

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-001-02-1-5-00685
Petitioners: William C. & Helen B. Hoock
Respondent: Department of Local Government Finance
Parcel #: 001-25-46-0099-0005
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 January 27, 2004, in Lake County, Indiana. The Department of Local Government Finance (the DLGF) determined that the Petitioners' property tax assessment for the subject property was \$92,400 and notified the Petitioners on March 31, 2004.
2. The Petitioners filed a Form 139L on April 29, 2004
3. The Board issued a notice of hearing to the parties dated October 8, 2004.
4. Special Master Peter Salveson held a hearing on November 16, 2004, in Crown Point, Indiana.

Facts

5. The subject property is located at 8125 Maple Avenue, Gary. The location is in Calumet Township.
6. The subject property is a single-family home on 0.143 acres of land.
7. The Special Master did not conduct an on-site visit of the property
8. Assessed value of subject property as determined by the DLGF:
Land \$18,900 Improvements \$73,500 Total \$ 92,400
9. Assessed value requested by Petitioners:
Land \$9,500 Improvements \$73,500 Total \$ 83,000

10. Persons sworn in as witnesses at the hearing:
Helen B. Hoock and William C. Hoock, Owners
Diane Spenos, DLGF Hearing Officer.

Issues

11. Summary of Petitioners' contentions in support of an alleged error in the assessment:
- a. The Petitioners contend that the land portion of the subject property's assessment is incorrect since it is assessed higher than the market value of comparable properties. *W. Hoock testimony.*
 - b. The Petitioners submitted the sales for two vacant lots in the area. The front foot market values of the lots are \$174 and \$181; the subject is assessed at \$378 per front foot. *W. Hoock testimony; Petitioner Exhibits 3 and 4.*
 - c. The Petitioners presented information on three improved parcels in the area. The assessed land values of the comparables' are lower than the subject property, even though one is a corner lot. *W. Hoock testimony; Petitioner Exhibits 3 and 5.*
 - d. The Petitioners contends that location should be a consideration. The subject property is 14 houses from Lake Michigan and a sand dune blocks the view of the lake from the subject property. The property sits at a low spot and experiences flooding in the basement during severe storms; this occurs in all homes with basements located on the 8000 through 8300 blocks of Maple Avenue. *W. Hoock testimony; Petitioner Exhibit 3.*
 - e. The Petitioners calculated that the percentage of the land portion of the total assessment has increased over time. *W. Hoock testimony; Petitioner Exhibit 6.*
12. Summary of Respondent's contentions in support of the assessment:
- a. The Respondent contends that the total value of the subject property needs to be considered, not just the land value. *Spenos testimony.*
 - b. The Respondent contends that the Petitioners presented vacant land parcels and those cannot be considered because the subject property is an improved parcel. *Spenos testimony.*
 - c. The Respondent presented three purported comparable sales and contended that these comparable sales supported the current assessment of the subject property. *Spenos testimony; Respondent Exhibits 4 and 5.*

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 County 709,
 - c. Exhibits:
 - Petitioner Exhibit 1: Form 139L Petition,
 - Petitioner Exhibit 2: Summary of Petitioners' Arguments,
 - Petitioner Exhibit 3: Written Outline of Evidence,
 - Petitioner Exhibit 4a and 4b: List of Property Values, Empty Lots,

- Petitioner Exhibit 5a and 5c: Property Values in Neighborhood, Houses¹
 Petitioner Exhibit 6: Table Summary of Land Value as Percent of Net
 Total Assessment,
 Petitioner Exhibit 7: Notice of Assessment of Land and Structures,
 Petitioner Exhibit 8: Notice of Final Assessment,
 Respondent Exhibit 1: Form 139L Petition,
 Respondent Exhibit 2: Subject property record card,
 Respondent Exhibit 3: Subject property photo,
 Respondent Exhibit 4: Comparable Sales Sheet,
 Respondent Exhibit 5: Comparable property record cards & photos,
 Board Exhibit A: Form 139 L Petition,
 Board Exhibit B: Notice of Hearing
 Board Exhibit C: Sign-in sheet,
- d. These Findings and Conclusions.

Analysis

14. 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 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 Petitioners did not provide sufficient evidence to support the Petitioners’ contentions. The Respondent, though not required, did rebut the Petitioners’ contentions. This conclusion was arrived at because:
- a. The Petitioners’ contend the land is over-valued when compared to sales of vacant land and the assessments of comparable properties and when the disadvantages of the subject’s location are considered.
 - b. The Petitioners submitted the sales for two vacant lots in the area. The front foot market values of the lots are \$174 and \$181; the subject is assessed at \$378 per front foot. The sales occurred in December 2000 and July 2003.
 - c. Indiana’s assessment regulations state that a property’s assessment was to reflect the value as of January 1, 1999. *Long v. Wayne Twp Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005); 2002 REAL PROPERTY ASSESSMENT MANUAL at 12 (incorporated by

¹ The Petitioners testified that they were only submitting 5a and 5c.

- reference at 50 IAC 2.3-1-2). If documentation is submitted that establishes a value for a date other than the statutory valuation date, an explanation as to how these values demonstrate, or are relevant to, the subject value as of January 1, 1999 is required if those documents are to have probative value. *Long*, 821 N.E.2d at 471.
- d. The Petitioners did not demonstrate how these values were relevant to the 1999 valuation date. Furthermore, the Petitioners did not consider the value difference between vacant land and improved land.
 - e. The Petitioners compared the subject land assessment to the assessments of three improved properties in the area, which have lower land assessments. These three properties have land assessments ranging from \$9,700 to \$16,600; the subject's land is assessed at \$18,900. The Petitioners did not submit property record cards for those properties to show the size, base rate, or influence factors applied, if any. This does not allow the Board to make any meaningful comparison and so is not probative evidence of error in the assessment. Conclusory statements that a property is "similar" or "comparable" to another property do not constitute probative evidence of the comparability of two properties. *Long*, 821 N.E.2d at 470.
 - f. The Petitioners assert that the disadvantages of the subject's location should be considered. This includes the subject's distance from the lake and the fact that the basement floods periodically. The Petitioners did not show how these factors affected the value of the subject property or prove that the factors were not considered in the current assessment.
 - g. In further support of the land assessment, the Respondent presented three comparable sales in the same neighborhood as the subject property. Two of the comparables had lots with frontage of 50 feet, the same as the subject parcel; those parcels had land assessments of \$18,500 and \$18,900. *Respondent Exhibits 4 and 5*.
 - h. The Petitioners did not make a prima facie case that the land value of the subject property is in error. The Respondent supported the current assessment.

Conclusion

16. 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. 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>.