

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petitions#: 45-013-02-1-5-00112
45-013-02-1-5-00113
45-013-02-1-5-00114
45-013-02-1-5-00115
45-013-02-1-5-00116

Petitioners: Milby, Leslie E. & Patsy

Respondent: Department of Local Government Finance

Parcels #: 005-30-24-0099-0004
005-30-24-0099-0005
005-30-24-0099-0048
005-30-24-0099-0046
005-30-24-0099-0047

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 Petitioners provided a written explanation of the sequence of events that lead to the appeal. The Department of Local Government Finance (“DLGF”) determined that the Petitioner’s property tax assessment for the subject property was, respectively, -00112 at \$5,500 land only, -00113 at \$5,500 land only, -00114 at \$6,900 land and \$68,600 improvements, -00115 at \$6,900 land only, and -00116 at \$6,900 land only, and notified the Petitioner on March 23, 2004.
2. The Petitioner filed the Form 139L petitions on April 25, 2004.
3. The Board issued a notice of hearing to the parties dated February 21, 2005.
4. Special Master Rick Barter held a hearing in Crown Point on March 24, 2005.

Facts

5. The subject properties are located on Oak Street and at 12711 Wrightwood in Cedar Lake.

6. The subject properties consist of a residential dwelling situated on 3 residential lots and 2 vacant residential lots with each lot measuring 25 feet by 95 feet.

7. The Special Master did not conduct an on-site visit of the property

8. The assessed value of subject property as determined by the DLGF:

| | | | | | |
|----------------------------|------|---------|--------------|----------|-----------------|
| Parcel 005-30-24-0099-0004 | Land | \$5,500 | | Total | \$5,500, |
| Parcel 005-30-24-0099-0005 | Land | \$5,500 | | Total | \$5,500, |
| Parcel 005-31-24-0099-0046 | Land | \$6,900 | | Total | \$6,900, |
| Parcel 005-31-24-0099-0047 | Land | \$6,900 | | Total | \$6,900, |
| Parcel 005-31-24-0099-0048 | Land | \$6,900 | Improvements | \$68,600 | Total \$75,500. |

9. The assessed value requested by Petitioner:

| | | | | | |
|----------------------------|------|---------|--------------|----------|-----------------|
| Parcel 005-30-24-0099-0004 | Land | \$1,000 | | Total | \$1,000, |
| Parcel 005-30-24-0099-0005 | Land | \$1,000 | | Total | \$1,000, |
| Parcel 005-31-24-0099-0046 | Land | \$3,250 | | Total | \$3,250, |
| Parcel 005-31-24-0099-0047 | Land | \$3,250 | | Total | \$3,250, |
| Parcel 005-31-24-0099-0048 | Land | \$3,250 | Improvements | \$68,600 | Total \$71,850. |

10. The following persons were present and sworn in at hearing:

For Petitioners – Leslie E. Milby, property owner,

For Respondent – Tommy P. Bennington, DLGF.

Issue

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

- a) The assessed value for the subject properties is over-stated when compared to the 2000 purchase price of the subject properties. In August 2000, the subject properties were purchased for \$16,000 with the front lots assigned a value of \$3,250 each and the rear lots a value of \$1,000 each. *Milby testimony; Petitioner Exhibit 1.*
- b) The property value did not change significantly between January 1, 1999, and the sale date of August 2000. *Milby testimony.*

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

- a) The Respondent offered no testimony regarding the Petitioners' claim or the significance of the Respondent's evidence.

Record

14. The official record for this matter is made up of the following:
- a) The Petition,
 - b) The tape recording of the hearing labeled Lake County1232,
 - c) Exhibits:
 - Petitioner Exhibit 1 – A copy of a page from closing statement,
 - Petitioner Exhibit 2 – A copy of an appraisal for the property located at,
 - Petitioner Exhibit 3 – A copy of an appraisal for the property located at,
 - Petitioner Exhibit 4 – A copy of an appraisal for the property located at,
 - Respondent Exhibit 1 – A copy of the Form 139L,
 - Respondent Exhibit 2 –The subject property record card,
 - Respondent Exhibit 3 –The plat map for the subject property,
 - Board Exhibit A – The Form 139L,
 - Board Exhibit B – Notice of Hearing,
 - Board Exhibit C – Sign in Sheet,
 - d) These Findings and Conclusions.

Analysis

15. 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.

16. The Petitioners provided sufficient evidence to support the Petitioners' contentions. This conclusion was arrived at because
- a) The evidence presented shows that the subject properties were purchased in 2000 for a total of \$16,000 with a value of \$13,000 allocated to the front lots and a value of \$3,000 allocated to the rear lots. *Milby testimony; Petitioner Exhibit 1.*
 - b) Evidence pertaining to the market value of a property is persuasive if the value demonstrated by this evidence is shown to be relevant to the valuation date of January 1, 1999. *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466 (Ind. Tax Ct. 2005). The evidence on record indicates that the 2000 purchase price is relevant to the January 1, 1999 valuation date because, during that time period, the market of the subject properties remained stable. *Milby testimony.*
 - c) The Petitioners have presented sufficient evidence to show that the current assessment is incorrect and what the correct assessment should be. *Meridian Towers*, 805 N.E.2d 475; *Clark*, 694 N.E.2d 1230. The burden has shifted to the Respondent to present evidence to rebut or impeach the Petitioners' evidence. *American United*, 803 N.E.2d 276; *Meridian Towers*, 805 N.E.2d at 479.
 - d) The Respondent presented copies of the subject Forms 139L, the subject property record cards, and copies of the corresponding plat maps. *Respondent Exhibit 1, 2, 3.* However, the Respondent did not offer any explanation of how or why this evidence rebutted the Petitioners' evidence. The Respondent merely offered these documents without any explanations. The Respondent failed to rebut the Petitioners' evidence.

Conclusion

17. The Petitioners made a prima facie case. The Respondent failed to rebut the Petitioners' evidence. The Board finds in favor of 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>>.