

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-001-02-1-5-00901
Petitioner: Raymond Crawford
Respondent: Department of Local Government Finance
Parcel #: 001-24-47-0334-0021
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 (the "DLGF") determined that the Petitioner's property tax assessment for the subject property was \$46,300 and notified the Petitioner on April 1, 2004.
2. The Petitioner filed a Form 139L on April 26, 2004.
3. The Board issued a notice of hearing to the parties dated March 14, 2005.
4. Special Master Patti Kindler held a hearing in Crown Point on April 14, 2005.

Facts

5. The subject property is located at 3428 W. 21st Place in Gary.
6. The subject property is a single family residential dwelling with a detached garage on a lot measuring 62 feet by 125 feet.
7. The Special Master did not conduct an on-site visit of the property
8. The assessed value of subject property as determined by the DLGF:
Land: \$7,300 Improvements: \$39,000 Total: \$46,300.
9. The assessed value requested by Petitioner:
Land: \$4,000 Improvements: \$32,000 Total: \$36,000.

10. The following persons were present at the hearing and sworn in as witnesses:
For Petitioner – Raymond Crawford, property owner,
For Respondent – Tommy Bennington, DLGF.

Issue

11. Summary of Petitioner’s contentions in support of an alleged error in the assessment:
- a) The subject is a small wood frame home located in a neighborhood in Gary where there are run-down properties, no businesses or shopping centers. *Crawford testimony*. The assessment is too high for a frame home with a detached garage in its current location where there is no market for homes.
 - b) Senior citizens can not afford these increases in assessments because their money is appropriated when they retire and they suffer when taxes are raised. *Crawford testimony*.
12. Summary of Respondent’s contentions in support of the assessment:
- a) Three ranch style homes with approximately the same square footage, condition rating and age of the subject are representative of the subject property. *Bennington testimony; Respondent Exhibits 3, 4*. The assessments for the three comparables are \$26,200, \$38,000 and \$48,000 and the subject is currently assessed at \$46,300. *Respondent Exhibit 4*.

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 733,
 - c) Exhibits:
 - Respondent Exhibit 1 – Subject property record card,
 - Respondent Exhibit 2 – A photograph of the subject property,
 - Respondent Exhibit 3 – A list of the top twenty comparable properties,
 - Respondent Exhibit 4 – The property record cards and photographs of the properties identified as the most comparable to the subject property,
 - Board Exhibit A – The Form 139L,
 - Board Exhibit B – The Notice of Hearing,
 - Board Exhibit C – The 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 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 argued the subject assessment was too high for a small wood-frame home in a neighborhood with run-down properties. *Crawford testimony*. The Petitioner claimed the neighborhood lacks jobs, shopping centers and businesses, which is detrimental to the subject’s market value. *Id.*
 - b) Although the Petitioner presented evidence that the subject property is located in a neighborhood of run-down properties lacking jobs, shopping and other business, the Petitioner did not offer evidence showing how these items affect the value of the subject property. The Petitioner merely offered conclusory statements such as “the property is assessment is too high” because the neighborhood is bad.
 - c) The Petitioner was required to establish a prima facie case by offering probative evidence concerning not only the errors in the existing assessment but also what the correct assessment should be. *Meridian Towers*, 805 N.E.2d 475, 478; *Clark*, 694 N.E.2d 1230. Although the Petitioner has presented testimony of the size and construction of the subject home as well as some of the conditions within the neighborhood, he failed to establish what effect, if any, those conditions have on the market value-in-use of the subject property or to offer evidence of the correct assessment.

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>.