

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-001-02-1-5-00922
Petitioners: Ralph E. & Linda S. Thomas
Respondent: Department of Local Government Finance
Parcel #: 001-25-46-0541-0013
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 February 26, 2004. The Department of Local Government Finance ("DLGF") determined that the Petitioners' property tax assessment for the subject property was \$52,400 and notified the Petitioners on March 31, 2004.
2. The Petitioners filed a Form 139L on April 29, 2004.
3. The Board issued a notice of hearing to the parties on August 31, 2004.
4. A hearing was held on October 5, 2004, in Crown Point, Indiana before Special Master Peter Salvesson.

Facts

5. The subject property is located at 2124 East 20th Ave., Gary, in Calumet Township.
6. The subject property consists of a single-family home situated on 0.103 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 \$5,200	Improvements \$47,200	Total \$52,400
--------------	-----------------------	----------------
 - b) Assessed Value requested verbally by the Petitioners during hearing:

Land \$5,200	Improvements \$14,800	Total \$20,000
--------------	-----------------------	----------------

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

For Petitioners: Ralph & Linda Thomas, Owners
For Respondent: Jim Hemming, Representing the DLGF
 Larry Vales, Appraiser

Issue

10. Summary of Petitioners' contentions in support of alleged error in assessment:
 - a) Assessments are based on market value. The subject property would not sell for a price anywhere near the current assessed value. *Ralph Thomas testimony.*
 - b) The Lake County website shows a neighborhood factor for the subject property of 1.02. According to the Petitioners' township assessor, this means the neighborhood is above average, which is incorrect. *Id; Petitioners' Exhibit 8.*
 - c) Of the 44 properties on the same block as the subject property, 10 are abandoned homes and 12 are empty slabs. *Ralph Thomas testimony.*
 - d) A neighboring property is assessed at 10% of the value of the subject property. The subject property is assessed 2-12 times higher than other properties on the block (12 times more than empty slabs). *Id.*
 - e) Assessments in the subject neighborhood "don't follow rhyme or reason." A property at 2108 East 20th Avenue that is well maintained and has someone living in it is assessed at \$8,700. By contrast, an abandoned property at 2149 East 20th Avenue is assessed at \$9,600. *Id.*
 - f) The subject property should be assessed at \$20,000. The Petitioners base this contention on the sale of a property at 2141 East 20th Avenue. That property, which contains a one-story, two-bedroom dwelling, sold for \$10,000 and is assessed at \$10,300. The subject property is a two-story, four-bedroom house. *Id.* The Petitioners therefore doubled the sale price of the property at 2141 East 20th Avenue to arrive at their requested value for the subject property. *Id.*
 - g) Using sales of properties on other streets to determine the assessment of the subject property may not give a true reflection of the effect of abandoned properties on the value of the subject property. *Linda Thomas argument.*
11. Summary of Respondent's contentions in support of assessment:
 - a) A neighborhood factor of 1.02 does not necessarily mean the neighborhood is above average. It is a factor that adjusts calculated assessments to reflect sale values in a

neighborhood. *Vales testimony.*

- b) An additional adjustment of 55% was applied to the value of the subject property to account for the deteriorated condition of the subject property's neighborhood. *Id; Respondent's Exhibit 2.*
- c) The Petitioners have the only two-story dwelling in the neighborhood. *Vales testimony.*
- d) The Respondent submitted two time-adjusted sales of one-story dwellings for comparison. One property sold for \$43.53 per square foot, and the other sold for \$31.20 per square foot. The subject property is assessed at \$28.54 per square foot. Therefore, the Respondent contends that the subject property's assessment is "right in the ballpark." *Vales testimony and argument; Respondent's Exhibit 6.*

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. #501.
- c) Exhibits:

Petitioners' Exhibit 1:	Notice of Hearing
Petitioners' Exhibit 2:	Notice of Final Assessment
Petitioners' Exhibit 3:	Form 139L Petition
Petitioners' Exhibit 4:	Form 11 – 12-29-03
Petitioners' Exhibit 5:	Indiana Residential Property Card
Petitioners' Exhibit 6:	Neighborhood Property Photos
Petitioners' Exhibit 7:	Screenprints of Assessment Values
Petitioners' Exhibit 8:	Property Information for Subject Property

Respondent's Exhibit 1:	Form 139L Petition
Respondent's Exhibit 2:	Subject Property Record Card
Respondent's Exhibit 3:	Subject Photo
Respondent's Exhibit 4:	Comparable Property Record Cards and Photos
Respondent's Exhibit 5:	Owner's Comparables
Respondent's Exhibit 6:	Sales within Neighborhood

Board Exhibit A:	Form 139L Petition
Board Exhibit B:	Notice of Hearing
Board Exhibit C:	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").
 - 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.
14. The Petitioners did not provide sufficient evidence to support their contentions. This conclusion was arrived at because:
- a) The Petitioners submitted no evidence of the value of their property, but merely offered conclusory statements that the assessment is too high. Conclusory statements alone are not probative evidence of error in the assessment. *Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113 (Ind. Tax 1998); *see also Herb v. State Bd. of Tax Comm'rs*, 656 N.E.2d 1230 (Ind. Tax 1998).
 - b) The Petitioners failed to establish that properties on their block that are assessed lower than the subject property are comparable to the subject property. Many of the properties to which the Petitioners sought to compare the subject property were abandoned properties, empty slabs or were visibly in significantly poorer condition than the subject property. *Ralph Thomas testimony; Petitioners' Exhibit 6*.
 - c) The Petitioners also identified several properties that were occupied; however, the Petitioners provided virtually no information comparing the characteristics of those properties to the characteristics of the subject property. *Id.* The Petitioners therefore failed to establish that those properties are comparable to the subject property. *See Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471-72 (Ind. Tax Ct. 2005) (holding that the petitioners' evidence concerning the sale of purportedly comparable properties lacked probative value, where the petitioners failed to explain how the characteristics of the subject property compared to those of the purportedly comparable properties or how any differences between the properties affected their

relative market values-in-use). The same is true with regard to the property identified by the Petitioners that sold for \$10,000.

- d) Based on the foregoing, the Petitioners failed to establish a prima facie case that the assessment is in error.

Conclusion

15. The Petitioners failed to make 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>.