

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-013-02-1-5-00013
Petitioners: Rollo C. & Crystal H. Maul
Respondent: Department of Local Government Finance
Parcel #: 005050600080029
Assessment Year: 2002

The Indiana Board of Tax Review (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 Lake County, Indiana. The Department of Local Government Finance (DLGF) determined that the Petitioners' property tax assessment for the subject property was \$237,800 and notified the Petitioners on March 25, 2004.
2. The Petitioners filed a Form 139L on April 8, 2004.
3. The Board issued a notice of hearing to the parties dated June 24, 2004.
4. A hearing was held on August 12, 2004 in Crown Point, Indiana before Special Master Kathy J. Clark. To allow for soil type research to be performed by the Respondent, the August 12th hearing was reconvened on September 1, 2004.

Facts

5. The subject property is located at: 11115 Parrish Avenue, Cedar Lake (Hanover Township, Lake County).
6. The subject property is a single-family dwelling located on twenty 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: \$66,400 Improvements: \$171,400 Total: \$237,800.

Assessed Value requested by Petitioners:
Land: \$18,800 Improvements: \$150,000 Total: \$168,800.

9. Persons sworn in at the hearing:
 For Petitioners: Crystal H. Maul, Owner
 For Respondent: Sharon Elliott, Staff Appraiser, Cole-Layer-Trumble.

Issues

10. Summary of Petitioners' contentions in support of alleged error in assessment:
- a. The Petitioners presented an appraisal prepared by a certified appraiser done in early 2004. The appraiser arrived at an indicated fair market value of \$156,000 as of February 16, 2004, for the subject property. The appraisal included only two acres of land with the dwelling; however, the local assessment included twenty total acres of land. *Petitioners Exhibit 4*. The Petitioners do not dispute that the parcel contains twenty acres.
 - b. The appraiser used three comparable properties in arriving at the value according to the sales comparison approach. The appraiser made certain adjustments to each comparable property for differences between the comparable property and the subject property. Adjustments were made for items such as age, fireplace, bathrooms, and other items. *Petitioners Exhibit 4*.
 - c. The appraisal did not value the complete parcel. The appraisal only included two of twenty acres of land as part of the appraisal. In reviewing the appraisal, the appraiser subtracted \$7,500 from one comparable property that was 0.5 acres larger than the two acres valued to the Petitioners. *Petitioners Exhibit 4*.
 - d. Petitioners contend that the subject land is over assessed due to the fact that eight to ten acres are actively farmed and that the other ten to eleven acres are wooded and prone to flooding. *Petitioners Exhibit 5*.
11. Summary of Respondent's contentions in support of a correction to the assessment:
- a. The Respondent agrees that an error was made in the classification of the subject land. Following the Lake County Land Order and the Real Property Assessment Guidelines, the subject property should be classified as an agricultural property rather than a residential property. Respondent contends that 19 of the subject's twenty acres should be typed and priced at \$1,050.00 per acre with appropriate State mandated discounts applied for each soil type. The Respondent presented a property record card at the reconvened hearing on September 1, 2004, showing the new land value. *Elliott testimony; Respondent Exhibit 5*.
 - b. The Respondent noted that the appraisal submitted at this hearing was not the same appraisal, dated March 3, 1997, that was submitted at the informal hearing held earlier. The 1997 appraisal included only the dwelling that was under construction and two acres of land. *Elliott testimony; Respondent Exhibit 4*.

Record

12. 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. Tape #117.
 - c. Exhibits:
 - Petitioners Exhibit 1: Form 139L.
 - Petitioners Exhibit 2: Form 11.
 - Petitioners Exhibit 3: Final Assessment Notice.
 - Petitioners Exhibit 4: Appraisal prepared by Image Appraisal.
 - Petitioners Exhibit 5: Notarized letter from Larry Nelson.
 - Petitioners Exhibit 6: Photographs of subject property and neighboring homes.
 - Respondent Exhibit 1: Form 139L.
 - Respondent Exhibit 2: Subject property record card and photograph.
 - Respondent Exhibit 3: Comparable sales analysis.
 - Respondent Exhibit 4: Appraisal submitted by Petitioners at informal hearing, prepared by Lou Kaplan on February 25, 1997. Property record cards and photographs of comparable properties used in this appraisal.
 - Respondent Exhibit 5: Proposed revised property record card (land).
 - d. These Findings and Conclusions.

