

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-002-02-1-5-00080
Petitioners: Robert M. & Kimberly Torrence
Respondent: Department of Local Government Finance
Parcel #: 002020302330027
Assessment Year: 2002

The Indiana Board of Tax Review (Board) issues this determination in the above matter, and finds and concludes as follows:

Procedural History

1. The Department of Local Government Finance (DLGF) determined that the Petitioners' property tax assessment for the subject property was \$31,600. The DLGF confirmed that the Petitioners' Notice of Assessment (Form 11) was returned in the mail, therefore the Petitioners' tax bill served as notice of their 2002 assessment.
2. The Petitioners filed a Form 139L on April 30, 2004.
3. The Board issued a Notice of Hearing to the parties dated July 16, 2004.
4. A hearing was held on August 25, 2004, in Crown Point, Indiana, before Special Master Dalene McMillen.

Facts

5. The subject property is located at 16485 Harrison Street, Lowell, Cedar Creek Township in Lake County.
6. The subject property is 2.43 acres of vacant land.
7. The Special Master did not conduct an on-site inspection of the property.
8. The assessed value of the subject property as determined by the DLGF:
Land: \$31,600 Improvements: \$-0- Total: \$31,600
9. The assessed value as requested by the Petitioners at the hearing:
Land: \$8,100 Improvements: \$-0- Total: \$8,100

10. The following persons were present and sworn as witnesses at the hearing:
For the Petitioners — Kimberly Torrence, Owner
For the Respondent — Sharon S. Elliott, Staff Appraiser, Cole-Layer-Trumble

Issue

11. Summary of Petitioners' contentions in support of alleged error in assessment:
- a. The Petitioners contend the subject land is being assessed with a home site and the property is currently vacant. *Torrence testimony; Board Exhibit A.*
 - b. The subject property was purchased in 1999 for \$25,000. Other properties in the same neighborhood have sold within a range of \$15,000 to \$25,000. The Petitioners contend the assessed value of their property should be \$8,100. *Torrence testimony; Board Exhibit A.*
12. Summary of Respondent's contentions in support of assessment:
- a. The subject property is valued with the same base land rate as the adjoining lots. The first acre is classified as a home site and has received a negative influence factor of 20 percent due to the land being vacant (unimproved). The remaining 1.43 acres is valued as residential excess acreage. *Elliott testimony; Respondent Exhibit 2*
 - b. Land improvement costs would range between \$4,000 and \$7,000. This amount added to the purchase price of \$25,000 results in the current assessed value. *Elliott testimony.*

Record

13. The official record for this matter is made up of the following:
- a. The Petition, and all subsequent pre-hearing and post-hearing submissions by either party.
 - b. The tape recording of the hearing labeled Lake Co. 107.
 - c. Exhibits:
Petitioners Exhibit – None
Respondent Exhibit 1 – A copy of the Form 139L petition, dated April 30, 2004.
Respondent Exhibit 2 – Robert Torrence's 2002 property record card.
Respondent Exhibit 3 – Copy of REAL PROPERTY ASSESSMENT GUIDELINE FOR 2002— VERSION A, chapter 2, page 68.
Respondent Exhibit 4 – A copy of the 2002 property record card of an allegedly comparable property.
 - d. These Findings and Conclusions.

Analysis

14. The most applicable governing 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. The Petitioners provided sufficient evidence to support a reduction in the assessed value. This conclusion was arrived at because:
- a. The Petitioners contend that the parcel was improperly assessed as a homesite because the property does not contain a home. *Board Exhibit A; Torrence testimony*.
 - b. Respondent agrees that there is no house on this property. It already was assessed as vacant land. *Respondent Exhibit 2; Elliott testimony*.
 - c. The Respondent contended that the market value and assessed value of the subject property are supported by and consistent with the base rate used for a neighboring lot as well as the assessed value of that lot. *Respondent Exhibit 4; Elliott testimony*. The neighboring property, however, is much smaller and is improved with a dwelling on it. *Respondent Exhibit 4*. Respondent failed to offer probative evidence to establish any basis for comparison between these two lots. Consequently, the conclusory opinion of value based on that evidence has no weight. Such conclusory statements and opinions are not probative evidence. *Whitley Prods. v. State Bd. Of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).
 - d. The valuation date for the 2002 general reassessment is January 1, 1999. *2002 REAL PROPERTY ASSESSMENT MANUAL, page 12*.
 - e. The purpose of the 2002 reassessment is to accurately determine True Tax Value. Departure from the Guideline does not in itself show that the value arrived at is not a reasonable measure of True Tax Value. 50 IAC 2.3-1-1(d).
 - f. The cost approach to value contained in the Guideline is not the only acceptable means of determining the True Tax Value of a property for the 2002 reassessment. (*Guideline, Introduction, page 2-5, 13-15*). Methods other than the Guideline are permissible if they produce a more accurate determination of True Tax Value. *Id.*
 - g. The Petitioners purchased the property in 1999 for \$25,000. Their purchase price was consistent with sales of other properties within the same neighborhood. *Torrence testimony*.
 - h. The Respondent did not contest the Petitioners' testimony concerning the 1999 purchase price and, in fact, incorporated this value into its argument defending the current assessment. *Elliott testimony*.

- i. The Respondent opined improving the land would add an additional \$4,000 - \$7,000 to value beyond \$25,000 for items such as sewers and sidewalks, and thus, the assessed value of \$31,600 was correct. *Elliott testimony*. No evidence was presented, however, to demonstrate that the price paid did not reflect the market's perception of land improvement costs. The Respondent's opinion about the homesite does not constitute probative evidence of its market value. Such conclusions are not sufficient basis for an assessment. *Sterling Mgmt. v. State Bd. of Tax Comm'rs*, 730 N.E.2d 828, 838 (Ind. Tax Ct. 2000) (conclusory statements do not constitute probative evidence).
 - j. There are no sewers or sidewalks in this area and never will be. *Torrence testimony*.
 - k. The actual purchase price of the property in 1999 is deemed to be the best indication of the True Tax Value of the parcel in this appeal.
16. Accordingly, the Board determines the total value of the subject property should be \$25,000.

Conclusion

17. The Petitioners made a prima facie case. Respondent did not rebut that case. The Board finds in favor of the Petitioners. There is a change in the assessment as a result of this issue.

Final Determination

In accordance with the above findings and conclusions the Board determines that the assessment should be changed to a total land value of \$25,000.

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.