

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-028-02-1-5-00303
Petitioners: Larry J. & Connie L. Bauldridge
Respondent: Department of Local Government Finance
Parcel #: 008-08-15-0175-0002
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 December 18, 2003. The Department of Local Government Finance (the "DLGF") determined that the assessment for the subject property is \$157,000 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 August 9, 2004.
4. Special Master Michael Schultz held the hearing in Crown Point on September 20, 2004.

Facts

5. The subject property is located at 18 Sunset Road, Merrillville. The location is in Ross Township, Lake County.
6. The subject property is a Cape Cod modular home with a detached garage.
7. The Special Master did not conduct an on-site inspection of the property.

8. The assessed value of subject property as determined by the DLGF:
Land \$18,800 Improvements \$138,200 Total \$157,000.
9. The assessed value requested by Petitioners:
Land \$15,000 Improvements \$115,000 Total \$130,000.
10. The following persons were sworn as witnesses at the hearing:
For Petitioners — Larry Bauldridge, owner,
For Respondent — Sharon Elliott, Staff Appraiser, Cole-Layer-Trumble.

Issue

11. Summary of Petitioners' contentions in support of alleged error in assessment:
 - a) The Petitioners argued the current assessment does not reflect the market value of the home. The Petitioners presented an appraisal that concluded the value of the property, as of January 15, 2004, was \$146,500. *Petitioners Exhibit 1*. The Petitioners maintained that the maximum assessed value of the subject property should be no more than the appraisal value. *Bauldridge testimony*.
 - b) The Petitioners further contended an error was made in calculating the neighborhood factor. The Petitioners' property is located in Forest Hills subdivision, in the south-center section of Merrillville. The subdivision is located north of U.S. Highway 30 and immediately east of Broadway. It is an older subdivision without sidewalks, curbs and gutters. *Bauldridge testimony; Petitioners Exhibit 2*. Chapel Manor subdivision is located immediately south and contiguous to Forest Hills subdivision. Chapel Manor has curbs, gutters and sidewalks. *Bauldridge testimony; Petitioners Exhibit 3*. Although Chapel Manor subdivision has curbs, gutters and sidewalks, its neighborhood factor is 30 points lower than Forest Hills. Forest Hills' neighborhood factor is 1.11 and Chapel Manor's is .83. Further, Chapel Manor's average assessed land value is 29 percent higher than Forest Hills' average land value. The Petitioners contended this data supported the conclusion that the neighborhood factor used in their assessment is incorrect. *Bauldridge testimony; Petitioners Exhibit 4*.
 - c) In further support of their position, the Petitioners presented sales data from Forest Hills and Chapel Manor. Forest Hills' sales data for the years 1999 through August of 2004 demonstrates that, of the 49 homes sold during that period, not a single home sold for more than \$126,000. The average sale price was \$97,231 for that 5½ year period. *Bauldridge testimony; Petitioners Exhibit 5*. Chapel Manor sales data for the same period demonstrates that 36 homes were sold for an average sale price of \$127,660. The highest sale price was \$165,000. *Bauldridge testimony; Petitioners Exhibit 6*.
 - d) The Petitioners contended market value is best indicated by the sale price of other homes of comparable size in the neighborhood. *Bauldridge testimony; Petitioners*

Exhibit 9. Three homes sold in the Forest Hills subdivision in 2003 and 2004 that were of comparable size and quality to the Petitioners' property. (1) 23 Indiana Trail (2,122 square feet with two baths) sold in 2003 for \$116,900. (2) 51 Indian Trail (1,902 square feet with two baths) sold in 2003 for \$120,000. (3) 9 Indian Trail (2,054 square feet with two baths) sold in 2004 for \$107,000. There is no indication, based on sales within the Forest Hills subdivision during the last 5½ years that any buyer would be willing to pay \$157,000 for a 2,000 square foot modular unit. *Bauldridge testimony; Petitioners Exhibit 8.*