Analysis

13. The most applicable governing law:
- a. The Petitioner must sufficiently explain the connection between the evidence and Petitioner's assertions in order for it to be considered material to the facts. *See generally, Heart City Chrysler v. State Bd. of Tax Comm'rs*, 714 N.E.2d 329, 333 (Ind. Tax Ct. 1999).
 - b. The Board will not change the determination of the DLGF unless the Petitioner has established a prima facie case and, by a preponderance of the evidence, proven both the alleged errors in the assessment and specifically what assessment is correct. *See Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998); *North Park Cinemas, Inc. v. State Bd. of Tax Comm'rs*, 689 N.E.2d 765 (Ind. Tax Ct. 1997).

Issue 1-Land Value

14. The Petitioners contended the total land value should be \$18,800. The Petitioners, however, presented no market evidence to support this contention.
15. At the administrative hearing, the Respondent agreed that the subject land was being assessed as residential due to a property classification error. The Respondent further agreed that the land is best described as agricultural.

16. The statewide agricultural land base rate is \$1,050 per acre, with adjustments for soil productivity or influence factors. Agricultural homesite land is assessed at a rate determined by local officials. *Version A-Real Property Assessment Guideline, Chapter 2, pages 100, 105.*
17. The Respondent provided evidence at the re-convened September 1, 2004 hearing, demonstrating that the subject land value would change from \$66,400 to \$39,200 when the land is classified as agricultural. *Respondent Exhibit 5.*
18. Accordingly, the Board determines the value of the land should be reduced to \$39,200.

Issue 2 – Improvement Value

19. The Petitioners did provide sufficient evidence to support the Petitioners' contention that the improvements were incorrectly assessed. The conclusion was arrived at because:
 - a. Two appraisals were introduced into the record.
 - b. The first appraisal (*Respondent Exhibit 4*) valued the property as of February 25, 1997. This appraisal indicated the improvement value to be \$151,319 (total value per the cost approach of \$159,319 minus a site value of \$8,000).
 - c. The second appraisal (*Petitioners Exhibit 4*) valued the property as of February 16, 2004. This appraisal indicated the improvement value to be \$141,510 (total value per the cost approach of \$156,510 minus a site value of \$15,000).
 - d. The valuation date for the 2002 assessment is January 1, 1999. *2002 Real Property Assessment Manual, page 12.* The 1997 appraisal is closer in time to the valuation date than the 2004 appraisal. The 1997 appraisal is therefore given more weight. The appraised improvement value of \$151,319 approximates the \$150,000 value requested by the Petitioners.
 - e. The Petitioners' evidence is sufficient to establish a prima facie case that the improvements should be assessed at \$151,300. The burden then shifts to the Respondent to rebut the Petitioners' evidence with substantial evidence.
 - f. The Respondent correctly contends that the 1997 appraisal was prepared prior to the completion of the home. However, the improvement value identified in the 1997 appraisal (\$151,319) is supported by the improvement value contained in the 2004 appraisal (\$141,510). Both appraisal values are significantly lower than the current assessment of the improvements, \$171,400.
 - g. The Respondent also presented evidence of three purported comparable properties. *Respondent Exhibit 3.*
 - h. The property under appeal is a bi-level home. The purported comparable properties are a ranch home and two tri-level homes.
 - i. Further, the improvements under appeal were assessed at \$171,400. The three purported comparable properties were assessed at \$130,700; \$94,000; and \$96,800.
 - j. Additionally, the time adjusted sales prices of the three purported comparable properties were \$137,217; \$135,000; and \$139,200.

- k. The purported comparable properties are different types of homes than the subject and have both assessed values and adjusted sales prices that are well below that of the property under appeal. The Respondent therefore has failed to establish that the purported comparable properties are, in fact, comparable to the property under appeal. The Respondent has failed to rebut the Petitioners' prima facie case.

Conclusion

Issue 1-Land Value

20. The Board finds in favor of the Petitioners. The Board determines the correct assessed value of the land is \$39,200. There is a change in the assessment as a result of this issue.

Issue 2 – Improvement Value

21. The Petitioners made a prima facie case. The Respondent did not rebut the Petitioners' evidence. The Board finds in favor of the Petitioners. The Board determines the value of the improvements should be \$151,300.

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.