

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-026-02-1-5-00015
Petitioners: Andrew & Gladys Bakos
Respondent: Department of Local Government Finance
Parcel #: 007-26-35-0018-0013
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 Jan. 20, 2004, at Crown Point, Indiana. The Department of Local Government Finance (DLGF) determined that the Petitioners' property tax assessment for the subject property was \$91,100 and notified the Petitioners on November 14, 2003.
2. The Petitioners filed a Form 139L petition on April 14, 2004.
3. The Board issued a notice of hearing to the parties dated May 28, 2004.
4. A hearing was held on July 8, 2004, in Crown Point, Indiana before Special Master Rick Barter.

Facts

5. The subject property is located at 6626 Maryland Avenue in Hammond, Indiana.
6. The subject property is a 1,165 square foot, single story brick residence on a lot measuring 50' x 125'.
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 \$20,200, Improvements \$70,900.
9. Assessed Value requested by the Petitioners: Land \$20,200, Improvements \$64,200.

10. Persons present and sworn at hearing:

For Petitioner: Andrew F. Bakos, Property Owner

For Respondent: George L. Vales, Project Supervisor

Issues

11. Summary of Petitioners' contentions in support of alleged error in assessment:

- a) The square footage for the house listed on the property record card is incorrect. Using the dimensions shown on the plat survey, the square footage of the house should be 1,126 square feet rather than 1,165 square feet.
- b) A house located at 6550 Kansas is larger than the subject house and has a garage. As a comparison, while this house is larger with a garage, the assessed value is less than the assessed value of the subject house.
- c) A local realtor estimated the value for the subject property would be between \$81,000 and \$84,000 as of January 1999.

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

- a) The dimensions listed on the property record cards are rounded upward. The rounding explains why the property record card dimensions differ from the dimensions shown on the plat survey. Using the rounded dimensions, the square footage calculates to 1,165 square feet, which accounts for the additional 39 square feet.
- b) The house, with garage, located at 6550 Kansas is slightly smaller than the subject house and is frame construction rather than brick construction like the subject house. The different construction type and smaller size explains why this property is valued less than the subject property.

Record

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

- a) The Petition, and all subsequent pre-hearing submissions by either party.
- b) The tape recording of the hearing labeled BTR #314.
- c) Exhibits:
 - Petitioner Exhibit 1: A copy of Plat of Survey for subject dated January 1, 1959.
 - Petitioner Exhibit 2: A copy of Notice of Final Assessment dated March 31, 2004.
 - Petitioner Exhibit 3: A copy of the Notice of Assessment for the March 1, 1995 Reassessment.
 - Petitioner Exhibit 4: The business card of Toni Sherman of T.J. Boyle Real Estate.

Respondent Exhibit 1: A copy of the Form 139L petition with the Notice of Assessment for the 2002 Reassessment.

Respondent Exhibit 2: A copy of the property record card for the subject property.

Respondent Exhibit 3: A photograph of the subject property.

Respondent Exhibit 4: A sales grid comparing the subject property with three (3) sales selected from the attached sales listing.

Respondent Exhibit 5: A copy of the property record card for Comparable #3, Parcel #007-26-32-0150-0018.

Respondent Exhibit 6: A photograph of Comparable #3, Parcel #007-26-32-0150-0018.

Respondent Exhibit 7: A copy of the property record card for Comparable #1, Parcel #007-26-35-0015-0026.

Respondent Exhibit 8: A photograph for Comparable #1, Parcel #007-26-35-0015-0026.

Respondent Exhibit 9: A copy of the property record card for Comparable #2, Parcel #007-26-35-0369-0013.

Respondent Exhibit 10: A copy of photograph for Comparable #2, Parcel #007-26-35-0369-0013.

Respondent Exhibit 11: A copy of the plat of survey for the subject property.

Respondent Exhibit 12: A copy of the property record card for the property located at 6550 Kansas identified as Parcel #007-26-32-0004-009.

Respondent Exhibit 13: A copy of the Respondent's Evidence Cover Sheet.

Respondent Exhibit 14: A copy of the Reassessment Formal Hearing Worksheet.

d) These Findings and Conclusions.

Analysis

14. The most applicable governing cases are:

- a) The petitioner must sufficiently explain the connection between the evidence and petitioner's assertion in order for it to be considered material to the facts. *See generally Heart City Chrysler v. State Board of Tax Commissioners*, 714 N.E.2d 329, 333 (Ind. Tax Ct. 1999).
- b) The Board will not change the determination of the assessing official unless the Petitioner has established a prima facie case and, by a preponderance of the evidence proven, both the alleged errors in the assessment, and specifically what assessment is correct. *See Clark v. State Board of Tax Commissioners*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998); *North Park Cinemas, Inc. v. State Board of Tax Commissioners*, 689 N.E.2d 765 (Ind. Tax Ct. 1997).

15. The Petitioners provided sufficient evidence to support the Petitioners' contention regarding square footage of the house. This conclusion was arrived at because:
- a) The plat of survey shows the exact dimensions of the subject house expressed in hundredths of a foot. The plat reveals that the dimensions listed on the property record card are not correct, resulting in an error in the calculation of total square footage. *Pet. Ex. 1*. Using the dimensions given on the plat survey, the calculated square footage is 1,129. *Bakos testimony*.
 - b) Cole-Layer-Trumble used the measurements from the survey plat, and rounded them to the nearest whole number, resulting in a square footage of 1,165 square feet. *Vales testimony*.
 - c) The Board finds that the square footage should be changed to 1,129 on the property record card. However, neither party has proven that this change affects the market value in use of the property. Thus, there is no change to the *assessment* as a result of this issue.
16. The Petitioners did not provide sufficient evidence to support the Petitioner's contention regarding overvaluation. This conclusion was arrived at because:
- a) The property located at 6550 Kansas Street, which was offered as a comparable to the subject property, has less square footage and is a frame home rather than a brick home. *Vales testimony*. The difference in size and construction type reasonably explains why the assessed value for 6550 Kansas Street is less than the assessed value for the subject property. *Bakos testimony; Vale testimony; Resp. Ex. 12*.
 - b) It is not sufficient to simply claim that the value for the subject property is between \$81,000 and \$84,000 when attempting to show overvaluation. *Bakos testimony*. Such conclusory statements are of no value to the Board in its evaluation of the evidence. *See Heart City Chrysler v. State Board of Tax Commissioners*, 714 N.E.2d 329 (Ind. Tax 1999). The hearsay statement made by Toni Sherman is not sufficient to support a finding on this issue.

Conclusions

17. The Petitioners, by a preponderance of the evidence, established a prima facie case and has shown that the property record card should reflect a total square footage of 1,129 square feet rather than 1,165 square feet. The Board finds in favor of Petitioners on this issue.
18. The Petitioners did not present sufficient evidence to establish a prima facie case regarding the issue of overvaluation. The Board finds in favor of the Respondent and determines that the assessment should not be changed.

Final Determination

In accordance with the above findings and conclusions, the Board now determines that the property record card should be changed with regard to the issue of square footage. The Board also determines that the *assessment* should not be changed with regard to the issue of overvaluation.

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.