

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-026-02-1-5-00049
Petitioner: Jacob A. Knapik
Respondent: Department of Local Government Finance
Parcel #: 007162701900019
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 not held. The Department of Local Government Finance (DLGF) issued a Notice of Department Assessed Value Determination on March 31, 2004, notifying the Petitioner that his property tax assessment for the subject property had been changed from \$121,100 to \$140,700.
2. The Petitioner filed a Form 139L on April 12, 2004.
3. The Board issued a notice of hearing to the parties dated June 29, 2004.
4. A hearing was held on September 8, 2004, in Crown Point, Indiana, before Special Master Kathy J. Clark.

Facts

5. The subject property is located at 2636 81st Street, Highland, in North Township.
6. The subject property is a bi-level single-family dwelling.
7. The Special Master did not conduct an on-site inspection of the property.
8. Assessed Value of subject property as determined by the DLGF:
Land: \$20,200 Improvements: \$120,500 Total: \$140,700.
9. Assessed Value requested by the Petitioner:
Land: \$20,200 Improvements: \$97,300 Total: \$117,500.

10. Persons present and sworn as witnesses at the hearing:
For the Petitioner: Jacob A. Knapik, Owner,
For the Respondent: Sharon Elliott, Staff Appraiser, Cole-Layer-Trumble.

Issues

11. Summary of the Petitioner's contentions in support of alleged error in assessment:
- The Petitioner contends that the appraisal prepared by Bochnowski Appraisal Company for refinancing purposes better establishes the market value of his property. This appraisal concluded the market value of the property as of March 11, 2003, was \$117,500. *Petitioner Exhibit 3.*
 - The Petitioner further contends there is a difference between the neighborhoods of the comparable properties used by the Respondent and the neighborhood of the subject property. The homes in those other neighborhoods sell for more. *Knapik testimony.* The Petitioner's neighborhood has more slab homes. *Id.*
12. Summary of the Respondent's contentions in support of the assessment:
- The Respondent contends that a comparable sales analysis places the subject property within an acceptable market value range as compared to other bi-level residential sales. The Respondent was unable to find any sales of bi-level homes in the subject neighborhood, so three sales from two other neighborhoods were used. *Respondent Exhibit 4; Elliott testimony.*
 - The Petitioner's appraisal does not include the cost approach to value. Also, the first sale (for \$133,750) shown on the appraisal is a smaller home, has a smaller lot, and doesn't have as many bathrooms. *Elliott testimony.*

Record

13. The official record for this matter is made up of the following:
- The Petition.
 - The tape recording of the hearing labeled Lake Co. Tape-188.
 - Exhibits:
 - Petitioner Exhibit 1: Form 139L Petition.
 - Petitioner Exhibit 2: Summary of issues.
 - Petitioner Exhibit 3: Appraisal dated March 11, 2003.
 - Respondent Exhibit 1: Form 139L Petition.
 - Respondent Exhibit 2: Subject property record card.
 - Respondent Exhibit 3: Photograph of subject property.
 - Respondent Exhibit 4: Comparable sales analysis, property record cards and photographs of comparable properties.
 - 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 his contention. This conclusion was arrived at because:
 - a) “True tax value” is defined as “[t]he market value-in-use of a property for its current use, as reflected by the utility received by the owner or a similar user, from the property.” 2002 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.3-1-2).
 - b) A taxpayer may offer evidence relevant to the fair market value-in-use of a property in order to establish its true tax value, including professionally prepared appraisals. *Id.* at 5; *see also, Long v. Wayne Township Assessor*, No. 49T10-0404-TA-20, slip op. at 4 (Ind. Tax Ct. corrected original opinion dated January 28, 2005)(stating that a property’s market value-in-use may be calculated through the use of several approaches, all of which have been used in the appraisal profession).
 - c) Regardless of the approach used to prove the market value-in-use of a property, Indiana’s assessment regulations provide that for the 2002 general reassessment, a property’s assessment must reflect its value as of January 1, 1999. MANUAL at 4; *Long*, slip op. at 8. Consequently, a party relying on an appraisal prepared substantially after January 1, 1999, must provide some explanation as to how the appraised value demonstrates or is relevant to the property’s value as of January 1, 1999. *Id.* Absent such an explanation, the appraisal lacks any probative value. *Id.* at 8-9.
 - d) Here, the Petitioner relied exclusively upon an appraisal prepared by the Bochnowski Appraisal Company in seeking to establish the fair market value-in-use of the subject property. *Knapik testimony*; *Petitioner Exhibit 3*. That appraisal valued the property as of March 11, 2003. *Petitioner Exhibit 3*. The Petitioner did not explain how the appraised value relates to or demonstrates the value of the subject property as of January 1, 1999. Moreover, nothing on the face of the appraisal itself purports to relate to the subject property’s value as of January 1, 1999. In fact, the appraisal was based upon a comparison of sales of other properties, all of which occurred in 2001,

- 2002 or 2003. *Petitioner Exhibit 3*. That appraisal lacks any probative value to establish the fair market value-in-use of the subject property as of January 1, 1999.
- e) Based on the foregoing, the Petitioner failed to establish a prima facie case of error and Respondent's obligation to rebut was not triggered. *See Blackbird Farms Apts., LP v. Dep't of Local Gov't Fin.*, 765 N.E.2d 711, 715 (Ind. Tax Ct. 2002) (explaining that when a petitioner does not present a prima facie case, the duty to support the assessment with substantial evidence is not triggered).

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.