

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-026-02-1-5-00074
Petitioners: Robert E. & Evelyn P. Boyle
Respondent: Department of Local Government Finance
Parcel #: 007182803860008
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. The informal hearing as described in Ind. Code § 6-1.1-4-33 was held on January 16, 2004, in Lake County, Indiana. The Department of Local Government Finance (DLGF) determined that the Petitioners' property tax assessment for the subject property was \$197,200 and notified the Petitioner on March 31, 2004.
2. The Petitioners filed a Form 139L on April 12, 2004.
3. The Board issued a notice of hearing to the parties dated June 29, 2004.
4. Special Master Kathy J. Clark held the hearing in Crown Point on September 9, 2004.

Facts

5. The subject property is located at 9530 Walnut Drive, Munster, in North Township.
6. The subject property is a quad-level, brick and frame dwelling on a lot measuring 80 x 135 feet.
7. The Special Master did not conduct an on-site visit of the property.
8. Assessed Value of subject property as determined by the DLGF:
Land \$38,000 Improvements \$159,200 Total \$197,200.
9. Assessed Value requested by Petitioner:
Land \$38,000 Improvements \$148,000 Total \$186,000.

10. Persons sworn as witnesses at the hearing:
For Petitioner — Robert E. and Evelyn Boyle, Owners
For Respondent — Sharon S. Elliott, Staff Appraiser, Cole-Layer-Trumble.

Issues

12. Summary of Petitioners' contentions in support of an alleged error in the assessment:
- a) The \$197,200 assessed value established for the subject property is \$13,700 higher than the average assessment of comparable properties in the neighborhood. The assessments of six comparable properties are in a range from \$180,100 to \$186,500. The average assessment of these properties is \$183,500. The six properties used as comparables are just like the subject. The Petitioners have personally been in each of the six comparable properties. *R. Boyle testimony; Pet. Ex. 3.*
 - b) A certified, licensed real estate appraiser completed the appraisal of the subject property. The appraisal was performed August 11, 2004, to establish value as of January 1, 1999. The indicated value established for the subject property using the cost approach is \$185,719. The indicated value established for the property using the sales comparison approach is \$182,000. *R. Boyle testimony; Pet. Ex. 6.*
 - c) The value for the above grade areas is \$77,000 using a square foot cost of \$51.80 and a total square foot area of 1,494. The above grade areas include the kitchen, dining room, living room, and bedrooms. The value for the below grade area is \$28,237 using a square foot cost of \$18.90 and a total square foot area of 1,494. The below grade area includes the basement and family room. *R. Boyle testimony; Pet. Ex. 2.*
 - d) Based on the \$183,500 average assessment of the six comparable properties, the \$185,719 value established by the cost approach, and the \$182,000 value established by the sales comparison approach, the assessed value of the subject property should be reduced. *R. Boyle testimony.*
13. Summary of Respondent's contentions in support of the assessment:
- a) The information listed on the subject property record card and the resulting assessment follows the Indiana Real Property Assessment Guidelines on listing bi-level and tri-level dwellings. *Elliott testimony; Resp. Ex. 2.*
 - b) The Comparable Sales Analysis contains three dwellings from the subject property's neighborhood that the Respondent believes demonstrates that the value for the subject property falls within the acceptable range of market value for similar dwellings. The comparables are all tri-level or quad-level homes, similar age within one year, similar square foot area, and similar land values. *Elliott testimony; Resp. Ex. 4.*

Record

14. 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.-393
 - c) Exhibits:
 - Petitioners Exhibit 1: A copy of the Form 139L
 - Petitioners Exhibit 2: A summary of the Petitioners' contentions

- Petitioners Exhibit 3: A list of six properties located in the same neighborhood offered as comparables
- Petitioners Exhibit 4: The property record card for the subject property
- Petitioners Exhibit 5: A blueprint drawing of the subject property showing a cross section view of the elevation for the subject property
- Petitioners Exhibit 6: An appraisal for the subject property valuing the subject property as of January 1, 1999
- Respondent Exhibit 1: A copy of Form 139L
- Respondent Exhibit 2: The property record card for the subject property
- Respondent Exhibit 3: A photograph of the subject property
- Respondent Exhibit 4: List of properties Respondent identified as comparables with a photograph and property record card for each one
- Respondent Exhibit 5: The property record cards of six other properties Respondent identified as comparables
- Board Exhibit A: The Form 139 L
- Board Exhibit B: The Notice of Hearing
- Board Exhibit C: The Hearing Sign in Sheet;
- d) These Findings and Conclusions.

Analysis

15. 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. The Petitioners provided sufficient evidence to establish a prima facie case. The Respondent did not rebut the Petitioners’ evidence in regard to assessed value. This conclusion was arrived at because:
 - a) The appraisal submitted by the Petitioner states that the value for the subject property as of January 1, 1999, is \$182,000. 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 \$197,200 is incorrect and that \$182,000 is the correct value. As a result, the burden shifted to the Respondent to offer evidence to rebut or impeach the appraisal.

- b) Respondent's comparable sales analysis shows three sales noted as most like the subject property. The Respondent claims that these sales show that the current assessment of \$197,200 is correct. Respondent did not establish, however, that the sales it relies upon are comparable to the subject property. The Respondent has not shown that the properties it claims to be comparable are actually comparable to the subject property. The comparable sales analysis does not contain enough probative facts to impeach the Petitioners' appraisal or effectively support the current assessment. The unsubstantiated conclusions concerning the comparability of properties do not constitute probative evidence. *Long v. Wayne Twp. Assessor*, No. 49T10-0404-TA-20, slip op. at 6-8 (Ind. Tax Ct. January 28, 2005); *Blackbird Farms Apts., LP v. Dep't of Local Gov't Fin.*, 765 N.E.2d 711 (Ind. Tax Ct. 2002); *Whitley Prods., Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).

Conclusion

17. The Petitioners presented sufficient evidence to establish a prima facie case. The Respondent failed to rebut the Petitioner's evidence. The Board finds in favor of 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 a total of \$182,000.

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.