

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-001-02-1-5-00011
Petitioner: Roland Wilson
Respondent: Department of Local Government Finance
Parcel #: 001-25-47-0176-0044
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. An informal hearing as described in Ind. Code § 6-1.1-4-33 was held between the Petitioner and the Respondent. The Department of Local Government Finance (DLGF) determined that the Petitioner's property tax assessment for the subject property was \$16,800 and notified the Petitioner.
2. The Petitioner filed a Form 139L on April 14, 2004.
3. The Board issued a notice of hearing to the parties dated June 22, 2004.
4. A hearing was held on August 10, 2004, in Crown Point, Indiana before Special Master Barbara Wiggins.

Facts

5. The subject property is located at: 723 Matthews Street, Gary, in Calumet Township.
6. The subject property is a single-family home on .138 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 \$3,900 Improvements \$12,900 Total \$16,800

9. Assessed Value requested by Petitioner:
Total \$8,000
10. The following persons were present and sworn in at hearing:
For Petitioner: Roland & Sandra Wilson, Property Owners
For Respondent: David Depp, Cole-Layer-Trumble Appraiser

Issue

11. Summary of Petitioner's contentions in support of alleged error in assessment:
- a) The property is difficult to sell or rent due to the crime rate in the area. A vacant and overgrown lot on the south side of the property lowers the value of his property. *R. Wilson testimony; Petitioner's Exhibit 1.*
 - b) There was fire damage in 1996 but that has been rehabbed. *R. Wilson testimony.*
 - c) The property is over assessed; he would not pay more than \$8,000 or \$9,000 for it. *R. Wilson testimony.*
 - d) One of the comparables used by the Respondent is brick and the areas are different as night and day. *R. Wilson testimony; Respondent's Exhibit 3.*
12. Summary of Respondent's contentions in support of assessment:
- The assessed value is accurate according to comparable sales information. The top three comparable results are close in size, age and neighborhood to the subject with the sale prices ranging between \$12,000 and \$33,000. *Depp testimony; Respondent's Exhibit 3.*

Record

13. The official record for this matter is made up of the following:
- a) The Petition and all subsequent pre-hearing submissions by either party.
 - b) The tape recording of the hearing labeled Lake Co. #254 and #258.
 - c) Exhibits:
 - Petitioner Exhibit 1: Property record card and photograph of subject property
 - Respondent Exhibit 1: Form 139L Petition
 - Respondent Exhibit 2: Subject property record card and photograph
 - Respondent Exhibit 3: Top 20 Comparable Properties with detailed property record cards and photographs for three of the properties
 - Respondent Exhibit 4: Plat map of subject's area
 - 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 Petitioner did not provide sufficient evidence for a reduction in assessed value. This conclusion was arrived at because:
- a) The Petitioner testified the property is in an area that has problems with crime making it difficult to sell or rent. *R. Wilson testimony*. Petitioner also testified that the property is in poor condition. *Id.* The Petitioner did not present any documentation to support this statement. *See Whitley Products*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998) (stating that mere allegations, unsupported by factual evidence, will not be considered sufficient to establish an alleged error).
 - b) The Petitioner testified the neighboring parcel of vacant land is over-grown, thus lowering the value of his property. *R. Wilson testimony*. Petitioner did not provide sufficient evidence to determine the effect a neighboring property's condition might have on his property.
 - c) The Petitioner presented one exterior photograph. *Petitioner Exhibit I*. No interior photos were provided to determine the interior condition. Fire damage that occurred in 1996 had been repaired, according to the Petitioner. The subject property currently has a 65% obsolescence factor applied to the

improvements. *Depp testimony*. Petitioner has not shown that this factor is insufficient to account for the poor condition of the property.

- d) The Respondent presented three comparable properties in the area with property record cards and photographs of each. The actual sale prices were \$33,000, \$12,000 and \$20,000 with two being in different neighborhoods. The comparables were of similar sizes and date of construction. *Depp testimony; Respondent Exhibit 3*.
- e) Of the Respondent's "Top 20 Comparables", five properties were noted to be in the subject's neighborhood, "2533". Those five properties sold for \$14,777, \$26,000, \$30,132, \$33,000 and \$35,000. The subject property is assessed at the low end of this range. *Respondent Exhibit 3*.
- f) The Petitioner did not provide any evidence to support his contention that the property is over-valued; the Petitioner did not prove what a correct assessment would be.

Conclusion

- 16. The Petitioner has not made a prima facie case. The Board finds for the Respondent.

Final Determination

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