

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-001-02-1-5-00666
Petitioner: Sharon Hrubos
Respondent: Department of Local Government Finance
Parcel #: 001-25-47-0389-0004
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 on February 26, 2004, in Lake County, Indiana. The Department of Local Government Finance (the DLGF) determined that the Petitioner's property tax assessment for the subject property was \$102,000 and notified the Petitioner on March 31, 2004.
2. The Petitioner filed a Form 139L on April 29, 2004.
3. The Board issued a notice of hearing to the parties dated October 22, 2004.
4. Special Master S. Sue Mayes held the hearing in Crown Point on November 30, 2004.

Facts

5. The subject property is located at 1055 N. Tippecanoe, Gary. The location is in Calumet Township.
6. The subject property is a single-family dwelling located on a 45 by 128 foot parcel.
7. The Special Master did not conduct an on-site visit of the property.
8. Assessed value of the subject property as determined by the DLGF:
Land \$17,200 Improvements \$84,800 Total \$102,000.
9. Assessed value requested by Petitioner:
Land \$1,870 Improvements \$6,330 Total \$8,200.

10. Persons sworn in as witnesses at the hearing:
Sharon Hrubos, Owner
Joseph Lukomski, Jr., DLGF

Issue

11. Summary of Petitioner's contentions in support of an alleged error in the assessment:
- a. The Petitioner provided sales information for four properties that Petitioner alleged to be very similar to the subject property. The Petitioner contends that these comparable properties sold well below the \$102,000 assessed value of her property and paid taxes well below hers. *Petitioner Exhibits 4-9; Hrubos testimony.*
 - b. The subject property record card says square footage for the first story is 940. That is incorrect. The square footage is 750. *Hrubos testimony*
12. Summary of Respondent's contentions in support of the assessment:
- a. The Respondent said that the comparable properties used by the Petitioner had substantially less living area. *Lukomski testimony.*
 - b. The subject property is valued at \$55.56 per square foot. Three properties of similar style, age, and condition in the same neighborhood sold at \$50.50 \$57.29, and \$65.94 per square foot. The Petitioner's assessment is within the range indicated by the sales. *Respondent Exhibits 2-5; Lukomski testimony.*

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. 863,
 - c. Exhibits:
 - Petitioner Exhibit 1: Form 139L Petition.
 - Petitioner Exhibit 2: Notice of Final Assessment,
 - Petitioner Exhibit 3: Notice of Assessment,
 - Petitioner Exhibit 4: Assessor's photograph of subject,
 - Petitioner Exhibit 5: Subject property record card (PRC) for 1995 reassessment,
 - Petitioner Exhibit 6: Comparable sale listing, 6417 Ash Avenue,
 - Petitioner Exhibit 7: Comparable sale listing, 910 N. Vanderburg,
 - Petitioner Exhibit 8: Comparable sale listing, 825 N. Vigo Street,
 - Petitioner Exhibit 9: Comparable sale listing, 160 Huntington Ct.,
 - Respondent Exhibit 1: Form 139L,
 - Respondent Exhibit 2: Subject PRC,
 - Respondent Exhibit 3: Photograph of the subject property,
 - Respondent Exhibit 4: Comparable sales sheet,
 - Respondent Exhibit 5: PRCs and photographs of three comparables,
 - Board Exhibit A: Form 139 L,
 - Board Exhibit B: Notice of Hearing,

- Board Exhibit C: Sign-in sheet,
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 to support the Petitioner’s contentions. This conclusion was arrived at because:
- a. The Petitioner provided sales information for four properties and testified that the properties were very similar to the subject property. The Petitioner identified differences (lot size, garage, curbs and sidewalks, views, English basement, in-law apartment, and number of bedrooms and bathrooms) between each comparable and the subject. Except for stating that one of the comparables was built in the same year as the subject property, the Petitioner did not explain how or why these properties are comparable to the subject property. Petitioner’s statements regarding comparability are simply unsubstantiated conclusions that do not constitute probative evidence. *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 470 (Ind. Tax Ct. 2005); *Blackbird Farms Apts., LP v. Dep’t of Local Gov’t Fin.*, 756 N.E.2d 711 (Ind. Tax Ct. 2002); *Whitley Prods., Inc. v. State Bd. of Tax Comm’rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).
 - b. Similarly, without establishing comparability, the sales information of the other properties has no probative value in regard to the market value of the property. *Id.*
 - c. There is testimony that the square foot living area of the first floor is erroneous. Petitioner failed to provide evidence that the outside measurements are incorrect. Petitioner failed to make a prima facie case on that basis.
 - d. The Petitioner failed to explain how her evidence is relevant to the requested assessed value of \$8,200. *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”).

- e. Where the Petitioner has not supported the claim with probative evidence, the Respondent's duty to support the assessment with substantial evidence is not triggered. *Lacy Diversified Indus. v. Dep't of Local Gov't Fin.*, 799 N.E.2d 1215, 1222 (Ind. Tax Ct. 2003).

Conclusion

- 16. The Petitioner failed to 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. You must name in the petition and in the petition's caption the persons who were parties to any proceeding that led to the agency action under Indiana Tax Court Rule 4(B)(2), Indiana Trial Rule 10(A), and Indiana Code § §4-21.5-5-7(b)(4), 6-1.1-15-5(b). The Tax Court Rules provide a sample petition for judicial review. The Indiana Tax Court Rules are available on the Internet at <http://www.in.gov/judiciary/rules/tax/index.html>, The Indiana Trial Rules are available on the Internet at http://www.in.gov/judiciary/rules/trial_proc/index.html. The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code>.