

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-001-02-1-5-00004
Petitioner: Roland Wilson
Respondent: Department of Local Government Finance
Parcel #: 001-25-43-0320-0028
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. An informal hearing as described in Ind. Code § 6-1.1-4-33 was held between the Petitioner and the Respondent. The Department of Local Government Finance (DLGF) determined that the Petitioner's property tax assessment for the subject property was \$11,200 and notified the Petitioner.
2. The Petitioner filed a Form 139L on April 14, 2004.
3. The Board issued a notice of hearing to the parties dated June 22, 2004.
4. A hearing was held on August 10, 2004, in Crown Point, Indiana before Special Master Barbara Wiggins.

Facts

5. The subject property is located at: 5310 W. 3rd Place, Gary, in Calumet Township.
6. The subject property is a single-family home on .094 acres of land.
7. The Special Master did not conduct an on-site visit of the property.
8. Assessed Value of subject property as determined by the DLGF:
Land \$3,800 Improvements \$7,400 Total \$11,200
9. Assessed Value requested by Petitioner:
Total \$7,000

10. The following persons were present and sworn in at hearing:
- For Petitioner: Roland & Sandra Wilson, Property Owners
For Respondent: David Depp, Cole-Layer-Trumble Appraiser

Issue

11. Summary of Petitioner's contentions in support of alleged error in assessment:
- a) The property was purchased from the City of Gary for \$300 in 1991 or 1992. *R. Wilson testimony.*
 - b) The home is valued too high due to the high crime rate in the area; this makes the property difficult to sell or rent. *R. Wilson testimony.*
12. Summary of Respondent's contentions in support of assessment:
- a) An analysis of three comparable properties that sold for between \$23,000 and \$25,000 supports the value of the subject property as assessed. The comparables are located in the same neighborhood and are similar in age and size to the subject property. The property record cards and photographs combined with the sale prices support the value of the subject property as assessed. *Depp testimony; Respondent's Exhibit 3.*
 - b) The subject property is assessed lower than the comparable properties and the value should actually be raised to be equivalent to the comparables. *Depp testimony.*

Record

13. The official record for this matter is made up of the following:
- a) The Petition and all subsequent pre-hearing submissions by either party.
 - b) The tape recording of the hearing labeled Lake Co. #254 and #258.
 - c) Exhibits:
 - Petitioner Exhibit 1: Property record card of subject property
 - Respondent Exhibit 1: Form 139L Petition
 - Respondent Exhibit 2: Subject property record card and photograph
 - Respondent Exhibit 3: Top 3 Comparable Properties with property record cards and photographs.
 - 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 stated he purchased the property at a tax sale from the City of Gary in 1991 or 1992 for \$300. *R. Wilson testimony*. Tax sales are not reliable indicators of true market value. *See 2002 REAL PROPERTY ASSESSMENT MANUAL* at 10 (defining Market Value as a price in a competitive and open market that is unaffected by undue stimulus). Tax sales are by their very nature not indicative of a competitive and open market.
 - b) The Petitioner testified the property is a nice home but is in an area that has problems with crime, making it difficult to sell or rent. *R. Wilson testimony*. The Petitioner did not present any documentation to support this statement. *See Whitley Products*, 704 N.E.2d 1113, 1119 (Ind. Tax. Ct. 1998) (stating that mere allegations, unsupported by factual evidence, will not be considered sufficient to establish an alleged error).
 - c) The Petitioner did not submit any evidence to support his opinion that the current assessment is incorrect or that the assessed value should be \$7,000. Petitioner failed to present a prima facie case that the current assessment is incorrect and failed to establish what the correct assessment should be. *Meridian Towers*, 805 N.E.2d at 478.

- d) After reviewing the comparables presented by the Respondent, the Petitioner agreed during the hearing that the subject property's assessed value of \$11,200 is reasonable. *R. Wilson testimony.*

Conclusion

16. The Petitioner failed to make a prima facie case with the presentation of evidence. 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.