

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-001-02-1-5-00138
Petitioners: Harlee & Ira J. Currie
Respondent: Department of Local Government Finance
Parcel #: 001-25-44-0319-0016
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 assessment for the subject property is \$53,900 and notified the Petitioners on April 1, 2004.
2. The Petitioners filed a Form 139L on April 30, 2004.
3. The Board issued a notice of hearing to the parties dated September 24, 2004.
4. Special Master Kathy J. Clark held the hearing in Crown Point on November 3, 2004.

Facts

5. The subject property is located at 1048 Van Buren Street, Gary. The location is in Calumet Township.
6. The subject property is a two-unit, brick 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 \$4,500 Improvements \$49,400 Total \$53,900.
9. Assessed Value requested by Petitioners:
Land \$2,000 Improvements \$35,000 Total \$37,000.

10. The following persons were present and sworn as witnesses at the hearing:
For Petitioners — Ira J. and Harlee Currie, Owners,
For Respondent — Anthony Garrison, Assessor/Auditor.

Issues

11. Summary of Petitioners' contentions in support of an alleged error in the assessment:
- a) The neighborhood contains several abandoned homes. The alleys, curbs and sidewalks are seriously deteriorated. These negative outside influences affect the value of the property. *Petitioner Exhibit 1; I. Currie testimony.*
 - b) The property is located 100 feet to 120 feet from a busy railroad line. The vibrations from passing train traffic caused the home to shift on its foundation, creating cracks in the foundation and resulting in the dwelling sloping five inches to the north. *Petitioner Exhibit 2; I. Currie testimony.*
 - c) Other properties in the neighborhood are assessed much less than the subject. *Petitioner Exhibit 3. I. Currie testimony.*
 - d) The property was appraised in 2000 for equity purposes for an amount of \$50,000. *I. Currie testimony.*
12. In support of the assessment, Respondent contends that a negative 20 percent adjustment factor was already applied to the value of the dwelling. *Respondent Exhibit 2.*

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 538,
 - c) Petitioner Exhibit 1 - Photographs of negative outside influences,
Petitioner Exhibit 2 - Hartford Insurance Company letter dated March 21, 2002,
Petitioner Exhibit 3 - Other assessments for properties located on Van Buren Street,
Respondent Exhibit 1 - Form 139L,
Respondent Exhibit 2 - Subject property record card ("PRC"),
Respondent Exhibit 3 - Photograph of subject property,
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 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 failed to provide sufficient evidence in support of their contentions. This conclusion was arrived at because:
- a) While Petitioner Exhibit 1 shows the deterioration of the neighborhood, the Petitioners failed to demonstrate how or to what degree this might affect the value of the property. The Petitioner’s burden is to establish that the current assessment is incorrect and what the correct assessment should be. Petitioners failed to offer probative evidence that the negative influences they proved have not been sufficiently considered by the current assessment. They have not met the standard of proof required by *Meridian Towers*.
 - b) Regarding the Petitioners’ claim of damage purportedly caused by the property’s proximity to a busy railroad line, petitioners failed to offer probative evidence that the situation has not been sufficiently considered by the current assessment. They have not met the standard of proof required by *Meridian Towers*.
 - c) As to the subject’s assessed value being much higher than other properties on Van Buren Street, the information provided as Petitioner Exhibit 3 does not contain sufficient information to allow the Board to determine exactly what the assessed values of the other properties represent or how they show what Petitioners’ assessment should be. *Indianapolis Racquet Club*, 802 N.E.2d 1022.
 - d) The Petitioners stated that an appraisal was done in 2000 for loan purposes that established a value for the property of \$50,000, but the Petitioners did not submit the document. Without documentation and some evidence to establish how an appraisal

relates to the value of the property as of January 1, 1999, the testimony has no probative value. 2002 REAL PROPERTY ASSESSMENT MANUAL at 4 (incorporated by reference at 50 IAC 2.3-1-2); *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005).

Conclusions

16. The 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 value 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.