

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-026-02-1-5-01068
Petitioners: Robert & Mildred Becich
Respondent: Department of Local Government Finance
Parcel #: 007-26-33-0132-0024
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 in November 2003 in Lake County, Indiana. The Department of Local Government Finance (DLGF) determined that the Petitioners' property tax assessment for the subject property was \$169,500 and notified the Petitioners on March 31, 2004.
2. The Petitioners filed a Form 139L on April 30, 2004.
3. The Board issued a notice of hearing to the parties dated September 13, 2004.
4. A hearing was held on October 13, 2004, in Crown Point, Indiana before Special Master Barbara Wiggins.

Facts

5. The subject property is located at: 848 114th Street, Whiting, North Township.
6. The subject property is a multi-family home on 0.143 acres of land.
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 \$20,600 Improvements \$148,900 Total \$169,500
9. Assessed Value requested by Petitioners: Not Provided
10. The persons indicated on the sign-in sheet (Board Exhibit C) were present at the hearing.

11. Persons sworn in at hearing:
For Petitioners: Robert Becich, Owner
For Respondent: David Depp, Representing the DLGF

Issues

12. Summary of Petitioners' contentions in support of an alleged error in the assessment:

The Petitioners contend the subject property is over-valued since the original fireplace was replaced with an artificial fireplace, the front entrance is not used, the apartment upstairs is vacant, and the brick exterior needs to be tuck-pointed. *Becich testimony.*

13. Summary of Respondent's contentions in support of the assessment:

The Respondent presented comparable sales in the area in support of its contention that no change in assessment is warranted. *Depp testimony; Respondent Exhibits 4-5.* The subject property has a higher assessment than the comparable sales due to the subject property having apartment space over the garage. *Depp Testimony*

Record

14. The official record for this matter is made up of the following:

- a. The Petition, and all subsequent submissions by either party.
- b. The tape recording of the hearing labeled Lake Co. #406.
- c. Exhibits:

Petitioner Exhibits: None Provided

Respondent Exhibit 1: 139L Petition

Respondent Exhibit 2: Subject property record card (PRC)

Respondent Exhibit 3: Subject photograph

Respondent Exhibit 4: Summary of three (3) comparable sales

Respondent Exhibit 5: Comparable PRCs & photographs

Board Exhibit A: Form 139 L

Board Exhibit B: Notice of Hearing

Board Exhibit C: Sign in Sheet

- d. These Findings and Conclusions.

Analysis

15. 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 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. 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 did not provide sufficient evidence to support their contentions. This conclusion was arrived at because:
 - a. The Petitioners contend that the property is over-valued because the original fireplace was replaced with an artificial fireplace, the front entrance is not used, the apartment upstairs is no longer used, and the brick has never been tuck-pointed. *Becich Testimony*.
 - b. The Petitioners did not explain how any of the factors described above affect the market value-in-use of the subject property. The Petitioners similarly failed to provide evidence of how those factors affect the proper valuation of the subject property under the REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 – VERSION A. Consequently, the Petitioners have failed to establish either that the current assessment is incorrect or what the correct assessment would be. *See Meridian Towers*, 805 N.E.2d at 478.
17. The Petitioners did not 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.