

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-001-02-1-5-00033A
Petitioner: Rita M. Blastick
Respondent: Department of Local Government Finance
Parcel #: 002020301590002
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 in November 2003 in Lake County, Indiana. The Department of Local Government Finance (DLGF) determined that the Petitioner's property tax assessment for the subject property was \$61,000 and notified the Petitioner on March 19, 2004.
2. The Petitioner filed a Form 139L on March 25, 2004.
3. The Board issued a notice of hearing to the parties dated February 21, 2005.
4. A hearing was held on March 24, 2005 in Crown Point, Indiana before Special Master Joan Rennick.

Facts

5. The subject property is a single family residence located at 6115 W 250th Street, Cedar Creek Township, Lowell.
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: \$16,000 Improvements: \$45,000 Total: \$61,000
8. Assessed Value requested by Petitioner on the Form 139L petition:
Land: \$10,000 Improvements: \$30,000 Total: \$40,000
9. The persons indicated on the sign-in sheet (Board Exhibit C) were present at the hearing.

10. Persons sworn in at hearing:

For Petitioner: Rita M. Blastick, owner

For Respondent: Joseph Lukomski Jr., DLGF

Issue

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

- a) The assessment of the subject property is excessive based on the purchase price and lack of amenities. *Blastick testimony.*
- b) The Petitioner purchased the subject property for \$25,000 on July 10, 2001. The purchase was an arms length transaction. *Pet'r Ex. 2; Blastick testimony.*
- c) The subject neighborhood does not have amenities such as sewers, city water, street lights street signs, a beach, boat landings, and gas stations. It is a little community of homes on the water or right across from the water. There is one road in and out. *Blastick testimony.*
- d) The Petitioner stated the only other property she looked at in that area was for sale at \$18,200. *Blastick testimony.*
- e) The subject property was trashed. The seller was required to remove the debris. The Petitioner had to give the property a good cleaning. *Blastick testimony.*

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

- a) The Respondent presented the Top 20 Comparables and Statistics sheet. Two of the comparables are from the same neighborhood as the subject property. The Respondent presented property record cards and photos of the two comparables. *Lukomski testimony; Resp't Exs. 4, 5.*
- b) The price per square foot for the subject property is \$80.69. The price per square foot for the two comparables is \$78.16 and \$61.05. *Lukomski testimony; Resp't Exs. 4, 5.*

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 # 1292.
- c) Exhibits:

Petitioner Exhibit 1: Purchase Agreement.
Petitioner Exhibit 2: Closing Statement dated July 10, 2001.

Respondent Exhibit 1: Form 139L.
Respondent Exhibit 2: Subject Property Record Card (PRC).
Respondent Exhibit 3: Subject Photo.
Respondent Exhibit 4: Top 20 Comparables and Statistics Sheet.
Respondent Exhibit 5: Comparable PRCs & 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 Petitioner did not provide sufficient evidence to support her contentions. This conclusion was arrived at because:
- a) The Petitioner contends the assessment of the subject property is excessive based on the purchase price.
 - b) The Petitioner presented a copy of the closing statement showing a sale price of \$25,000 and a settlement date of July 10, 2001. *Pet'r Ex. 1, 2*.

- c) The 2002 Real Property Assessment Manual (hereinafter “Manual”) provides that for the 2002 general reassessment, a property’s assessment must reflect its value as of January 1, 1999. 2002 REAL PROPERTY ASSESSMENT MANUAL at 4 (incorporated by reference at 50 IAC 2.3-1-2). Consequently, a party relying on an appraisal to establish the market value-in-use of a property must provide some explanation as to how the appraised value demonstrates or is relevant to the property’s value as of January 1, 1999. *See Long v. Wayne Township Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005) (holding that an appraisal indicating the value for a property on December 10, 2003, lacked probative value in an appeal from the 2002 assessment of that property). The same is true with regard to evidence of the sale price of a subject property, where the sale is consummated on a date substantially removed from January 1, 1999.
- d) The closing statement shows the subject property was purchased on July 10, 2001, approximately 2½ years after the valuation date. The Petitioner presented no explanation of how the purchase price of \$25,000 relates to the value as of the subject property as of January 1, 1999. The purchase price therefore lacks probative value.
- e) The Petitioner contends the lack of amenities affects the value of the subject property, but provided no evidence to support this contention. The Petitioner’s contentions amount to little more than conclusory statements. Such statements, unsupported by factual evidence, are not sufficient to establish an error in assessment. *Whitley Products, Inc. v. State Bd. of Tax Comm’rs*, 704 N.E.2d 1119, 1120 (Ind. Tax Ct. 1998).
- f) On the Form 139L petition, the Petitioner contends the subject property should be assessed at a total value of \$40,000. The Petitioner presented no evidence to explain or support the requested value of \$40,000.
- g) The Petitioner has failed to meet her burden of proving the current assessment is incorrect.

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