

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-028-02-1-5-00308
Petitioners: Rev. Evagoras C. & Maria Constantinides
Respondent: Department of Local Government Finance
Parcel #: 008-33-23-0106-0019
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 in January 2004 between the Petitioners and the Respondent. The Department of Local Government Finance (DLGF) determined that the Petitioners' property tax assessment for the subject property was \$130,600 and notified the Petitioners on March 31, 2004.
2. The Petitioners filed a Form 139L on April 27, 2004.
3. The Board issued a notice of hearing to the parties on September 14, 2004.
4. A hearing was held on October 14, 2004 in Crown Point, Indiana before Special Master Peter Salvesson.

Facts

5. The subject property is located at 9433 Arthur Street, Crown Point, in Ross Township.
6. The subject property is a single-family home on .215 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 \$25,100 Improvements \$105,500 Total \$130,600
9. Assessed Value requested by the Petitioner during hearing:
Land \$25,100 Improvements \$100,000 Total \$125,100

10. The persons indicated on the sign-in sheet (Board Exhibit C) were present at the hearing.
11. Persons sworn in at hearing:
For Petitioner: Rev. Evagoras & Maria Constantinides, Owners
For Respondent: Larry Vales, Representing the DLGF

Issue

12. Summary of Petitioners' contentions in support of alleged error in assessment:
 - a. The Petitioners' contention on the Form 139L for a lower value is based on the condition of the subject property. *Constantinides Testimony; Petitioners' Exhibit A.*
 - b. When the Petitioners purchased the house, they were unaware that the drain around the house emptied into the sanitary sewer instead of the storm sewer. *Board Exhibit A.* This eventually caused the basement floor to "explode," and left a cracked floor in the basement. *Id.; Petitioners' Exhibit A.* That condition also has led to flooding and to an uneven floor on the first floor of the house. *Id.; M. Constantinides Testimony.* In addition, the Petitioners' garage has separated from their house by almost six inches at the garage roof level. *Board Exhibit A; Petitioners' Exhibit A.*
 - c. The Petitioners contend that the subject property could not sell for the amount of the current assessment without expensive repairs. *M. Constantinides Testimony.*
 - d. The Petitioners have received estimates of between \$5,000 and \$10,000 to repair the subject property. *M. Constantinides Testimony.*
13. Summary of Respondent's contentions:
 - a. The Respondent did not have any sales of comparable properties to present. *Vales Testimony.*
 - b. Based on the photographic evidence presented by the Petitioners, the condition of the property should be changed to "Fair." *Vales Testimony.*

Record

14. 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. #528.
 - c. Exhibits:

Petitioners Exhibit A: Photographs of the subject property

Respondent Exhibit 1: Form 139L Petition
Respondent Exhibit 2: Subject property record card
Respondent Exhibit 3: Photograph of subject property
Respondent Exhibit 4: Property record cards and photographs of comparables

Board Exhibit A: Form 139 L Petition
Board Exhibit B: Notice of Hearing
Board Exhibit C: Sign in Sheet

d. These Findings and Conclusions.

Analysis

15. The most applicable governing cases, laws, and regulations are:
- a. A petitioner seeking review of a determination of an assessing official has the burden to establish a prima facie case proving, by preponderance of the evidence, 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. Wash. 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.
16. The Petitioners provided sufficient evidence to support their contention for a reduction in the condition rating assigned to the subject dwelling. This conclusion was arrived at because:
- a. The subject dwelling is currently assigned a condition rating of "Average." *Respondent Exhibit 2*. However, the Petitioners presented photographs and testimony demonstrating deterioration of the dwelling, which would cost between \$5,000 and \$10,000 to repair. *Constantinides Testimony*.
 - b. The evidence presented by the Petitioners demonstrates that the subject dwelling suffers from "minor deferred maintenance," which is consistent with the description of a structure in "Fair" condition under the Real Property Assessment Guidelines for

2002-Version A (“Assessment Guidelines”). REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 – VERSION A, app. B at 7 (incorporated by reference at 50 IAC 2.3-1-2). The Petitioners therefore presented a prima facie case for a reduction in the condition rating assigned to the subject dwelling from “Average” to “Fair.”

- c. The Respondent did not rebut the evidence presented by the Petitioners. Instead, the Respondent recommended that the condition rating of the subject dwelling be reduced to “Fair.” *Vales Testimony*.

Conclusion

- 17. The Petitioners made a prima facie case for a reduction in the condition rating assigned to the subject dwelling. 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 reflect a condition of “Fair” for the subject dwelling and that the total assessed value of the subject property should be changed accordingly.

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.