

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-041-02-1-5-00417
Petitioners: Tony & Rebecca J. Villa
Respondent: Department of Local Government Finance
Parcel #: 003-31-25-0285-0005
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 October of 2003. The Department of Local Government Finance (the "DLGF") determined that the assessment for the subject property is \$167,800 and notified the Petitioners on March 12, 2004.
2. The Petitioners filed a Form 139L on April 14, 2004.
3. The Board issued a notice of hearing to the parties dated October 7, 2004.
4. Special Master Kathy J. Clark held the hearing in Crown Point on November 10, 2004.

Facts

5. The subject property is located at 7322 W. 136th Place, Cedar Lake. The location is in Center Township.
6. The subject property consists of a two-story frame residential dwelling.
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 \$18,500 Improvements \$149,300 Total \$167,800.
9. Assessed value requested by Petitioners:
Land \$15,000 Improvements \$80,000 Total \$95,000.

10. Persons sworn as witnesses at the hearing:
For Petitioners — Rebecca J. Villa, Owner,
For Respondent — Diane Spenos, Assessor/Auditor.

Issues

11. Summary of Petitioners' contentions in support of an error in the assessment:
- a) A similar property on the same street as the subject sold for \$75,000 on November 21, 2003. *Petitioner Exhibit 1; Villa testimony.*
 - b) Mr. James M. Gasvoda completed an appraisal of the subject property on April 9, 2004, for the purposes of this appeal. It establishes the value was \$95,000 as of January 31, 1999. *Petitioner Exhibit 2; Villa testimony.*
12. Respondent's contentions in support of the assessment: None.

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 626,
 - c) Exhibits:
 - Petitioner Exhibit 1: Residential Detail Report for 7217 W. 136th Place,
 - Petitioner Exhibit 2: Appraisal by James M. Gasvoda,
 - Respondent Exhibit 1: Form 139L,
 - Respondent Exhibit 2: Subject property record card,
 - Respondent Exhibit 3: Subject photograph,
 - 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 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 Petitioners offered sufficient evidence to establish a prima facie case. This conclusion was arrived at because:
- a) The appraisal submitted by the Petitioners states that the value for the subject property as of January 31, 1999, is \$95,000. The appraisal was prepared by a licensed, certified appraiser. As such, the appraisal serves to establish a prima facie case establishing that the current value of \$167,800 is incorrect and that \$95,000 is the correct market value.
 - b) As a result, the burden shifted to the Respondent to offer evidence to rebut or impeach the appraisal. The Respondent failed to do so. The Petitioners' prima facie case stands as the best indication of value for the 2002 reassessment. *American United Life v. Maley*, 803 N.E.2d 276; *Meridian Towers*, 805 N.E.2d at 479.

Conclusion

16. The Petitioners presented sufficient evidence to establish a prima facie case. The Respondent failed to rebut the Petitioners’ evidence. The Board finds in favor of the Petitioners.

Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should be changed to a total of \$95,000.

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.