

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-013-02-1-5-00042
Petitioner: Ronald J. & Irene Parat
Respondent: Department of Local Government Finance
Parcel #: 005302400080049
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 Lake County, Indiana. The Department of Local Government Finance (DLGF) determined that the Petitioner's property tax assessment for the subject property was \$133,500 and notified the Petitioner on March 25, 2004.
2. The Petitioner filed a Form 139L on April 12, 2004.
3. The Board issued a notice of hearing to the parties dated June 24, 2004.
4. A hearing was held on August 12, 2004 in Crown Point, Indiana before Special Master Kathy J. Clark.

Facts

5. The subject property is located at: 8131 W. 126th Avenue, Cedar Lake in Hanover Township.
6. The subject property is a brick ranch style single-family dwelling located on 1.322 acres of land.
7. The Special Master did not conduct an on-site inspection of the property.
8. Assessed Value of subject property as determined by the DLGF:
Land: \$41,300 Improvements: \$92,200 Total: \$133,500.
9. Assessed Value requested by Petitioner:
Land: \$25,000 Improvements: \$45,000 Total: \$70,000.
10. The following persons were present and sworn in at the hearing:
For Petitioner: Irene Parat, Owner

For Respondent: Cathi Gould, Staff Appraiser, Cole-Layer-Trumble

Issues

11. Summary of Petitioner's contentions in support of alleged error in assessment:
 - a) The subject dwelling suffers from substantial internal and external damage due to lack of maintenance and would not bring more than \$70,000 on the open market.
 - b) The Petitioner presented photographs and testimony regarding the condition of the home. *Petitioner Exhibit 5.*
 - c) In the summer of 2003, Alice Wright, a Realtor in Cedar Lake, advised her that the land and house were not worth more than \$65,000. *Form 139L.*
 - d) A letter from Old Town Appraisers, LTD, dated August 9, 2004, states the home has no value and estimates that the fair market value of the 1.322 acre property would be between \$35,000 and \$37,000. *Petitioner Exhibit 1.*
 - e) The home suffers from mold problems.
 - f) The house has no value because there is too much work that needs to be done. The only value is the land.
12. Summary of Respondent's contentions in support of the assessment:
 - a) The condition of the home was changed to fair as a result of evidence presented at the informal hearing.
 - b) The subject home is assessed at \$40 per square foot, the comparable properties range from \$44 to \$58 per square foot. The subject home is in Fair condition with a C grade. The comparable properties are all in Average condition with a C grade. *Respondent Exhibit 3.*
 - c) An estimate of \$12,300 to restore the property was presented at the informal hearing.
 - d) Despite the Petitioner's contention that only the land has value, there is value in the home. There are people living in the home. Also, people do purchase homes like the subject to fix up.

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. Tape #111.
 - c) Exhibits:
 - Petitioner Exhibit 1: Letter from Old Town Appraisers, Ltd.
 - Petitioner Exhibit 2: Form 139L.
 - Petitioner Exhibit 3: Notice of Final Assessment.
 - Petitioner Exhibit 4: Current tax bills.
 - Petitioner Exhibit 5: Fifteen (15) photographs showing deteriorated condition.

 - Respondent Exhibit 1: Form 139L.
 - Respondent Exhibit 2: Subject property record card and photograph of property.
 - Respondent Exhibit 3: Comparable sales analysis, with property record cards and photographs.
 - Respondent Exhibit 4: Photographs submitted at informal hearing.

- Board Exhibit 1: Form 139L petition.
- Board Exhibit 2: Notice of Hearing.
- Board Exhibit 3: Hearing Sign-In Sheet.
- d) These Findings and Conclusions.

