

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-001-02-1-5-00678
Petitioners: Kermit & Paula Bryan
Respondent: Department of Local Government Finance
Parcel #: 001254502680007
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 Department of Local Government Finance (DLGF) determined that the Petitioners' property tax assessment for the subject property was \$270,000. The Petitioners did not receive the Notice of Assessment.
2. The Petitioners filed a Form 139L on April 29, 2004.
3. The Board issued a notice of hearing to the parties dated February 21, 2005.
4. A hearing was held on March 23, 2005 in Crown Point, Indiana before Special Master Joan Rennick.

Facts

5. The subject property is a single family residential property located at 7939 Lake Shore Drive, Gary, Calumet Township.
6. The Special Master did not conduct an on-site visit of the property
7. Assessed Value of subject property as determined by the DLGF:
Land \$150,400 Improvements \$119,600
8. Assessed Value requested by Petitioners at the hearing:
Land \$100,260 Improvements \$119,600
9. The persons indicated on the sign-in sheet (Board Exhibit C) were present at the hearing.

10. Persons sworn in at hearing:

For Petitioners: Kermit Bryan, owner
Paula Bryan, owner

For Respondent: Joseph Lukomski, Jr., Assessor/Auditor, DLGF

Issue

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

- a) The Petitioners believe there is a mathematical error in the assessment computation of the land. *P. Bryan testimony.*
- b) The estimated land value of \$50,130 multiplied by the 200% influence factor should be \$100,260. *K. Bryan testimony.*

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

- a) The Respondent agreed that 200% multiplied by \$50,130 equals \$100,260. *Lukomski testimony.*
- b) The Respondent stated that unless there is something in the calculation that he is unaware of the change should be made. *Lukomski 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 BTR #1288.
- c) Exhibits:

Respondent Exhibit 1: Form 139L
Respondent Exhibit 2: Subject Property Record Card (PRC)
Respondent Exhibit 3: Subject Photo
Respondent Exhibit 4: Top 20 Comparables
Respondent Exhibit 5: Comparable PRCs and Photos

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 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 Township 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 Township 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 did provide sufficient evidence to support their contentions. This conclusion was arrived at because:
 - a) The Petitioners contend there is a mathematical error in the computation of the land value. The Petitioners contend the land value should be \$100,260, not \$150,390 as shown on the property record card (PRC).
 - b) The Petitioners contend the mathematical error is in application of the influence factor. The subject property has been given a positive influence factor of 200%.
 - c) Calculating the land value for a lot is explained in the REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 – VERSION A, ch. 2 at 64 (incorporated by reference at 50 IAC 2.3-1-2). The land value is calculated by adjusting the estimated value by the influence factor. In this case the estimated value is \$50,130 and the influence factor is a positive 200%. The estimated value of \$50,130 multiplied by the positive influence factor of 200% equals a land value of \$100,260.
 - d) The Respondent agreed with the Petitioners' mathematical calculation.
 - e) The Petitioners' have shown an error was made in the calculation of land value. The land value should be changed to \$100,260.

Conclusion

16. The Petitioners made a prima facie case. The Respondent agreed. The Board finds in favor of the Petitioners.

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>>.