

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-001-02-1-5-00727
Petitioners: James L. & Laura L. Wilson
Respondent: Department of Local Government Finance
Parcel #: 001-01-39-0102-0001
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 January 2004 in Lake County, Indiana. The Department of Local Government Finance (DLGF) determined that the Petitioners' property tax assessment for the subject property was \$49,200 and notified the Petitioners on March 31, 2004.
2. The Petitioners filed a Form 139L on April 28, 2004.
3. The Board issued a notice of hearing to the parties dated September 2, 2004.
4. A hearing was held on October 7, 2004, in Crown Point, Indiana before Special Master Barbara Wiggins.

Facts

5. The subject property is located at: 4301 Calhoun Street, Gary, Calumet Township.
6. The subject property is a single-family rental home.
7. The Special Master did not conduct an on-site visit of the property.
 - a) Assessed Value of subject property as determined by the DLGF:
Land \$12,200 Improvements \$37,000 Total \$49,200
 - b) Assessed Value requested by Petitioners at hearing:

Land \$4,000 Improvements \$30,000 Total \$34,000

8. The persons indicated on the sign-in sheet (Board Exhibit C) were present at the hearing.

9. Persons sworn in at hearing:

For Petitioners: James L. Wilson, Co-Owner

For Respondent: David Depp, Representing the DLGF

Issues

10. Summary of Petitioners' contentions in support of an alleged error in the assessment:

- a) The subject property's land assessment is too high as compared to recent tax sales of vacant lots in the area. *Wilson testimony.*
- b) The property in total would sell for approximately \$34,000 if put on the open market as supported by two comparables submitted with the petition. *Wilson testimony.*

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

- a) The Respondent presented comparable neighborhood sales in support of the current assessment. *Depp testimony; Respondent Exhibit 4.*
- b) The Respondent presented the property record cards for the Petitioners' comparables to support the value as assessed. *Depp testimony; Respondent Exhibit 5.*

Record

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

- a) The Petition, and all subsequent submissions by either party.
- b) The tape recording of the hearing labeled Lake Co. #508.
- c) Exhibits:

Petitioners' Exhibits: No exhibits submitted at hearing

Respondent's Exhibit 1: Form 139L Petition

Respondent's Exhibit 2: Subject Property Record Card

Respondent's Exhibit 3: Subject Photograph

Respondent's Exhibit 4: Summary of 20 Comparable Sales, Record Cards & Photographs for three most comparable

Respondent's Exhibit 5: Property Record Cards for Petitioners' Comparables

Board Exhibit A: Form 139 L
Board Exhibit B: Notice of Hearing
Board Exhibit C: Sign in Sheet

d) These Findings and Conclusions.

Analysis

13. 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.

14. The Petitioners did not provide sufficient evidence to support their contentions. This conclusion was arrived at because:

- a) The Petitioners contend that the land portion of the assessment is excessive. *Wilson argument*. In support of this contention, James Wilson testified that the only recent sales of vacant land in Calumet Township have been tax sales for \$500 per lot. *Wilson Testimony*.
- b) However, the Petitioners did not present any evidence regarding the dates of the tax sales at issue, nor did they identify the characteristics of the lots that were sold in comparison to the characteristics of the subject land. In fact, the Petitioners did not specifically identify any of the lots in question. Thus, the Petitioners’ reliance on the tax sales in question is insufficient to establish a prima facie case that the land portion of the subject assessment is excessive. *See Home Federal Savings Bank v. Madison Twp. Assessor*, 817 N.E.2d 332 (Ind. Tax Ct. 2004) *quoting Beyer v. State*, 258 Ind. 227, 280 N.E.2d 604, 607 (1972) (“[W]hen a taxpayer introduces evidence of allegedly comparable properties, the taxpayer must explain *how* the properties are

- comparable, including factors such as ‘size, shape, topography, accessibility, [and] use.’)(emphasis in original).
- c) Next, the Petitioners point to the sales of two purportedly comparable properties to support their position that the fair market value of the subject property as a whole is \$34,000. *See Board Exhibit A*
 - d) The 2002 REAL PROPERTY ASSESSMENT MANUAL (“Manual”) defines the “true tax value” of real estate as “the 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. The Manual further provides that a taxpayer may be permitted to use evidence consistent with the Manual’s definition of true tax value, such as comparable sales data that is relevant to a property’s market value-in-use, to establish the actual true tax value of a property. MANUAL at 5.
 - e) The Manual further provides that for the 2002 general reassessment, a property’s assessment must reflect its value as of January 1, 1999. MANUAL at 4. Consequently, in order to be probative of a property’s true tax value, a taxpayer should explain how the comparable sales data being utilized relates to the market value-in-use as of the property at issue as of January 1, 1999. *See Long v. Wayne Twp. Assessor*, Cause No. 49T10-0404-TA-20 at 8-9 (Ind. Tax Ct. corrected original opinion dated January 28, 2005) (holding that an appraisal indicating the value of the subject property as of December 10, 2003, lacked probative value).
 - f) The Petitioners presented two MLS property detail sheets that showed a \$20,000 sale of a property located at 4413 Tompkins and a \$23,900 sale for a property located at 4250 Tompkins. Both sales occurred in 2003. *See Board Exhibit A*.
 - g) The Petitioners failed to present any evidence or explanation regarding how the sale prices related to the market values-in-use of those respective properties, or to the market value-in-use of the subject property, as of January 1, 1999. Consequently, the Petitioners failed to establish a prima facie case based upon the sales of purportedly comparable properties.
 - h) In addition, the Petitioners did not engage in any significant comparison of the features of the purportedly comparable properties and the subject property. *See Long*, slip op. at 4 (holding that the petitioners failed to explain how the characteristics of their property compared to those of purportedly comparable properties or how any differences between the properties affected the properties’ relative market values-in-use). While the MLS listing sheets submitted by the Petitioners contain some information concerning features of the purportedly comparable houses, a petitioner must do more than simply present raw data. Instead, he must explain the relevance of that information to his contentions. *See Indianapolis Racquet Club*, 802 N.E.2d at 1022 (“[I]t is the taxpayer’s duty to walk the Indiana Board ... through every element of the analysis”).

- i) For the above reasons, the Petitioners failed to make a prima facie case of an error in the assessment

Conclusion

15. The Petitioners 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.

