

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-001-02-1-5-00456
Petitioner: Roy L. Parham
Respondent: Department of Local Government Finance
Parcel #: 001-25-43-0074-0022
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 19, 2004. The Department of Local Government Finance ("DLGF") determined that the Petitioner's property tax assessment for the subject property was \$123,200 and notified the Petitioner on March 31, 2004.
2. The Petitioner filed a Form 139L on April 15, 2004.
3. The Board issued a notice of hearing to the parties dated July 28, 2004.
4. Special Master S. Sue Mayes held the hearing in Crown Point on September 14, 2004.

Facts

5. The subject property is located at 1980 Roosevelt Street in Gary.
6. The subject property is a single-family, ranch-style brick residential dwelling on a lot measuring 75' x 134'.
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 \$25,700 Improvements \$97,500 Total \$123,200.
9. Petitioner requested a total assessed value of \$80,000.

10. Persons sworn as witnesses at the hearing:
For Petitioner — Victor H. Thornton, Estate Administrator,
For Respondent — Cathi Gould, Staff Appraiser, Cole-Layer-Trumble.

Issue

11. Summary of Petitioner's contentions in support of an alleged error in the assessment:
- a. The assessed value for the subject property should not be higher than \$80,000 based on comparable properties in the neighborhood. The subject property would not sell at \$80,000 to \$85,000 because the property taxes are detrimental to the property. *Thornton testimony.*
 - b. The property located at 1988 Roosevelt Place, next door to the subject property, is frame construction with greater square footage, and an attached two-car garage. The assessed value of 1988 Roosevelt Street is \$72,200, which is \$50,000 less than the subject property. The property located at 2001 Roosevelt Place, one street over from the subject property, has an assessed value of \$97,700, which is approximately \$20,000 less than the subject. The subject property is a brick, one bath dwelling with a one-car garage and has an assessed value of \$123,200. *Petitioner's Exhibits 7, 8; Thornton testimony.*
12. Summary of Respondent's contentions in support of the assessment:
- a. The replacement cost provided under the Petitioner's casualty insurance is \$146,400. The replacement cost before depreciation as shown on the property record card for the subject property is \$143,480. The replacement cost provided by the Petitioner's insurance coverage and the replacement cost stated on the property record card are similar values. *Respondent Exhibits 1- 2; Gould testimony.*
 - b. The sale price of comparable properties show that the square foot cost, based on sales within the neighborhood is \$52 a square foot. One comparable sold in 2000 for \$90,000. The other comparable sold in 1999 for \$110,000. These properties are comparable in size and grade factor. The subject property's square foot cost is \$42 a square foot. The assessed value is fair and reasonable for the market, as indicated by the comparables presented. *Respondent Exhibit 4; Gould 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. 437,

- c. Exhibits:
- Petitioner Exhibit 1: Certificate of Death,
 - Petitioner Exhibit 2: Letters Testamentary,
 - Petitioner Exhibit 3: A copy of a Reconciliation Tax Bill with two photographs of the subject property attached,
 - Petitioner Exhibit 4: A copy of the Notice of Final Assessment for the subject property,
 - Petitioner Exhibit 5: A copy of the date stamped Form 139L,
 - Petitioner Exhibit 6: A copy of the undated Form 139L,
 - Petitioner Exhibit 7: The assessed value information and a photograph for the property located at 1988 Roosevelt Street,
 - Petitioner Exhibit 8: The assessed value information and a photograph for the property located at 2001 Roosevelt Street,
 - Petitioner Exhibit 9: A copy of a letter giving an estimate of market value for the subject property,
 - Respondent Exhibit 1: Form 139L,
 - Respondent Exhibit 2: Property record card for the subject property,
 - Respondent Exhibit 3: A copy of a photograph of the subject property,
 - Respondent Exhibit 4: Property record cards and photographs for three comparable properties,
 - Respondent Exhibit 5: The property record cards for the two properties offered by the Petitioner as comparables,
 - 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 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 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 provided sufficient evidence to support the Petitioner's contentions. This conclusion was arrived at because:
- a. The estimate of market value provided by the Petitioner does not show that the current assessment is incorrect. The estimate of value was prepared for the purpose of estate tax calculations and the Petitioner acknowledged that the market value estimate of \$30,000 - \$45,000 is too low. The Petitioner's own testimony leaves this evidence without any probative value. There is insufficient evidence to give this opinion any probative value in this case. *Whitley Products v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).
 - b. The Petitioner compared the assessment of the subject property to the assessment of properties located on the same street as the subject property. The evidence shows that assessed values of two neighboring properties are substantially lower than the assessed value of subject property. The probative value of these two assessments is diminished, however, because Petitioner failed to provide enough specific facts for detailed comparison. The neighbors' assessments tend to prove that the assessment of the subject property is too high, but Petitioner failed to present sufficient evidence or explanation to make them useful in determining what the correct assessment should be.
 - c. Nevertheless, Respondent offered evidence regarding four other properties as comparables. Respondent focused primarily on the sale prices of those homes in attempting to demonstrate that the current assessment is close to market value.¹ Only one sale was from 1999, and Respondent failed to relate the others to the value as of January 1, 1999. Thus, leaving those sales with little, if any, probative value for this case. *Long v. Wayne Twp. Assessor*, No. 49T10-0404-TA-20, slip op. at 6-8 (Ind. Tax Ct. January 28, 2005).
 - d. The assessments on these four other properties, however, lend support to Petitioner's claim that his own property is over-assessed. As is to be expected in most instances, the property record cards show that these properties are better than the subject in some ways and not as good in others, but overall they are similar in many respects. Because Respondent offered these properties as comparables, for purposes of this analysis the Board will accept the claim that they are comparable without requiring Petitioner to establish the similarity of Respondent's comparables. The properties are all in the same neighborhood. Overall, the assessed values of these comparables (and consequently their market values) range from \$66,500 to \$97,700. The subject assessment must fall somewhere within that range.
 - e. Respondent relied to a great extent on the fact that the home carries replacement insurance for \$146,400 as support for the assessment of \$123,200. This reliance is

¹ Sales were from 1999, 2000, and 2001.

misplaced because there is no evidence that relates the amount of insurance to the value as of January 1, 1999. Therefore, the amount of insurance on the property has no probative value. *Long*, slip op. at 8-9.

Conclusion

16. After weighing the evidence presented by Petitioner and Respondent, including but not limited to lot size, improvement size and features, grade and condition, the Board finds in favor of the Petitioner. The market value of the subject property is determined to be \$89,000 and the total assessment should be reduced to that amount.

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.