

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition: 45-026-02-1-5-00228
Petitioner: Rajive Adlaka
Respondent: Department of Local Government Finance
Parcel: 007-18-28-0585-0008
Assessment Year: 2002

The Indiana Board of Tax Review (the Board) issues this determination in the above matter. The Board finds and concludes as follows:

Procedural History

1. The 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 property tax assessment for the subject property is \$488,500 and notified the Petitioner on April 1, 2004.
2. The Petitioner filed a Form 139L on April 30, 2004.
3. The Board issued a notice of hearing to the parties dated November 10, 2004.
4. Special Master Kathy J. Clark held the hearing in Crown Point on December 14, 2004.

Facts

5. The subject property is located at 1913 Briarwood Circle in Munster.
6. The subject property consists of a two-story, brick dwelling.
7. The Special Master did not conduct an on-site visit of the property.
8. The assessed value of subject property as determined by the DLGF is:
Land \$77,300 Improvements \$411,200 Total \$488,500.
9. The assessed value requested by Petitioner is:
Land \$71,000 Improvements \$250,000 Total \$321,000.
10. Phillip E. Raskosky II, assessor/auditor was sworn as a witness at the hearing.

Issues

11. Summary of Petitioner's contentions in support of an error in the assessment:
 - a) There is a factual error in the assessment in regards to square feet of living area. The total first floor square footage should be 2,028, the basement square footage should be 2,000, and the total square footage of the second floor should be 1,777. *Petitioner Exhibit 4, pages 2, 9, 11, 12; Dogan testimony.*
 - b) An appraisal was completed by Michael S. Thomas on May 17, 2004, for the purposes of this appeal. Using both the cost approach and the market approach, it establishes that the value as of January 1, 1999, is \$405,000. *Petitioner Exhibit 4; Dogan testimony.*

12. Summary of Respondent's contentions in support of the assessment:
 - a) No interior inspections are conducted during a reassessment. The exterior of the dwelling is measured, but not the second floor. When the 468 square feet of the integral garage is removed, the property record card reflects a total of 3,745 square feet of finished living area compared to the appraisal report's 3,807 feet. *Respondent Exhibit 2; Petitioner Exhibit 4; Raskosky testimony.*
 - b) A sales analysis was done using three comparable properties located in the subject's neighborhood. Respondent contends that it demonstrates that the assessed value of the subject is within an acceptable market range and therefore valid. *Respondent Exhibits 4, 5; Raskosky 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 County 1021,
 - c) Exhibits:
 - Petitioner Exhibit 1–Form 139L,
 - Petitioner Exhibit 2–Summary of Arguments,
 - Petitioner Exhibit 3–Written outline of evidence explaining its relevance,
 - Petitioner Exhibit 4–Appraisal,
 - Respondent Exhibit 1–Form 139L,
 - Respondent Exhibit 2–Subject property record card,
 - Respondent Exhibit 3–Subject photograph,
 - Respondent Exhibit 4–Comparable analysis sheet,
 - Respondent Exhibit 5–Property record cards and photographs of comparables,
 - Board Exhibit A–Form 139L,

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 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 Petitioner made a prima facie case. The Respondent failed to rebut Petitioner’s evidence. This conclusion was arrived at because:
- a) The appraisal values the subject property as of January 1, 1999, at \$405,000. The appraisal was prepared by a licensed, certified appraiser. As such, the appraisal serves to establish a prima facie case establishing that the current value of \$488,500 is incorrect and that \$405,000 is the correct value. The appraisal also contained an accurate, detailed measurement of the finished living area.
 - b) As a result, the burden shifted to the Respondent to offer evidence to rebut or impeach the appraisal. *American United Life*, 803 N.E.2d 276; *Meridian Towers*, 805 N.E.2d at 479.
 - c) Respondent offered a list of three sold properties in the subject neighborhood. The properties were of similar age, size and grade. The average per square foot price was \$115.95 according to the list. There are no detailed adjustments for differences in lot size, living area, or amenities. The evidence offered by Respondent is not sufficient, specific reasons to establish comparability. Respondent's list of comparables has no probative value in this case. *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 470 (Ind. Tax Ct. 2005).

- d) Furthermore, Respondent was using the incorrect measurement for the living area. Because Petitioner's appraisal is specific to the subject property and detailed adjustments were made to the comparables for any differences, Petitioner's appraisal has more credibility than any credibility the generic comparison offered by the Respondent might have.

Conclusion

16. The Petitioner presented sufficient evidence to establish a prima facie case. The Respondent failed to rebut the Petitioner's evidence. The Board finds in favor of the Petitioner.

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 a total of \$405,000.

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>.