

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-001-02-1-5-00060
Petitioners: Tijosav & Kimberly Djordjevic
Respondent: Department of Local Government Finance
Parcel #: 001013900490006
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 scheduled between the Petitioners and the Respondent. The Form 139L states that the Petitioners missed the hearing, but a Final Determination was issued. The Department of Local Government Finance (DLGF) determined that the Petitioners' property tax assessment for the subject property should not be changed and notified the Petitioners on April 1, 2004.
2. The Petitioners filed a Form 139L on April 30, 2004.
3. The Board issued a notice of hearing to the parties dated October 15, 2004.
4. A hearing was held on November 17, 2004, in Crown Point, Indiana before Special Master Jennifer Bippus.

Facts

5. The subject property is a bi-level home with 7.810 acres located at: 1718 E. Elm Street, Griffith, in Calumet Township.
6. The Special Master did not conduct an on-site visit of the property.
7. Assessed Value of subject property as determined by the DLGF:
Land: \$35,200 Improvements: \$147,200 Total: \$182,400.
8. Assessed Value requested by Petitioners on Form 139L:
Land: \$21,200 Improvements: \$118,800 Total: \$140,000

9. Persons sworn in at hearing:

For Petitioners: Tijosav Djordjevic, Owner

For Respondent: Anthony Garrison, DLGF Representative

Issue

10. Summary of Petitioners' contentions in support of alleged error in assessment:

- a) The assessment for the subject property is overstated. The subject neighborhood contains none of the amenities of normal neighborhoods, such as a sewer system (septic only), streetlights, or sidewalks. *Djordjevic testimony.*
- b) The Petitioners obtained an appraisal of the subject property. *Djordjevic testimony; Petitioner Ex. 1.* David W. Boos of Preferred R.E. Appraisals, Inc. completed an appraisal as of October 20, 2004. *Id.* The appraisal estimates the market value of the subject property to be \$145,000. *Petitioner Ex. 1.*
- c) Other homes in the neighborhood sell for \$60,000 to \$110,000. *Djordjevic testimony.* The subject property would not sell for \$180,000 even though it has 7.81 acres of land, when there is a \$67,000 house across the street. *Djordjevic argument.*

11. Summary of Respondent's contentions in support of assessment:

- a) The Respondent presented property record cards and photographs of five purportedly comparable properties. *Respondent Exs. 4, 5; Garrison testimony.* The comparable properties are not from the same neighborhood as the subject property. *Id.* The Respondent contends that the comparable properties it identified are the properties that best represent the subject property, even if they were not in the same neighborhood. *Garrison testimony.*
- b) The time adjusted sale prices of the comparable properties ranged from \$31.30 to \$49.62 per square foot. *Garrison testimony; Respondent Ex. 4.* The subject property is valued at \$63.96 per square foot. *Id.*
- c) The Respondent pointed out that the Petitioners' appraisal estimates the subject property's market value as of 2004. *Garrison argument.*

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 #1055.

c) Exhibits:

Petitioner Exhibit 1: Appraisal of subject property dated October 20, 2004.

Respondent Exhibit 1: Copy of Form 139L.

Respondent Exhibit 2: Copy of property record card (PRC) of subject property.

Respondent Exhibit 3: Subject property photograph.

Respondent Exhibit 4: Top five (5) comparable results and top twenty (20) comparable results.

Respondent Exhibit 5: Top five (5) comparable property record cards and photographs.

Respondent Exhibit 6: Version A – Real Property Assessment Guideline – page 36 - Modern Height Designs.

Board Exhibit A: Form 139L petition.

Board Exhibit B: Notice of Hearing.

d) These Findings and Conclusions.

Analysis

13. The most applicable governing 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. Wash. 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.

14. The Petitioners did not provide sufficient evidence to support their contentions. This conclusion was arrived at because:

- a) The Petitioners contend the assessment of the subject property is overstated. To support their contention, the Petitioners presented an appraisal dated October 20,

2004, estimating the market value of the subject property to be \$145,000. *Petitioner Ex. 1*.

- b) The 2002 Real Property Assessment Manual (hereinafter “Manual”) provides that for the 2002 general reassessment, a property’s assessment must reflect its value as of January 1, 1999. 2002 REAL PROPERTY ASSESSMENT MANUAL 2 (incorporated by reference at 50 IAC 2.3-1-2). Consequently, a party relying on an appraisal to establish the market value-in-use of a property must provide some explanation as to how the appraised value demonstrates or is relevant to that property’s value as of January 1, 1999. *See Long v. Wayne Township Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005) (holding that an appraisal indicating a property’s value for December 10, 2003, lacked probative value in an appeal from a 2002 assessment).
- c) The appraisal presented by the Petitioners estimated the market value of the subject property as of October 20, 2004, more than five years after the relevant valuation date of January 1, 1999. The Petitioners provided no explanation regarding how the appraisal value was relevant to the market value of the subject property as of January 1, 1999. The appraisal presented by the Petitioners therefore lacks probative value.
- d) Tijosav Djordjevic also testified that other properties in the subject neighborhood sell for between \$60,000 and \$110,000. *Djordjevic testimony*. The Manual generally recognizes that a taxpayer may seek to establish the market value-in-use of a subject property through comparing that property to other, similar properties that have sold in the market. MANUAL at 4 (incorporated by reference at 50 IAC 2.3-1-2; *See also, Long* 821 N.E.2d at 469. In order to effectively do so, however, the taxpayer must establish the comparability of the properties being examined. Conclusory statements that a property is “similar” or “comparable” to another property do not constitute probative evidence of the comparability of the two properties. *Id.* at 470. Instead, the taxpayer must identify the characteristics of the subject property and explain how those characteristics compare to the characteristics of the purportedly comparable properties. *Id.* at 471. Similarly, the taxpayer must explain how any differences between the properties affect their relative market values-in-use. *Id.*
- e) Here, the Petitioners neither established the comparability between the properties selling for \$60,000 to \$110,000 and the subject property, nor explained how any differences between the properties affected their relative values. Therefore, Mr. Djordjevic’s testimony concerning the sale price of other properties in the subject neighborhood lacks probative value.
- f) Mr. Djordjevic also testified that the lack of amenities in the subject neighborhood negatively impacts the market value of the subject property. However, the Petitioners did not offer any evidence to quantify the effect of those factors on the market value of the subject property as of January 1, 1999. Similarly, Mr. Djordjevic also testified to his belief that the subject property would not sell for \$180,000, without offering any factual support for his opinion. Consequently, Mr. Djordjevic’s testimony on these points is entirely conclusory. Such testimony, unsupported by factual evidence,

is not sufficient to establish an error in assessment. *See Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1119, 1120 (Ind. Tax Ct. 1998).

- g) Based on the foregoing, the Petitioners have failed to show the current assessment is incorrect or what the correct assessment would be.

Conclusion

15. The Petitioners failed to make a prima facie case. 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.