

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition: 45-037-02-1-5-00107
Petitioner: George W. Corman, Jr.
Respondent: Department of Local Government Finance
Parcel: 010-10-01-0067-0014
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. The Department of Local Government Finance (the DLGF) determined that the tax assessment for the subject property is \$155,400 and notified the Petitioner on March 23, 2004.
2. The Petitioner filed a Form 139L on April 19, 2004.
3. The Board issued a notice of hearing to the parties dated November 10, 2004.
4. Special Master Kathy J. Clark held the hearing in Crown Point on December 10, 2004.

Facts

5. The subject property is located at 17510 White Oak in Lowell.
6. The subject property consists of a modular home with attached garage.
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 is:
Land \$41,000 Improvements \$114,400 Total \$155,400.
9. The assessed value requested by Petitioner is:
Land \$32,000 Improvements \$75,000 Total \$107,000.
10. Persons sworn as witnesses at the hearing:
George Corman, owner,
Stephen H. Yohler, assessor/auditor.

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Issues

11. Summary of Petitioner's contentions in support of an error in the assessment:
- a) There are only 10.89 acres of land with this parcel. Approximately 2.72 acres is swampland or wetlands. Neighboring properties have more acreage and are assessed for less.
 - McCracken at 17427 White Oak has 13 acres at \$39,900,
 - Watkins at 17424 White Oak has over 11 acres at \$36,600.*Form 139L at 11, 12; Corman testimony.*
 - b) The dwelling is a modular home. It was purchased with the foundation, garage, and porch for \$67,215 on November 20, 1999. *Petitioner Exhibit 2; Corman testimony.*
12. Summary of Respondent's contentions:
- a) The DLGF has determined that there are errors in the subject's assessment. It has corrected the pricing of the home, the foundation, the garage, and the porch. *Respondent Exhibits 2, 4; Yohler testimony.*
 - b) The Respondent was unaware of any error in regard to the land and has no knowledge that any error has been made. *Yohler testimony.*
 - c) It is the intention of the DLGF to correct the subject assessment to reflect a new total of \$142,400. *Petitioner 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 855,
 - c) Exhibits:
 - Petitioner Exhibit 1–Summary of arguments,
 - Petitioner Exhibit 2–Purchase agreement dated November 20, 1999,
 - Respondent Exhibit 1–Notice of Final Assessment,
 - Respondent Exhibit 2–Subject property record card,
 - Respondent Exhibit 3–Subject photograph,
 - Respondent Exhibit 4–Corrections to subject property record card,
 - 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. Petitioner failed to make a prima facie case regarding land issues. Petitioner made a prima facie case regarding improvement value. Respondent did not rebut or impeach the evidence regarding market value of the dwelling. This conclusion was arrived at because:
- a) The Petitioner’s evidence did not contain enough detailed land information for the Board to determine that the properties located at 17427 White Oak and 17424 White Oak are comparable to the subject. *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 470 (Ind. Tax Ct. 2005). Specific reasons must be provided as to why a taxpayer believes a property is comparable. *Lacy Diversified Indus. v. Dep't of Local Gov't Fin.*, 799 N.E.2d 1215, 1221 (Ind. Tax Ct. 2003).
 - b) Petitioner did not offer probative evidence to establish that the acreage identified with this parcel is wrong. Petitioner also failed to provide probative evidence as to the claim that 2.72 acres of the subject property are wetlands or swamp or specifically how that would affect the subject’s value. Petitioner's conclusory testimony about the amount of acreage, the wetlands and what the value of that area should be is not enough to prove his claim. *Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).
 - c) The purchase agreement and Petitioner's testimony establish a prima facie case that the price of \$67,215 included the cost of the modular home with foundation, garage, and porch on November 20, 1999. This evidence is substantial proof of the 1999 market value of the dwelling. *Long*, 821 N.E.2d at 471. Respondent did not rebut or

impeach that evidence. Therefore, the assessment should be changed to this value. *American United Life*, 803 N.E.2d at 281; *Meridian Towers*, 805 N.E.2d at 479.

Conclusion

16. The Board finds that the Petitioner made a prima facie case regarding the dwelling, but not for the land.

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: _____

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>.