

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petitions: 1) 45-026-02-1-5-00615
2) 45-026-02-1-5-00616
3) 45-026-02-1-5-00617

Petitioner: Rolando Unate

Respondent: Department of Local Government Finance

Parcels: 1) 007263402670014
2) 007263402670015
3) 007263402670013

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 hearings as described in Ind. Code § 6-1.1-4-33 were held in Lake County, Indiana. The Department of Local Government Finance (DLGF) determined that the Petitioner's property tax assessments for the subject properties were 1) \$149,000, 2) \$6,600, and 3) \$9,300. The DLGF notified the Petitioner on March 31, 2004.
2. The Petitioner filed Form 139L appeals on April 29, 2004.
3. The Board issued notices of the hearings to the parties on September 9, 2004.
4. Special Master Kathy J. Clark held a consolidated hearing for all three petitions on October 13, 2004, in Crown Point.

Facts

5. The subject properties are located at 1421 150th Street, Hammond, in North Township.
6. Subject properties consist of 1) a two story, brick and frame, single-family dwelling on a lot 25 feet by 125 feet, 2) a lot 35 feet by 125 feet where part of the dwelling is located, and 3) a lot 25 feet by 125 feet deep where the remaining part of the dwelling is located. The entire dwelling is assessed on one parcel.
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:
 - 1) Land \$8,300 Improvements \$140,700 Total \$149,000
 - 2) Land \$6,600
 - 3) Land \$9,300

9. Assessed Value requested by the Petitioner:
 - 1) Land \$6,000 Improvements \$110,000 Total \$117,000
 - 2) Land \$2,000
 - 3) Land \$1,500

10. The following persons were present and sworn in at the hearing:
 - For Petitioner — Rolando Unate, Owner,
 - For Respondent — Sharon S. Elliott, Staff Appraiser, Cole-Layer-Trumble.

Issues

11. Summary of Petitioner's contentions in support of an alleged error in the assessment:
 - a. The lots have now been combined into one parcel. Petitioner is currently being unfairly taxed three times for the same land that the house sits on. *Unate testimony; Petitioner Exhibit 5.*
 - b. The Petitioner purchased all three lots in late 1997 for \$9,000. Petitioner paid approximately \$119,000 to have the house built in 1998. The entire property could not be sold for the combined assessed value of \$164,900 due to the surrounding commercial influences. *Unate testimony.*
 - c. The house sits next to a steel mill and parking lots that affect the value of the property. The assessing officials failed to take this situation into consideration when valuing the property. *Petitioner Exhibits 4, 5, 6; Unate testimony.*

12. Summary of Respondent's contentions in support of the assessment:
 - a. If the three lots had been only one legal lot at the time of assessment, consideration would have been given for that single lot having excess frontage beyond the standard frontage for the neighborhood, but they were not combined. The base land rate set in this neighborhood took into consideration that some residential properties are located next to or near commercial properties. *Respondent Exhibit 2; Elliott testimony.*
 - b. This is a unique neighborhood. Comparable sales in the same neighborhood could not be located. *Elliott testimony.*
 - c. The neighborhood existed in its current condition at the time the Petitioner purchased the land and built the dwelling. There are not many residential properties there. *Elliott testimony.*

Record

13. The official record for this matter is made up of the following:
 - a. The Petition for each parcel,
 - b. The tape recording of the hearing labeled Lake Co. 476,
 - c. Exhibits:
 - Petitioner Exhibit 1: Form 139L petition,
 - Petitioner Exhibit 2: Form 11,
 - Petitioner Exhibit 3: Notice of Final Assessment,
 - Petitioner Exhibit 4: Letter from Jo Ellen M. Hammersley,
 - Petitioner Exhibit 5: Letter from Mary T. Bojda,
 - Petitioner Exhibit 6: 23 photographs,
 - Petitioner Exhibit 7: Notice of Hearing,
 - Respondent Exhibit 1: Form 139L petition for each parcel,
 - Respondent Exhibit 2: Property record card (PRC) for each parcel,
 - Respondent Exhibit 3: Subject photograph,
 - Respondent Exhibit 4: Comparable sales analysis with PRCs and photographs,
 - Board Exhibit A: Form 139 L for each parcel,
 - Board Exhibit B: Notice of Hearing for each parcel,
 - Board Exhibit C: Hearing 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 at 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 failed to provide sufficient evidence to establish a prima facie case. This conclusion was arrived at because:

Issue One – Land Assessment

- a. The Petitioner’s testimony that the three lots were purchased in 1997 for \$9,000 was unsupported by either a sales disclosure document or a closing statement. The Petitioner’s statements provide no basis for the Board to determine if the sale was an arms-length transaction. Furthermore, Petitioner failed to establish how that price demonstrates or is relevant to the value as of January 1, 1999. Consequently, the 1997 purchase price does not carry any probative value. *Long v. Wayne Twp. Assessor*, No. 49T10-0404-TA-20, slip op. at 6-8 (Ind. Tax Ct. January 28, 2005).

Issue Two – Total Valuation

- b. The Petitioner’s testimony that the dwelling was built in 1998 for approximately \$119,000 was unsubstantiated by documentation of construction costs, a purchase agreement, or any other evidence. Nevertheless, if this testimony is given some weight in determining value, it does not establish that the current assessed value of the home at \$110,000 is too high.
- c. Petitioner failed to submit probative evidence to support his contention that the location next to a steel mill and other commercial lots reduces the market value of his property. His conclusory statements that he could not sell the house now for as much as the assessed value do not qualify as probative evidence. *Lacy Diversified Indus. v. Dep’t of Local Gov’t Fin.*, 799 N.E.2d 1215, 1221 (Ind. Tax Ct. 2003); *Whitley Products v. State Bd. of Tax Comm’rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).
- d. No evidence was presented that would lead the Board to accept the letters from Mrs. Hammersley and Mrs. Bojda as letters of opinion from qualified real estate professionals. They are mere conclusions, unsupported by factual evidence. Such conclusory opinions about value have no weight in determining the market value of this property. *Id.*
- e. The Petitioner did not prove that the current assessment is incorrect, nor did he prove what the correct assessment should be.

Conclusion

16. The Petitioner failed to establish a prima facie case. The Board finds for 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.