 2002 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.3-1-2). The Manual further provides that for the 2002 general reassessment, a property's assessment must reflect its market value-in-use as of January 1, 1999. MANUAL at 4.
- c) The Petitioner's analysis of comparable properties' market value to assessed value ratios (*Board Ex. A* at 4) is flawed. The figures used by the Petitioner to represent the market values of the comparable properties are actually values *after* adjustments were made for differences between the comparables and the subject. For example, for the property located at 1808 Alta Vista, the Petitioner has listed an appraised market value of \$285,100. *Id.* This figure is incorrect. The actual market value, according to a July 31, 2001, sale, was \$259,000. *Board Ex. A* at 9. Because the Petitioner purchased the subject property for approximately \$270,000 in April, 2001, one would expect the assessment of 1808 Alta Vista to be lower than the subject's assessment. The subject's assessment is \$226,600, while 1808 Alta Vista's assessment is \$206,900.
- d) Each of the comparable properties used in the Petitioner's appraisal have likewise been adjusted upwards to account for differences between the comparables and the subject. Thus, in each case, the actual market value of the comparable is much lower than the figure used as a market value by the Petitioner. The Board finds no disparity in the assessments when the analysis is performed correctly.
- e) The best evidence on the record of the value of the subject property is the appraisal submitted by the Petitioner, which states a value of the subject property of \$271,000. *Board Ex. A* at 5-19. The Petitioner's appraisal, however, is dated October 21, 2003, while the valuation date for the assessment in question is January 1, 1999. A party relying on an appraisal to establish the market value-in-use of a property must provide some explanation as to how the appraised value demonstrates or is relevant to the property's value as of January 1, 1999. *See Long v. Wayne Township Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005) (holding that an appraisal indicating the value for a property on December 10, 2003, lacked probative value in an appeal from the 2002 assessment of that property).
- f) In the case at bar, the Respondent has performed this analysis for the Petitioner. Based on an analysis of sales in the area, the Respondent testified that 83.128% should be multiplied by the appraisal value to factor it back to a January 1, 1999, value. The result, \$225,280, shows that the current assessment is accurate.

- g) For the reasons set forth, the Petitioner has failed to make a prima facie case that the assessment is incorrect, and the Respondent has shown that the assessment *is* correct. Therefore, there is no change in the assessment.

Conclusion

17. The Petitioner did not establish a prima facie case. 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>.