- e) The Petitioners also contended that other properties located in Forest Hills subdivision are assessed differently than the Petitioners' parcel. The Petitioners contended the property located at 39 Indian Trail is a similar home on a larger lot, yet it is assessed at \$119,000 (\$39,000 less than the Petitioners' assessment). *Bauldridge testimony; Petitioners Exhibit 9.* The Petitioners further contended the residence located at 7441 Broadway is of comparable size, but has a larger lot. This property is assessed at \$13,000 less than the Petitioners' property. *Bauldridge testimony; Petitioners Exhibit 10.* The Petitioners also asserted the residence located at 7778 Delaware Place is a brick home of comparable size. However it is assessed at \$13,900 less than the Petitioners' home. *Bauldridge testimony; Petitioners Exhibit 11.*
- f) The Petitioners argued that four homes adjacent to their property (2 Meadow Lane, 4 Meadow Lane, 16 Sunset Road and 20 Sunset Road) all have substantially lower assessed values. The Petitioners contended their home is assessed too high because it is surrounded by homes that are valued at an average of less than \$84,000.00. *Bauldridge testimony; Petitioners Exhibit 12.* Two of the homes that adjoin the appellants' property (2 Meadow Lane and 4 Meadow Lane) were assessed at \$108,100.00 and \$67,500.00, respectively. Both are well maintained homes, although a little smaller, and these assessments are indicative of the property values in the subdivision. *Bauldridge testimony; Petitioners Exhibit 13.*
- g) The Petitioners asserted that a "fair market value assessment" would not assess a home for \$157,000.00 in a neighborhood that has not had a single home sale in over five years exceeding \$126,000, and the average sale price is only \$97,231.00. *Bauldridge testimony.*

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

- a) The assessment is lower than the insured value of \$175,000. The Petitioners also indicated their asking price would be \$137,500. *Elliott testimony; Respondent Exhibit 1.*
- b) The subject property is a Cape Cod modular home. The home was graded at a C-1 because it is a modular home. *Elliott testimony; Respondent Exhibit 2.*

- c) The land was bought in 1994 for \$13,000. Improvements to the land raised its value to \$18,800. *Elliott testimony; Bauldridge testimony.*
- d) The Respondent was unable to find comparable properties in the Petitioners' neighborhood. *Elliott testimony.*
- e) The Respondent presented evidence of comparable properties from other neighborhoods ranging from \$76,000 to \$200,000. *Elliott testimony; Respondent Exhibit 4.*

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 Co. 295,
 - c) Exhibits:
 - Petitioners Exhibit 1 — Appraisal,
 - Petitioners Exhibit 2 — Streetscape photos,
 - Petitioners Exhibit 3 — Streetscape photos,
 - Petitioners Exhibit 4 — Property record card ("PRC") and analysis,
 - Petitioners Exhibit 5 — CMA Report,
 - Petitioners Exhibit 6 — CMA Report,
 - Petitioners Exhibit 7 — None,
 - Petitioners Exhibit 8 — CMA Report,
 - Petitioners Exhibit 9 — Cost approach and depreciation,
 - Petitioners Exhibit 10 — Photos of other property,
 - Petitioners Exhibit 11 — Photos and PRC of other property,
 - Petitioners Exhibit 12 — Photos and PRCs for adjoining properties,
 - Petitioners Exhibit 13 — Photos and PRC for adjoining property,
 - Respondent Exhibit 1 — Form 139L Petition,
 - Respondent Exhibit 2 — Subject property record card,
 - Respondent Exhibit 3 — Subject photograph,
 - Respondent Exhibit 4 — Comparable property worksheet,
 - Respondent Exhibit 5 — Petitioners' Comparable from Informal Hearing,
 - Respondent Exhibit 6 — Petitioners' Comparable from Informal Hearing,
 - Respondent Exhibit 7 — Petitioners' Comparable from Informal Hearing,
 - 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 did not provide sufficient evidence to support their contentions. This conclusion was arrived at because:

