

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-026-02-1-5-01763
Petitioner: Tim & Christine McKinney
Respondent: Department of Local Government Finance
Parcel #: 007-26-33-0095-0027
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. An informal hearing as described in Ind. Code § 6-1.1-4-33 was not held since the Petitioner claims to have not received a Form 11, Notice of Assessment. The Department of Local Government Finance (the DLGF) determined that the Petitioner's property tax assessment for the subject property was \$68,700.
2. The Petitioner filed a Form 139L on August 5, 2004.
3. The Board issued a notice of hearing to the parties dated June 10, 2005.
4. A hearing was held on July 13, 2005 in Crown Point, Indiana before Special Master Barbara Wiggins.

Facts

5. The subject property is located at 7436 Columbia Avenue, Hammond, in North Township.
6. The subject property is a single family residence on 0.107 acres of land.
7. The Special Master did not conduct an on-site visit of the property.
8. The DLGF determined that the assessed value of the subject property is \$16,100 for the land and \$52,600 for the improvements for a total assessed value of \$68,700.
9. The Petitioner requests a total value of \$40,000.

10. Tim McKinney, property owner, and Everett Davis, representing the DLGF, appeared at the hearing and were sworn as witnesses.

Issues

11. Summary of Petitioner's contentions in support of an alleged error in the assessment:
 - a) The Petitioner purchased the subject property in November 2000, for \$30,000. *McKinney testimony*. At that time, the property was appraised for \$39,000. *Id; Pet'r Ex. 1*. The property was purchased on the open market through a realtor. *McKinney testimony*.
 - b) The property is located across the street from Columbia Center, a low-income housing project. *Id*. Houses in close proximity to Columbia Center sell for less than other homes in the subject's neighborhood. *Id*. The house next door to the subject also sold for \$30,000. *Id*.
 - c) Based on the foregoing, the subject property's current assessment of \$68,700 is too high. *McKinney argument*.
12. Summary of Respondent's contentions in support of the assessment:
 - a) The Respondent submitted three comparable properties in the subject's neighborhood, all the same size as the subject. *Resp't Ex. 4*. The time adjusted (to January 1, 1999) sales prices of these three properties are \$72,000, \$68,000, and \$71,000, respectively. *Id; Davis testimony; Resp't Ex. 3*.
 - b) The Respondent is not sure why the subject is that much different than the comparable properties. *Davis 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 - 1639.
 - c) Exhibits:
 - Petitioner Exhibit 1: Appraisal, attached to the Form 139L Petition
 - Respondent Exhibit 1: Subject Property Record Card
 - Respondent Exhibit 2: Subject Photograph
 - Respondent Exhibit 3: Comparable Sale Summary

Respondent Exhibit 4: Comparable Property Record Cards and Photographs

Board Exhibit A: Form 139 L

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 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 provided sufficient evidence to support the Petitioner’s contentions. This conclusion was arrived at because:
- a) The Petitioner contends that the subject property is overvalued in its assessment.
 - b) The 2002 Real Property Assessment Manual (“Manual”) defines the “true tax value” of real estate as “the market value-in-use of a property for its current use, as reflected by the utility received by the owner or a similar user, from the property.” 2002 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.3-1-2). The Manual further provides that for the 2002 general reassessment, a property’s assessment must reflect its market value-in-use as of January 1, 1999. MANUAL at 4.
 - c) The Petitioner has submitted probative market evidence, through both an actual purchase of the subject property for \$30,000, and a certified appraisal of the property for \$39,000, that the property’s value is significantly less than the current assessment of \$68,700. Thus, the burden shifts to the Respondent to defend the assessment.

- d) In rebuttal, the Respondent, submitted three purportedly comparable properties with documented sales prices that, when adjusted to January 1, 1999, appear to support the subject's current assessment. The Respondent testified that these properties are in the same neighborhood as the subject, and are identical in size to the subject. The Respondent testified that he knew of no differences between these properties and the subject that would account for such a significant difference in values.
- e) The Petitioner, however, noted that his property, unlike the purported comparable properties submitted by the Respondent, is across the street from a low-income housing project, thus lowering the value. It is widely accepted in the appraisal industry that location is an important factor to consider when valuing a property.
- f) The Petitioner's testimony shows that the properties submitted as comparable by the Respondent are not truly comparable to the subject in location. Therefore, the Respondent has failed to rebut the Petitioner's prima facie case.
- g) Based on the foregoing, the Board hereby determines that the assessment of the subject property should be lowered to the appraisal value of \$39,000.

Conclusion

16. The Petitioner made a prima facie case. The Respondent failed to rebut the Petitioner's evidence. The Board finds in favor of the Petitioner, and the assessment should be lowered to \$39,000.

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. You must name in the petition and in the petition's caption the persons who were parties to any proceeding that led to the agency action under Indiana Tax Court Rule 4(B)(2), Indiana Trial Rule 10(A), and Indiana Code §§ 4-21.5-5-7(b)(4), 6-1.1-15-5(b). The Tax Court Rules provide a sample petition for judicial review. The Indiana Tax Court Rules are available on the Internet at <<http://www.in.gov/judiciary/rules/tax/index.html>>. The Indiana Trial Rules are available on the Internet at <http://www.in.gov/judiciary/rules/trial_proc/index.html>. The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>.