

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-016-02-1-5-00012
Petitioner: Sandra Sue Lyman
Respondent: Department of Local Government Finance
Parcel #: 006-35-50-0231-0019
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 February 2004 in Lake County, Indiana. The Department of Local Government Finance (DLGF) determined that the Petitioner's property tax assessment for the subject property was \$64,100 and notified the Petitioner on March 26, 2004.
2. The Petitioner filed a Form 139L on April 5, 2004.
3. The Board issued a notice of hearing to the parties dated June 24, 2004.
4. Special Master S. Sue Mayes held the hearing in Crown Point on September 1, 2004.

Facts

5. This property is located at 3460 Liverpool Road, Lake Station, in Hobart Township.
6. The subject property is a 93 by 109 foot parcel of land improved with a single-family Cape Cod style house and a detached garage.
7. The Special Master did not conduct an on-site inspection of the property.
8. Assessed Value of the subject property as determined by the DLGF:
Land: \$14,500 Improvements: \$49,600 Total: \$64,100.
9. Assessed Value requested by Petitioner:
Land: \$14,500 Improvements: \$35,500 Total: \$50,000.

10. Persons sworn as witnesses at the hearing:
For Petitioner: Sandra Sue Lyman, Homeowner,
For Respondent: Cathi Gould, Staff Appraiser, Cole-Layer-Trumble.

Issues

11. Summary of Petitioner's contentions in support of an alleged error in the assessment:¹
- a. The assessment erroneously included a canopy. The Petitioner was told at the informal hearing that the canopy would be removed from the assessment, but the notice she received from the DLGF after the informal hearing indicated there had been no change made. *Lyman testimony; Petitioner's Exhibit 2.*
 - b. The house next door at 3480 Liverpool is identical to the subject property except it has bedrooms upstairs and the subject has an attic. Furthermore, the garage for the subject property is detached while the garage at 3480 Liverpool is attached. The house at 3480 Liverpool is valued at \$50,000, but the subject property is valued at \$64,100. *Lyman testimony.*
 - c. The Petitioner discussed selling the house with a realtor. The realtor said that the Petitioner could list the home at \$50,000 and hope to get \$46,000. *Lyman testimony.*
12. Summary of Respondent's contentions in support of the assessment:
- a. The Respondent testified that the canopy was, in fact, removed from the assessment after the informal hearing. *Gould testimony; Respondent Exhibit 2.*
 - b. The Respondent asked the Petitioner for information concerning the property at 3480 Liverpool. Upon being told that the Petitioner did not have any information, the Respondent contended that this neighboring property had not been identified on the petition. Accordingly, the Respondent had not obtained any information concerning this property and could not explain why the values were different. *Gould testimony.*
 - c. Comparable sales in the neighborhood have an average cost of \$44 per square foot. The Petitioner's property is valued at \$38 per square foot. Based on that information, the subject property's current value of \$64,100 is fair and reasonable. *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. – 184,
 - c. Exhibits:
 - Petitioner Exhibit 1: Property record card (PRC) for the subject property,
 - Petitioner Exhibit 2: Notice of Final Assessment,
 - Petitioner Exhibit 3: Form 11, Notice of Assessment of Land and Structures,
 - Petitioner Exhibit 4: Reconciliation Tax Bill,
 - Petitioner Exhibit 5: 2001 Tax Receipts,

¹ As an additional issue, the Form 139L petition also questioned the assessment of a patio. The Petitioner withdrew this issue at the administrative hearing.

- Petitioner Exhibit 6: Tax Receipt for Reconciliation Tax Bill,
 - Petitioner Exhibit 7: Deduction for 65 years old,
 - Respondent Exhibit 1: Form 139L,
 - Respondent Exhibit 2: PRC for subject property,
 - Respondent Exhibit 3: Photograph of subject property,
 - Respondent Exhibit 4: Sales comparison worksheet with PRCs and photographs,
 - 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, 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 provided substantial evidence that a canopy was improperly included in the assessment. Nevertheless, Respondent rebutted that evidence. After weighing the evidence, it is the Board’s determination that no correction concerning the canopy is necessary because no canopy is included in the current assessment. This conclusion was arrived at because:
- a. The Petitioner testified that, at the informal hearing, the parties agreed to remove the canopy from the assessment. The Notice of Final Assessment indicated no change had been made. *Lyman testimony; Petitioner’s Exhibit 2*.
 - b. The Respondent testified that the canopy was, in fact, removed from the assessment after the informal hearing. *Gould testimony; Respondent Exhibit 2*.
 - c. Petitioner Exhibit 2, which includes the disputed canopy item, is an old PRC for prior assessment periods and does not reflect the valuation of the property for the 2002 reassessment.

- d. Respondent Exhibit 2 is the PRC with information that was used to calculate the current reassessed value on this property. That PRC is dated August 27, 2004, which is after the informal hearing and it does not include a canopy in determining value. The informal hearing was held several months before that date. Therefore, either the canopy was removed as a result of the informal hearing as the Petitioner was told, or the canopy was not included in the first place and there would have been no need to make a change to remove it. In either case, it is clear that at this point no correction or change in regard to the canopy issue is appropriate.
16. The Petitioner did not prove her contentions concerning the total valuation of the home. This conclusion was arrived at because:
- a. The Petitioner testified that an identical house next door at 3480 Liverpool is valued at \$50,000. The Petitioner, however, did not establish that the property at 3480 Liverpool is in fact comparable to the property under appeal. She testified that there were some similarities and some differences between these two houses. The Petitioner acknowledged the two homes varied in terms of the upstairs bedrooms instead of an attic and the type of garages. The Petitioner did not introduce the PRC of the neighboring property or identify specific facts that might establish the properties are comparable. *Lacy Diversified Indus., Ltd. v. Dep't of Local Gov't Fin.*, 799 N.E.2d 1215, 1221 (Ind. Tax Ct. 2003).
 - b. There simply are not enough facts in evidence in this case to draw any kind of conclusion about value based upon a comparison with the 3480 Liverpool property. Conclusory statements do not constitute probative evidence. *Long v. Wayne Twp. Assessor*, No. 49T10-0404-TA-20, slip op. at 6-8 (Ind. Tax Ct. January 28, 2005); *Whitley Prods., Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).
 - c. The Petitioner testified she discussed selling the house with a realtor, who told her that the house could list at \$50,000 and probably sell for \$46,000. She provided no documentation, such as an appraisal, in support of this conversation. Further, the realtor was not present at the administrative hearing to explain the factors and methodology used to arrive at the purported conclusion of value. Again, such unsubstantiated conclusory statements are of no probative value. *Whitley Prods.*, 704 N.E.2d at 1119.
 - d. The Petitioner did not submit probative evidence to show that the total assessed value of the dwelling is erroneous. The Petitioner therefore failed to make a prima facie case of error concerning this issue.

Conclusion

17. The Petitioner failed to establish any basis for a change in the assessed value of her property. 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.