Appraisal

- a) The property is currently assessed for \$157,000. The Petitioners contended the total assessed value should be \$130,000. In support of this position, the Petitioners presented an appraisal valuing the property at \$146,500 as of January 15, 2004. Indiana’s assessment regulations provide that for the 2002 general reassessment, a property’s assessment must reflect its value as of January 1, 1999. *Long v. Wayne Township Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct., 2005); 2002 REAL PROPERTY ASSESSMENT MANUAL at 4 (incorporated by reference at 50 IAC 2.3-1-2). Consequently, a party relying on an appraisal must provide some explanation as to how the appraisal demonstrates, or is relevant to, the property’s value as of January 1, 1999. *Long*, 821 N.E.2d at 471.
- b) The Petitioners did not explain how the 2004 appraisal demonstrates, or is relevant to, the property’s value as of January 1, 1999. Accordingly, the 2004 appraisal is not probative evidence of error in the assessment. *Id.*

Comparable Sales

- c) Petitioners presented evidence of home sales from both their subdivision, Forest Hills, and a neighboring subdivision, Chapel Manor. These sales occurred during the period 1999 through 2004. Petitioners did not establish the comparability of those properties to their own. Conclusory statements that a property is “similar” or

“comparable” to another property do not constitute probative evidence of the comparability of the two properties. *Long*, 821 N.E.2d at 470. A party must prove the characteristics of the subject property and how those characteristics compare to those of purportedly comparable properties as well as how any differences between the properties affect the relative market values-in-use. Further, the Petitioners did not explain the manner in which sales from 2000 through 2004 demonstrate, or are relevant to, the property’s value as of January 1, 1999. *Id.* at 471. Accordingly, this sales data is not probative evidence of error in the assessment. *Id.*

Comparable Assessments

- d) Four properties on Meadow Lane and Sunset Lane are assessed for less than the Petitioners’ property. Again, Petitioners failed to explain the manner in which these properties are comparable to their property. Accordingly, this evidence of differing assessed values is not probative of error. *Id.* at 470.

Neighborhood Factor

- e) A neighborhood is defined as “[a] geographical area exhibiting a high degree of homogeneity in residential amenities, land use, economic and social trends, and housing characteristics.” REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 — VERSION A, glossary at 14 (incorporated by reference at 50 IAC 2.3-1-2).
- f) “The neighborhood factor accounts for the impact on value caused by physical characteristics in the neighborhood such as type and layout of streets, availability of support services, and utilities. It also takes in to [sic] account the economic characteristics such as demand for property and mortgage interest rates; governmental characteristics such as police protection, fire protection, and zoning; and social characteristics such as crime rates, owner-occupant ratios, and family size.” GUIDELINES, app. B at 8. The neighborhood factor is determined “based upon an analysis of residential properties that have sold within the neighborhood.” *Id.* The factor is computed by dividing “the total adjusted sale prices (improvements only) by the total Improvement Value.” *Id.* at 9.
- g) Petitioners presented no calculation demonstrating error in the current neighborhood factor and no alternative calculation of any proposed revised neighborhood factor. To prevail in an appeal, the Petitioners must demonstrate with probative evidence specifically what the correct assessment would be. *Meridian Towers*, 805 N.E.2d at 478.
- h) The Petitioner’s unsubstantiated conclusions about comparability of these neighborhoods or the computation of the neighborhood factor do not constitute probative evidence. *Whitley Products, Inc. v. State Bd. of Tax Comm’rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998). Accordingly, the Petitioners failed to establish error in the current neighborhood factor.

16. Where the Petitioners have not supported their claims with probative evidence, the Respondent's duty to support the assessment with substantial evidence is not triggered. *Lacy Diversified Indus. v. Dep't of Local Gov't Fin.*, 799 N.E.2d 1215, 1222 (Ind. Tax Ct. 2003).

Conclusion

17. The Petitioners failed to make a prima facie case. 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 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.