

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-001-02-1-5-00003
Petitioner: Sylvia Vargas
Respondent: Department of Local Government Finance
Parcel #: 007-26-34-0056-0001
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 Department of Local Government Finance (DLGF) determined that the Petitioner's property tax assessment for the subject property was \$105,200 and notified the Petitioner on March 31, 2004.
2. The Petitioner filed a Form 139L petition on March 1, 2004.
3. The Board issued a Notice of Hearing to the parties dated May 28, 2004.
4. The hearing was held on July 7, 2004, at 8:45 a.m. in Crown Point, Indiana before Special Master Dalene McMillen.

Facts

5. The subject property is located at 6859 Delaware Avenue, Hammond, North Township in Lake County.
6. The subject property is a 1320 square foot one-story frame dwelling, with a 624 square foot detached garage located on a 60' x 133' (7980 sq. ft.) lot.
7. The Special Master did not conduct an on-site inspection of the property.
8. The assessed value of the subject property;

(a) As determined by the DLGF:

Land: \$21,600 Improvements: \$83,600 Total: \$105,200

(b) As requested by the Petitioner:

Total: \$65,000 (Petitioner did not give a break down of land and improvements values).

9. The following persons were present at the hearing:

For the Petitioner: Sylvia Vargas, Owner

For the DLGF: None

For the Township: Larry Dorociak, Deputy Assessor, North Township

For the Board: Barb Wiggins, Special Master (observing)
 Kathy J. Clark, Special Master (observing)

10. The following persons were sworn in at the hearing:

For the Petitioner: Sylvia Vargas

For the Township: Larry Dorociak

Mr. Dorociak's role was a participant, independent of the taxpayer at this hearing.

Issue

11. Summary of Petitioner's contentions in support of alleged error in assessment is:

- a. The Petitioner contends the assessed value exceeds the market value of the property.
- b. In support of this contention, the Petitioner presented multiple listings from the Internet (Realtor.com) on thirteen (13) purported comparable properties. The sales prices ranged from \$64,500 to \$104,900. The comparables are similar to the subject in that they all contain three bedrooms, living room, dining room, kitchen, 1 bathroom, unfinished basement and all the comparables are located within the same neighborhood. *Vargas testimony.*
- c. The Petitioner testified that the subject property was purchased twelve (12) years ago for \$65,000. *Vargas testimony.* The Petitioner submitted six (6) photographs of the interior and exterior of the subject to demonstrate the home

is in need of repairs, therefore it would be less desirable if placed on the market for sale. *Pet'r Ex. 2*.

- d. The Petitioner testified the neighborhood has declined in recent years. *Vargas testimony*.

12. Summary of the Township's contentions in support of the assessment is:

- a. Mr. Dorociak testified he is a real estate broker and if he were going to list this property for sale he would take the purchase price twelve (12) years ago of \$65,000 and apply an inflation factor of three percent (3%) per year (for the twelve (12) years), this would indicated the property value at approximately \$100,000. *Dorociak testimony*.

Record

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

- a. The Petition, and all subsequent pre-hearing, or post-hearing submissions by either party.
- b. The tape recording of the hearing labeled Lake Co. #302.
- c. Exhibits:
 - Petitioner Exhibit 1 – Multiply listing sheets from the internet (Realtor.com) on thirteen (13) comparable properties.
 - Petitioner Exhibit 2 – Six (6) interior and exterior photographs of the subject 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, by a preponderance of the evidence, 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. 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.

15. The Petitioner provided sufficient evidence to support the Petitioner’s contentions. This conclusion was arrived at because:

- a. The presentation of sales data is a valid method of challenging an assessment. The Petitioner established that four of the properties are comparable to the property under appeal. The properties were shown to be comparable because they are located in the same geographic area, they all have three bedrooms, have one bathroom, and have a basement and a detached garage. The comparable sales are valued as follows: two (2) at \$84,900, one (1) at \$100,000 and one (1) at \$102,900. The Petitioner has made a prima facie case regarding the assessed value of the subject being overstated.
- b. Mr. Dorociak, North Township Assessor, testified as a real estate broker he would estimate the value of the property by taking the Petitioner’s purchase price of \$65,000 and apply an inflation factor of approximately three percent (3%) per year for the twelve (12) years (Petitioner purchased the home in 1992), thereby indicating the property value at approximately \$100,000 for 1999. In the absence of rebuttal evidence by the DLGF, the Board accepts this value as probative evidence in conjunction with the comparable properties of the true tax value of the property. The Board finds that the value of the property should be changed to \$100,000.

Conclusions

16. The Petitioner presented a prima facie case that the assessment was overstated. The Township Assessor presented evidence supporting the comparable sales offered by Petitioner. The DLGF did not rebut the Petitioner’s evidence. The Board finds that the total assessed value of the subject property should be changed to \$100,000.

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: November 24, 2004

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.