

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-026-02-1-5-01316
Petitioner: Larry Shoulders
Respondent: Department of Local Government Finance
Parcel #: 007-26-33-0040-0054
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 on January 16, 2004. The Department of Local Government Finance (DLGF) determined that the assessment for the subject property was \$72,300 and notified the Petitioner on March 31, 2004.
2. The Petitioner filed a Form 139L on April 26, 2004.
3. The Board issued a notice of hearing to the parties dated September 2, 2004.
4. Special Master Barbara Wiggins held the hearing in Crown Point on October 7, 2004.

Facts

5. The subject property is located at 1124 Truman, Hammond, North Township.
6. The subject property is a two-unit residence with 0.052 acres of land.
7. The Special Master did not conduct an on-site visit of the property.
8. The DLGF determined the assessed value of subject property is:
Land \$5,400 Improvements \$66,900 Total \$72,300.
9. Petitioner requested an assessed value of not more than \$50,000.
10. Persons sworn as witnesses at the hearing:
For Petitioner — Larry Shoulders, Owner,
For Respondent — David Depp, Representing the DLGF.

Issues

11. Summary of Petitioner's contentions in support of alleged error in assessment:
 - a) All the properties on Truman Street that are on appeal were included in 1992 purchase agreement for a total of \$47,000. *Shoulders testimony; Petitioner Exhibit 3.*
 - b) The total appraisal for all the appealed properties on Truman was \$67,000 in 1999. The current assessment for all of them is \$145,300. *Shoulders testimony; Petitioner Exhibit 2.*
 - c) The assessment was increased after the informal hearing, but no explanation was offered for the increase. *Shoulders testimony.*

12. The Respondent admits that the property is overvalued. The finished area in the attic should be removed and the condition changed to fair. The house should not be valued over \$50,000. *Depp testimony.*

Record

13. The official record for this matter is made up of the following:
 - a) The Petition,
 - b) The tape recordings of the hearing labeled Lake Co. 426,
 - c) Exhibits (encompassing 7 separate petitions):
 - Petitioner's Exhibit 1: Notice of Hearing,
 - Petitioner's Exhibit 2: Property Record Cards,
 - Petitioner's Exhibit 3: 1992 purchase agreement for Truman locations,
 - Petitioner's Exhibit 4: Court Decree with Property Values,
 - Petitioner's Exhibit 5: Receipt for 1990 appraisals,
 - Petitioner's Exhibit 6: Newspaper clipping on tax sales,
 - Petitioner's Exhibit 7: Summary of argument,
 - Petitioner's Exhibit 8: Notices of Final Assessment,
 - Respondent's Exhibit 1: Form 139L Petition,
 - Respondent's Exhibit 2: Subject Property Record Card,
 - Board Exhibit A: Form 139 L,
 - 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 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.
 - d) The petitioner must submit probative evidence that adequately demonstrates the alleged error. Mere allegations, unsupported by factual evidence, will not be considered sufficient to establish an alleged error. *Whitley Products v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998); *see also Herb v. State Bd. of Tax Comm'rs*, 656 N.E.2d 1230 (Ind. Tax Ct. 1998).
15. The Petitioner did not provide sufficient testimony to support his contention. This conclusion was arrived at because:
- a) Indiana's 2002 general reassessment must reflect the market value of property as of January 1, 1999. *See* 2002 REAL PROPERTY ASSESSMENT MANUAL at 4, 12.
 - b) The Petitioner contends the land assessment is too high because his half interest in the property was valued in 1999 for \$16,000 in a divorce settlement. The Petitioner testified that a certified appraiser was employed to do the appraisal, but he was unable to obtain a full copy of the appraisal as proof of the validity of the appraised values submitted in Exhibit 4. The Petitioner offered receipts for appraisals done in 1990 for the Estate of Velma Shoulders, not for appraisals done for the divorce in 1999. Furthermore, Petitioner's Exhibit 4 clearly states that the Court appointed an appraiser to appraise the marital residence; it says nothing about appraisals on the rental properties. In fact, there is no support in the evidence Petitioner has offered for the values shown in the divorce decree. This information does not satisfy Petitioner's burden to prove that the current

assessment is wrong or what the correct assessment should be. *Meridian Towers*, 805 N.E.2d at 478; *Clark*, 694 N.E.2d 1230.

- c) The Petitioner submitted as evidence the purchase of the subject parcel, 2 homes and 2 adjacent lots for \$47,000 in 1992. The Petitioner testified he thought the valuation date for the reassessment was 1992 rather than January 1, 1999. Nevertheless, Petitioner failed to establish the relevance of either the 1992 sale or the 1999 divorce decree in regard to the market value of this property as of January 1, 1999. His conclusory statements do not constitute probative evidence and they carry no weight in establishing his case. *Whitley Products*, 704 N.E.2d at 1119.
- d) Respondent's testimony, however, presents undisputed evidence that the assessment is erroneous regarding the attic finish and the condition.

Conclusion

- 16. The record shows that error exists in this assessment. The Board finds in favor of the Petitioner and approves the changes requested by Respondent.

Final Determination

In accordance with the above findings and conclusions, the Indiana Board of Tax Review now determines that the assessment should be changed to show the attic as unfinished and the condition reduced to fair.

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.