

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-001-02-1-5-00854
Petitioners: Rabon and Patricia Ann Sullivan
Respondent: Department of Local Government Finance
Parcel #: 001-15-26-0208-0019
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 between the Petitioners and the Respondent on January 20, 2004. The Department of Local Government Finance (DLGF) determined that the Petitioners' property tax assessment for the subject property was \$82,400 and notified the Petitioners on March 31, 2004.
2. The Petitioners filed a Form 139L on April 30, 2004.
3. The Board issued a notice of hearing to the parties on August 31, 2004.
4. Special Master Peter Salveson held the hearing in Crown Point on October 05, 2004.

Facts

5. The subject property is located at 912 N. Indiana Ave., Griffith, in Calumet Township.
6. The subject property is a single-family home on 0.165 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 \$18,600 Improvements \$63,800 Total \$82,400
9. Assessed Value requested by the Petitioners on the Form 139L:
Land \$18,600 Improvements \$50,000 Total \$68,600

10. Persons sworn as witnesses at the hearing:
For Petitioners — Rabon Sullivan, Owner
For Respondent — Larry Vales, Representing the DLGF

Issues

11. Summary of Petitioners' contentions in support of alleged error in assessment:
- a) The Petitioners contend that the subject property is not worth \$82,400 in its present condition. *Sullivan Testimony.*
 - b) The photographic evidence shows the condition of the subject property, including unfinished and unpainted areas throughout. The house needs a new roof, siding, windows, and doors. The furnace is the original furnace. The property was in this condition on the assessment date. *Sullivan Testimony and Petitioner Exhibit A.*
 - c) There are also errors on the property record card. The dwelling was built in 1957; the garage was built on 1959. There is no half-bath. *Sullivan Testimony.*
12. Summary of Respondent's testimony:
- a) The Respondent testified that inspection of the interior of structures was not allowed during the reassessment process. *Vales Testimony.*
 - b) The Respondent agreed that the errors concerning the plumbing fixtures and the dates of construction should be corrected. *Vales Testimony.*
 - c) The Respondent recommended that based on the photographic evidence presented by the Petitioners that the condition of the property be changed from average to fair. *Vales 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 Co. 505
 - c) Petitioner Exhibit A: Sixteen photos of subject property
Respondent Exhibit 1: Form 139L Petition
Respondent Exhibit 2: Subject property record card
Respondent Exhibit 3: Photo of subject property
Respondent Exhibit 4: Comparable sales sheet, 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 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").
- 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.

15. The Petitioners provided sufficient evidence to support their contentions. The Respondent did not rebut the Petitioners' evidence. This conclusion was arrived at because:

- a) The Petitioners established that the assessment was incorrect regarding condition of the subject property. The Respondent agreed that the condition rating should be changed to fair. *Sullivan Testimony and Petitioner Exhibit A*.
- b) The Petitioners presented testimony that there was no half-bath, the construction year of the dwelling should be 1957, and the construction year of the garage should be 1959. *Sullivan Testimony*.
- c) Again, the Respondent agreed to the removal of the two additional plumbing fixtures, the change of the construction year of the dwelling to 1957, and the change of the construction year of the garage to 1959. *Vales Testimony and Respondent Exhibit 2*.

Conclusion

16. The Petitioners establish a prima facie case for correcting their assessment. The Respondent did not rebut the Petitioners' evidence. The Board finds in favor of the 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 remove the half-bath, to correct the construction year of the dwelling to 1957, to correct the construction year of the garage to 1959, and to correct the condition of the dwelling to fair.

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.