

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-026-02-1-5-00508
Petitioner: Mary Jo Vera
Respondent: Department of Local Government Finance
Parcel #: 007-26-33-0007-0012
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 February 4, 2004, in Lake County, Indiana. The Department of Local Government Finance (the DLGF) determined that the Petitioner's property tax assessment for the subject property was \$179,400 and notified the Petitioner on March 31, 2004.
2. The Petitioner filed a Form 139L on April 22, 2004.
3. The Board issued a notice of hearing to the parties dated October 29, 2004.
4. Special Master S. Sue Mayes held the hearing in Crown Point on December 2, 2004.

Facts

5. The subject property is located at 50 172nd Street, Hammond. The location is in North Township.
6. The subject property is a single-family dwelling located on a 60 by 125 foot parcel.
7. The Special Master did not conduct an on-site visit of the property.
8. Assessed value of the subject property as determined by the DLGF:
Land \$33,700 Improvements \$145,700 Total \$179,400.
9. Assessed value requested by Petitioner:
Not specified.

10. Persons sworn in as witnesses at the hearing:
Mary Jo Vera, Owner
Tommy P. Bennington, Assessor/Auditor, DLGF

Issue

11. Summary of Petitioner's contentions in support of an alleged error in the assessment:
 - a. The Petitioner stated that the house across the street was purchased three (3) years ago for \$183,500, but the owner pays less in taxes than the Petitioner. Petitioner further stated that the person who lives on the corner of 172nd and State Line told Cole-Layer-Trumble Co. that his assessment was too high and they immediately lowered it to \$166,000. *Vera testimony.*
 - b. A land survey done for the neighboring property and a survey for a potential buyer of the subject property cut four (4) feet off the west line of the property. *Petitioner Exhibit 4; Vera testimony.*
 - c. A home inspection report done for a potential buyer shows a broken beam in the roof. *Petitioner Exhibit 3; Vera testimony.*
12. Summary of Respondent's contentions in support of the assessment:
The Respondent presented a comparables sales spreadsheet along with property record cards and photographs for three comparable properties. The subject and comparable properties are all in average condition. The houses were built between 1940 and 1955. Comp 3 is in the same neighborhood. The subject is valued at \$96.76 per square foot. The time adjusted square foot sales price of all three comparable properties are less, but the comparables are smaller houses. *Respondent Exhibits 4 & 5; Bennington 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 Lake Co. 967,
 - c. Exhibits:
 - Petitioner Exhibit 1: Form 139L Petition,
 - Petitioner Exhibit 2: Petitioner's arguments,
 - Petitioner Exhibit 3: Home inspection report, odd number pages only,
 - Petitioner Exhibit 4: Plat map,
 - Respondent Exhibit 1: Form 139L,
 - Respondent Exhibit 2: Subject property record card,
 - Respondent Exhibit 3: Photograph of the subject property,
 - Respondent Exhibit 4: Comparable sales spreadsheet,
 - Respondent Exhibit 5: Property record cards & photographs for three comparable properties,
 - 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 governing 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 Petitioner did not provide sufficient evidence to support the Petitioner’s contentions. This conclusion was arrived at because:
 - a. The Petitioner said there were differences in the assessed value and tax liability between her property and the properties at 49 172nd and at the corner of 172nd and State Line. Petitioner failed to introduce the property record cards of the neighboring properties or identify specific facts that might establish the properties are comparable. A taxpayer’s statements that another property “is similar” or “is comparable” are nothing more than conclusions. Conclusory statements do not constitute probative evidence. *Whitley Prods., Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 119 (Ind. Tax Ct. 1998). Rather specific reasons must be provided as to why a taxpayer believes a property is comparable. *Lacy Diversified Indus., Ltd. V. Dep't of Local Gov't Fin.*, 799 N.E.2d 1215, 1221 (Ind. Tax Ct. 2003).
 - b. Petitioner contended that surveys of the land by a neighbor and a potential buyer cut off four (4) feet of her land on the west line of the property. Petitioner said that her land must be 56 feet wide not 60 feet as shown on the original survey of her property. She provided a copy of the original survey with a red mark to indicate where the west property line is according to the new surveys. Petitioner did not provide copies of the new surveys or exclude the possibility that the garage had been built closer than five feet to the west line.
 - c. The house had been listed for sale from September 2002 to January 2004 at an asking price of \$187,900. The Petitioner said that she had received two verbal offers of \$165,000, one offer of \$175,000 and one offer at \$185,000. Petitioner stated that the potential buyer who offered \$185,000 was turned down for a bank loan because of inaccuracies on his loan application. Petitioner said that the potential buyer who bid \$175,000 had the house inspected and withdrew the bid due to lengthy notations on the inspection report. The Petitioner failed to relate these offers to the valuation date of January 1, 1999.

- d. Valuation date is the date as of which the true tax value of the property is estimated. In the case of the 2002 general reassessment, this would be January 1, 1999. 2002 REAL PROPERTY ASSESSMENT MANUAL, PAGE12 (incorporated by reference at 50 IAC 2.3-1-2).
- e. Indiana's assessment regulations state that a property's assessment was to reflect the value as of January 1, 1999. If documentation is submitted that establishes a value for a date other than the statutory valuation date, an explanation as to how these values demonstrate, or are relevant to, the subject value as of January 1, 1999, is required if those documents are to have probative value. *William & Dorothy Long v. Wayne Twp Assessor*, 821 N.E.2d 466 (Ind. Tax Ct. 2005)
- f. The Petitioner submitted a home inspection report dated May 31, 2003. The summary of the inspection report lists the following three items:
 - 1. Electric---Adjust panel box as needed.
 - 2. Sure up roof south valley beam---Cracked.
 - 3. ½ bath toilet leaks at base. *Petitioner Exhibit 3*.
 The Petitioner failed to show how these items impacted the assessed value of the property. *Indianapolis Racquet Club*, 802 N.E.2d 1018, 1022.
- g. Based on the foregoing, the Petitioner has failed to establish a prima facie case of error in the assessment.
- h. Where the Petitioner has not supported the claim with probative evidence, the Respondent's duty to support the assessment with substantial evidence is not triggered. *Lacy Diversified Indus., Ltd.* 799 N.E.2d at 1215-1221.

Conclusion

- 16. The Petitioner 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. 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/trialproc/index.html>. The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code>.