Analysis

14. The most applicable governing cases and regulations:
 - a) The Petitioner must submit ‘probative evidence’ that adequately demonstrates all alleged errors in the assessment. Mere allegations, unsupported by factual evidence, will not be considered sufficient to establish an alleged error. See *Whitley Products, Inc. v. State Bd. of Tax Comm’rs*, 704 N.E.2d 1113 (Ind. Tax 1998), and *Herb v. State Bd. of Tax Comm’rs*, 656 N.E.2d 1230 (Ind. Tax 1998).
 - b) The Petitioner must sufficiently explain the connection between the evidence and Petitioner’s assertions in order for it to be considered material to the facts. See generally, *Heart City Chrysler v. State Bd. of Tax Comm’rs*, 714 N.E.2d 329, 333 (Ind. Tax Ct. 1999).
 - c) The Board will not change the determination of the DLGF unless the Petitioner has established a prima facie case and, by a preponderance of the evidence, proven both the alleged errors in the assessment and specifically what assessment is correct. See *Clark v. State Bd. of Tax Comm’rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998); *North Park Cinemas, Inc. v. State Bd. of Tax Comm’rs*, 689 N.E.2d 765 (Ind. Tax Ct. 1997).
 - d) The characteristics of a Fair Condition Rating are defined in part as: The structure suffers from minor deferred maintenance and demonstrates less physical maintenance than the majority of structures within the neighborhood. *Appendix B, Table B-1, page 7 of the Real Property Assessment Guideline, Version A.*
 - e) The characteristics of a Poor Condition Rating are defined in part as: The structure suffers from extensive deferred maintenance. *Appendix B, Table B-1, page 7 of the Real Property Assessment Guideline, Version A.*
 - f) Specific instances of physical deterioration are relevant to a determination of condition. *Phelps Dodge v. State Board of Tax Commissioners*, 705 N.E.2d 1099 (Ind. Tax 1999), *review denied.*

15. The Petitioner did provide sufficient evidence to support some of the Petitioner’s contentions. This conclusion was arrived at because:
 - a) The letter from Old Town Appraisers, LTD states that, in the appraiser’s opinion, the home has no value. This letter is merely an opinion of value, not an appraisal. There is no indication that the opinion of value follows the Uniform Standards of Professional Appraisal Practice (USPAP) or any explanation of the factors that were considered in the preparation of this opinion.
 - b) The Petitioners are currently living in the home. Even the Petitioners, on the Form 139L petition, contend that the improvements should be valued at \$45,000. Therefore, the home obviously has some value.
 - c) There was no evidence presented to support the claim that a Realtor advised the Petitioner that the land and house were not worth more than \$65,000, or to explain the manner in which this value was determined.

- d) The Petitioner stated that she had proposals and estimates to repair the home, but did not bring them to the hearing.
- e) The Petitioner testified that there were mold problems, but no evidence was presented to show the extent of the mold problems.
- f) The photographs show wood rotting around windows, beams holding up the ceiling in the front room, damaged ceiling tiles, fascia falling off, and part of the overhang breaking off. Specific instances of physical deterioration are relevant to a determination of condition. *Phelps Dodge v. State Board of Tax Commissioners*, 705 N.E.2d 1099 (Ind. Tax 1999), *review denied*.
- g) At the hearing, the Respondent agreed that “condition definitely does need to be looked at.”
- h) The condition rating as a result of the informal hearing is Fair. Fair condition is defined as “suffers from minor deferred maintenance.” *Appendix B, Table B-1, page 7 of the Real Property Assessment Guideline, Version A*.
- i) The photographs and testimony presented at the hearing clearly show the home suffers from more than minor deferred maintenance.
- j) Poor condition is defined as “suffers from extensive deferred maintenance.” *Appendix B, Table B-1, page 7 of the Real Property Assessment Guideline, Version A*. Based on the photographs and testimony, the home would more appropriately fall into the Poor condition rating.

Conclusions

- 16. The Petitioner did not make a prima facie case with regard to the home having no value.
- 17. The Petitioner made a prima facie case with regard to the condition of the home. The Board finds the condition rating should be changed from Fair to Poor. The percentage of depreciation must also be changed to reflect the change in the condition rating. The subject home in Poor condition, with a C grade and actual age of 43 years, would receive depreciation of 45%. There is a change in the assessment as a result of the change in condition rating.

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.