

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition: 45-026-02-1-5-00817
Petitioners: Richard & Claudia Gonzalez
Respondent: Department of Local Government Finance
Parcel: 007-24-30-0586-0045
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 Department of Local Government Finance (the "DLGF") determined that the tax assessment for the subject property is \$131,200.
2. The Petitioner filed a Form 139L on April 28, 2004.
3. The Board issued a notice of hearing to the parties dated November 10, 2004.
4. Special Master Barbara Wiggins held the hearing in Crown Point on December 14, 2004.

Facts

5. The subject property is located at 5007 White Oak in East Chicago, Indiana.
6. The subject property is a multi-family residence on a lot measuring 38 feet by 125 feet.
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:
Land \$10,500 Improvements \$120,700 Total \$131,200.
9. The assessed value requested by Petitioner:
Land \$5,000 Improvements \$90,000 Total \$95,000.
10. The following persons were present and sworn as witnesses at the hearing:
For Petitioners – Richard and Claudia Gonzalez, property owners,
For Respondent – John Toumey, assessor/auditor.

Issues

11. Summary of Petitioner's contentions in support of an alleged error in the assessment:
 - a) The current assessed value of the subject property is excessive and should be between \$95,000 and \$105,000. *C. Gonzalez testimony.*
 - b) The subject property was purchased for \$82,918 in January 2003. *C. Gonzalez testimony; Petitioner Exhibit B, C3.*
 - c) A realtor's Comparable Market Analysis indicates that the subject property's market value is approximately \$105,000. *C. Gonzalez testimony; Petitioner Exhibit C6.*
 - d) The appraisal estimates the market value of the subject property at \$120,000. *C. Gonzalez testimony; Petitioner Exhibit C2.* The appraisal valued the subject property higher than the sale price to allow the purchase of appliances and the cost of necessary repairs. *C. Gonzalez testimony.*

12. Respondent contends that the appraisal value of \$120,000 should be adjusted for time to give a value of \$103,500 as of January 1, 1999. *Toumey testimony; Respondent Exhibit 6.* The DLGF recommends a change in assessment from \$131,200 to \$103,500 (land \$10,500 and improvements \$93,000) based on the time adjusted appraisal value. *Toumey 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 1111,
 - c) Exhibits:
 - Petitioner Exhibit A – Form 139L,
 - Petitioner Exhibit B – Summary of arguments,
 - Petitioner Exhibit C – Evidence outline,
 - Petitioner Exhibit C1 – Assessment information for the subject property,
 - Petitioner Exhibit C2 – An appraisal of the subject property,
 - Petitioner Exhibit C3 – A copy of the settlement sheet pertaining to the subject property,
 - Petitioner Exhibit C4 – Four photographs of the subject property and its surroundings,
 - Petitioner Exhibit C5 – A copy of Ind. Code §36-7-9 with excerpts of Chapters 4 and 4.5 highlighted,
 - Petitioner Exhibit C6 – Comparable Market Analysis for the subject property,

Respondent Exhibit 1 – Form 139L,
Respondent Exhibit 2 – Subject property record card,
Respondent Exhibit 3 – Two photographs of the subject property,
Respondent Exhibit 4 – A list of comparable property sales,
Respondent Exhibit 5 – Property record cards and photographs of other multi-family properties,
Respondent Exhibit 6 – A time adjustment calculation for the appraisal of the subject property,
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 laws 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. There is sufficient evidence to support Petitioners' claim because:

- a) For the 2002 reassessment, there are several acceptable methods of establishing the value-in-use of a property. There is a presumption that the value determined according to the rules prescribed by the assessment manual and assessment guidelines is correct. Nevertheless, taxpayers are permitted to offer evidence to rebut that presumption and to establish the actual true tax value of a property. Such evidence may include actual construction costs, sales information regarding the subject or comparable properties, appraisals, and other information compiled

in accordance with generally accepted appraisal principles. 2002 REAL PROPERTY ASSESSMENT MANUAL at 5 (incorporated by reference at 50 IAC 2.3-1-2).

- b) Indiana's assessment regulations state that for the 2002 general reassessment, an assessment is to reflect the value of the property as of January 1, 1999. *See* MANUAL at 4; *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005).
- c) Petitioners' evidence tended to prove that the current assessment is probably too high, but none of that evidence conformed to the proper valuation date, January 1, 1999. The appraisal was as of November 25, 2002. The purchase price was January 2003. The realtor's Comparable Market Analysis was December 2004. The value indicated by each of these items is substantially different and the Petitioners failed to offer probative evidence or explanation to resolve these differences. Consequently, Petitioners' evidence alone is not enough to establish what the correct assessment should be.
- d) Respondent, however, has resolved that problem by relating the appraisal value to the proper valuation date. Respondent offered a detailed explanation and calculations that relate the appraisal back to January 1, 1999. Respondent agreed that the appraisal supports a total assessed value of \$103,500.
- e) Although Respondent also offered a list of purportedly comparable sales and a few property record cards and photographs as evidence, Respondent failed to establish comparability and failed to explain how that evidence either supports the current assessed value or rebuts the Petitioners' evidence. Therefore, it lacks relevance or probative value in this case. *See Id.*

Conclusion

16. The evidence is sufficient to make a prima facie case for an assessment change. 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 land \$10,500 and improvements \$93,000 for a total assessed value of \$103,500.

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>.