

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-028-02-1-5-00316
Petitioners: Robert & GERALYNN Valentin
Respondent: Department of Local Government Finance
Parcel #: 008-43-53-0103-0007
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. The Department of Local Government Finance (the "DLGF") determined that the property tax assessment for the subject property is \$125,700 and notified the Petitioners on March 31, 2004.
2. The Petitioners filed a Form 139L on April 15, 2004.
3. The Board issued a notice of hearing to the parties dated August 9, 2004.
4. Special Master Michael Schultz held the hearing in Crown Point on September 21, 2004.

Facts

5. The subject property is located at 7509 Tanager St., Hobart. The location is in Ross Township, Lake County.
6. The subject property is a dwelling on an improved 11,657 square foot lot.
7. The Special Master did not conduct an on-site inspection of the property.
8. The assessed value of subject property as determined by the DLGF:¹

Land \$58,900	Improvements \$66,800	Total \$125,700.
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9. The assessed value requested by the Petitioners:

Land \$40,000	Improvements \$66,800	Total \$106,800.
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¹ Subsequently, the DLGF applied a negative influence factor to the land to reduce the land value to \$54,200. Respondent Exhibit 5.

10. The following persons were sworn as witnesses at the hearing:
For Petitioners — Robert Valentin, Owner,
For Respondent — Sharon Elliott, Staff Appraiser, Cole-Layer-Trumble.

Issue

11. Summary of Petitioners' contentions in support of alleged error in assessment:
- a) The Petitioners contest only the land value. They contend the land should be valued at \$40,000. *Valentin testimony.*
 - b) The parcel is located at 7509 Tanager Street. It has an irregular shape and has an area of 11,657 square feet. *Valentin testimony; Petitioners Exhibit 3.*²
 - c) A letter from the builder, dated February 18, 2004, states the lot sold for \$32,000 in 2002. *Valentin testimony; Petitioners Exhibit 2.*
 - d) The Petitioners presented evidence of the assessment of two properties located across the street from their property as comparables. The property located at 7522 Tanager Street (comparable property A) is approximately the same size (11,165 square feet) as the Petitioners' lot and is assessed at \$36,600. *Petitioners Exhibits 4, 5.* The property located at 7512 Tanager Street (comparable property B) is also approximately the same size (11,165 square feet) as the Petitioners' lot and is assessed at \$40,700. Comparables A and B are both regular rectangular shaped lots. *Petitioners Exhibits 6, 7.*
 - e) There is a significant difference in the square foot values of the neighboring lots and Petitioners' property. The subject property is assessed at \$5.05 per square foot. The assessment for comparable property A is \$3.27 per square foot, or a difference of \$1.35. The assessment for comparable property B is \$3.64 per square foot, a difference of \$1.40. *Valentin testimony; Petitioners Exhibit 8.*
 - f) The property under appeal has approximately 500 more square feet than comparable property A or B. Nevertheless, the assessed land value of the subject property is \$58,900, which is \$22,300 more than comparable property A. The property under appeal is assessed \$18,200 above the land value of comparable property B.
12. Summary of Respondent's contentions in support of assessment:
- a) Indiana assesses land and dwelling combined, not just land. Also, the prices are by the front foot, not by the square foot. *Elliott testimony.*
 - b) The land values in proximity to the Petitioners' parcel are listed below.
7462 Tanager is a vacant lot, 75 x 145 feet, assessed at \$31,700.
7472 Tanager is a vacant lot, 75 x 145 feet, assessed at \$31,700.

² House numbers appear in parenthesis on the plat map. *Petitioners' Exhibit 7.*

7492 Tanager is an improved lot, 75 x 145 feet, assessed at \$39,600.
7502 Tanager is an improved lot, 75 x 145 feet, assessed at \$39,600.
7512 Tanager is an improved lot, 77 x 145 feet, assessed at \$40,700.
7501 Tanager (a neighbor) is an improved lot, 91 x 136 feet, assessed at \$44,000.
7509 Tanager (Petitioners' lot) is an improved lot, 121 x 96 feet, assessed at \$58,900.³

Elliott testimony; Respondent Exhibit 4.

