

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition: 45-001-02-1-5-00044
Petitioner: William Knox
Respondent: Department of Local Government Finance
Parcel: 001-25-43-0417-0017
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 Department of Local Government Finance (the DLGF) determined that the tax assessment for the property is \$25,400 and notified the Petitioner on March 31, 2004.
2. The Petitioner filed a Form 139L on April 30, 2004.
3. The Board issued a notice of hearing to the parties dated February 25, 2005.
4. Special Master Brian McKinney held the hearing in Crown Point on March 30, 2005.

Facts

5. The subject property is located at 1982 Cleveland Street in Gary.
6. The subject property is a single-family residence.
7. The Special Master did not conduct an on-site visit of the property.
8. The assessed value of subject property as determined by the DLGF is:
Land \$15,100 Improvements \$10,300 Total \$25,400.
9. The assessed value requested by Petitioner is:
Land \$5,000 Improvements \$4,000 Total \$9,000.
10. Persons sworn as witnesses at the hearing:
Michelle Gregory, property manager,
Diane Spenos, assessor-auditor.

Issues

11. The first issue the Board must consider is the appropriateness of the property manager representing Petitioner, who was not present at the hearing.
12. The Petitioner claims the house is over assessed. According to the property manager, the Petitioner bought the property for \$9,000 in 2004. *Gregory testimony*. The property manager presented a copy of a certified check for \$7,955.19 that was used to pay for the property. *Pet'r Ex. 3f*. The remaining funds were used to pay the property taxes due on the property. *Gregory testimony; Pet'r Ex. 2f*.
13. The Respondent claims the assessment is correct. The Respondent presented other properties from the same neighborhood contending they are comparable and show the assessment is correct. *Spenos testimony; Resp't. Exs. 4f – 5f*.

Record

14. The official record for this matter is made up of the following:
 - a. The Petition,
 - b. The tape recording of the hearing labeled Lake County 1280,
 - c. Exhibits:¹
 - Petitioner Exhibit 2f - Summary,
 - Petitioner Exhibit 3f - Copy of certified check in the amount of \$7,955.19,
 - Respondent Exhibit 1f - Form 139L,
 - Respondent Exhibit 2f - Property record card for subject property,
 - Respondent Exhibit 3f - Photograph of subject property,
 - Respondent Exhibit 4f - Data sheet with 3 other properties listed,
 - Respondent Exhibit 5f - property record cards and photos of 3 properties,
 - Board Exhibit A - Form 139L,
 - Board Exhibit B - Notice of Hearing,
 - Board Exhibit C - Sign in Sheet,
 - d. These Findings and Conclusions.

¹ No Petitioner Exhibit 1 was presented.

Analysis

15. The Petitioner, William Knox, did not appear personally. Similarly, no attorney or authorized tax representative appeared for him. Michelle Gregory, identified as the property manager, attended the hearing and purported to speak for the Petitioner. No written appearance is on file to support such representation. Furthermore, such an appearance would not be permitted by the Board's procedural rules for Lake County 2002 assessment appeals. Such an attempt at representation is contrary to the generally applicable rules for tax representatives to practice before the Board. 52 IAC 1-1-4; 52 IAC 1-1-6; 52 IAC 1-2-1; 52 IAC 2-2-16; 52 IAC 2-3-2. The person who purported to represent the taxpayer failed to comply with any of the Board's rules and from the record in this case, she had no status to represent the Petitioner. Accordingly, the effect of this situation is that the Petitioner presented no argument or evidence in support of his petition. For this reason alone, the petition is denied and there should be no change in the assessment.
16. In addition, the Board would reach the same conclusion even after considering the evidence and arguments the property manager presented.
17. The most applicable governing cases 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 Insurance 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.
18. The Petitioner did not provide sufficient evidence to support his contentions. This conclusion was arrived at because:
 - a. The property manager submitted evidence indicating the property was purchased for \$9,000 in 2004. She did not provide a closing statement or sales disclosure form to support this information. The property manager presented a copy of a certified bank check payable to Vanessa Wright for \$7,955.19. There is nothing on the check stating its purpose. The property manager stated that the remaining \$1,044.81 was used to pay the taxes due on the property.

- b. The Board finds the evidence of the sale to be of little probative value. Even if the Board accepted the evidence of the sale in 2004, the Petitioner's case fails. All property in Indiana was reassessed for the 2002 tax year. For the 2002 general reassessment, a property's assessment is to reflect its value as of January 1, 1999. 2002 REAL PROPERTY ASSESSMENT MANUAL at 4, 12 (incorporated by reference in 50 IAC 2.3-1-1(a)). The Petitioner must present evidence showing how the sale price from 2004 related to the value of the property as of January 1, 1999. *See Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). Without this correlation, the Petitioner's evidence has no probative value. *Id.*
 - c. Where the Petitioner has not supported the claim with probative evidence, the Respondent's duty to support the assessment with substantial evidence is not triggered. *Lacy Diversified Indus. V. Dep't of Gov't Fin.*, 799 N.E.2d 1215, 1221-1222 (Ind. Tax Ct. 2003).
19. The Petitioner failed to make a prima facie case. The Board finds in favor of 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. 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>.