

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-026-02-1-5-00209
Petitioners: Steve J. & Helene Arges
Respondent: Department of Local Government Finance
Parcel #: 007-18-28-0368-0019
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 9, 2004. The Department of Local Government Finance (the "DLGF") determined that the Petitioners' property tax assessment for the subject property was \$183,000 and notified the Petitioners on March 31, 2004.
2. The Petitioners filed a Form 139L on April 26, 2004.
3. The Board issued a notice of hearing to the parties dated September 24, 2004.
4. Special Master S. Sue Mayes held the hearing in Crown Point on November 3, 2004.

Facts

5. The subject property is located at 9342 Larch Drive, Munster.
6. The subject property is a single-family, tri-level home on a lot measuring 70 feet by 169 feet.
7. The Special Master did not conduct an on-site visit of the property.
8. The assessed value of the subject property as determined by the DLGF:
Land \$39,400 Improvements \$143,600 Total \$183,000.
9. The Petitioners requested a total assessed value of \$145,000.

10. The following persons were present and sworn as witnesses at the hearing:
For Petitioners — Steve J. Arges, Homeowner,
For Respondent — Stephen H. Yohler, Hearing Officer.

Issue

11. Summary of Petitioners' contentions in support of an alleged error in the assessment:
- a) The subject property is assessed too high. *Arges testimony.*
 - b) The house needs a new roof and a new furnace. The brick needs tuck-pointing. There is seepage in the basement. *Arges testimony.*
 - c) Properties down the street that are "the same" as the subject property, recently sold for \$148,500 and \$149,000. *Petitioner Exhibits 2, 3; Arges testimony.*
12. Summary of Respondent's contentions in support of the assessment:
- a) The subject property is assessed at \$88.66 per square foot. The average sale price for 3 comparable properties, similar homes within the Petitioners' neighborhood, is \$88.11 per square foot. *Respondent Exhibit 4; Yohler testimony.*
 - b) The subject property is assessed in the same manner as other homes in the neighborhood. *Respondent Exhibit 4; Yohler 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 County 481,
 - c) Exhibits:
 - Petitioner Exhibit 1: Form 139L,
 - Petitioner Exhibit 2: Sales Disclosure and 1995 property record card ("PRC") for 9419 Larch Drive,
 - Petitioner Exhibit 3: Sales Disclosure and 1995 PRC for 9430 Larch Drive,
 - Petitioner Exhibit 4: PRC for subject property,
 - Respondent Exhibit 1: Form 139L,
 - Respondent Exhibit 2: PRC for subject property,
 - Respondent Exhibit 3: Photograph of the subject property,
 - Respondent Exhibit 4: A comparable sales grid,
 - Respondent Exhibit 5: The PRC and photographs for 3 properties,
 - Board Exhibit A: Form 139L,

Board Exhibit B: Notice of Hearing,
Board Exhibit C: Sign in Sheet.

- d) These Findings and Conclusions.

Analysis

14. The most applicable laws 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 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 did not provide sufficient evidence to support their contentions. This conclusion was arrived at because:

- a) Petitioners provided sales information and property record cards for two properties located on the same street as the subject property. Petitioners attempted to show that those properties are comparable, but they were assessed at a lower level than the subject property. Petitioners stated that these properties were “the same” as the subject property. Petitioners did not explain how or why these properties are comparable to the subject property. The property record cards do not explain or establish a basis of comparability. They do little more than establish that the properties are on the same street, but are identified as being in different neighborhoods. Petitioners did not offer probative evidence to establish comparability. Petitioners’ 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 prices and sales disclosure forms for the other properties have no probative value in regard to the market value of the subject property. *Id.*
- c) There is testimony that the house has several maintenance issues, such as needing a new furnace, new roof and brickwork. Petitioners failed to establish what those problems might do to the market value of their house. As a result, even if the house has such problems, Petitioners failed to make a prima facie case on that basis. *Meridian Towers*, 805 N.E.2d at 478; *Indianapolis Racquet Club*, 802 N.E.2d at 1022.
- d) 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. Petitioners failed to make a prima facie case. The Board finds in favor of 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.