- c) An eight percent negative influence factor for excess frontage should have been applied to the subject land. This would lower the land assessment to \$54,200. *Elliott testimony; Respondent Exhibit 5.*

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 Co. 419,

c) Exhibits:

Petitioners Exhibit 1 – Notice of Assessment for 2003, Form 11R/A,
Petitioners Exhibit 2 – Letter from builder on land value,
Petitioners Exhibit 3 – Lot survey of Petitioner's property with square footage,
Petitioners Exhibit 4 – Legal description of comparable Property A with assessment values,
Petitioners Exhibit 5 – Plat map of property A,
Petitioners Exhibit 6 – Legal description of comparable property B with assessment value,
Petitioners Exhibit 7 – Plat map of property B,
Petitioners Exhibit 8 – Square footage assessments of comparable properties A, B, and Petitioners' property,
Respondent Exhibit 1 – Form 139L,
Respondent Exhibit 2 – Subject property record card,
Respondent Exhibit 3 – Subject photograph,
Respondent Exhibit 4 – Comparables values,
Respondent Exhibit 5 – Revised subject property record card,
Board Exhibit A – Form 139L,
Board Exhibit B – Notice of Hearing,
Board Exhibit C – Sign-in sheet,

d) These Findings and Conclusions.

³ The plat map shows that both 7501 and 7509 Tanager are irregularly shaped lots, while 7462, 7472, 7492, 7502 and 7512 have a regular rectangular shape. *Petitioners Exhibit 7.*

Analysis

14. The most applicable 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. Sufficient evidence was presented to support the Petitioners’ contention concerning the value of the land. This conclusion was arrived at because:
- a) The total assessment of the land is currently \$54,200. *Respondent Exhibit 5*. The Petitioners contended the total assessment of the land should be \$40,000. In support of their position, the Petitioners presented evidence that they purchased the lot in 2002 for \$32,000.
 - b) Indiana’s assessment regulations provide that for the 2002 general reassessment, a property’s assessment must reflect value as of January 1, 1999. *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005); 2002 REAL PROPERTY ASSESSMENT MANUAL at 4 (incorporated by reference at 50 IAC 2.3-1-2). Consequently, a party relying on a prior purchase price to establish the market value of a property must provide some explanation as to how the purchase price demonstrates, or is relevant to, the property’s value as of January 1, 1999. *See Long*, 821 N.E.2d at 471.
 - c) The Petitioners presented evidence that two parcels located directly across the street from the Petitioners’ property have land assessments of \$36,600 and \$40,700. Respondent submitted evidence of land values of neighboring parcels. Respondent’s evidence indicated the land values range from \$31,700 to \$40,700 for several lots in that same block. Respondent opined that the higher assessment for the subject property was justified because the lot is bigger, but the record lacks sufficient facts or explanation to give that opinion any weight. The lot located next to the Petitioners’ parcel is valued at \$44,000. It is somewhat larger in total area than the subject

property, but overall it is the most comparable property. The evidence establishes a prima facie case that these parcels are comparable to the subject property. *Blackbird Farms Apts. v. Dep't of Local Gov't Fin.*, 765 N.E.2d 711, 715 (Ind. Tax Ct. 2002). Respondent failed to rebut or impeach the comparability of those other properties along Tanager Street and actually relied upon that comparability as support for the current assessment.

- d) The three properties identified by Respondent as the most comparable have land values of \$36,300, \$40,000, and \$32,200. Two of those properties are identified as being in the same neighborhood, but the evidence does not establish their exact location or their size and shape. The total assessments (land and improvements) of these three properties that Respondent claimed to be most comparable are \$135,900, \$124,900, and \$170,000. Respondent failed to prove comparability or to explain how these diverse total values support the current total value placed on the Petitioners' property, \$121,000. To the extent that this evidence has any weight, it does not support Respondent's position.
- e) The record clearly establishes that assessed land values in proximity to the Petitioners' parcel range from \$31,700 to \$44,000. Those assessments are, by definition, based on the valuation date of January 1, 1999. Therefore, those values provide a basis that is helpful in relating the 2002 price for the subject lot back to a value as of January 1, 1999.
- f) The Respondent's own list of most comparable properties indicates an upper land value of \$40,000, the same value sought by the Petitioners. The evidence established a prima facie case for that claim. There was no probative evidence to rebut or impeach that evidence.

Conclusion

16. Accordingly, the Board concludes the total land value of the Petitioners' parcel should be \$40,000.

Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should 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.