

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-001-02-1-5-01007
Petitioner: Carol A. Strych
Respondent: Department of Local Government Finance
Parcel #: 001152604590001
Assessment Year: 2002

The Indiana Board of Tax Review (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 February 14, 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 \$200,400 and notified the Petitioner on March 31, 2004.
2. The Petitioner filed a Form 139L on April 28, 2004.
3. The Board issued a notice of hearing to the parties dated March 8, 2005.
4. A hearing was held on April 8, 2005, in Crown Point, Indiana before Special Master Alyson Kunack.

Facts

5. The subject property is a single family residence located at 449 S. Griffith Boulevard, Griffith, 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 \$33,900 Improvements \$166,500 Total \$200,400
8. Assessed Value requested by Petitioner on Form 139L petition:
Land \$25,800 Improvements \$124,300 Total \$150,100
9. The persons indicated on the sign-in sheet (Board Exhibit C) were present at the hearing.

10. Persons sworn in at hearing:

For Petitioner: Carol A. Strych, Owner

For Respondent: John Toumey, DLGF

Issues

11. Summary of Petitioner's contentions in support of an alleged error in the assessment:

- a) A comparable home in an adjoining neighborhood has lower taxes. The comparable property located at 547 S. Cline Avenue has the same builder and floor plan as the subject property. The Petitioner presented photographs of the subject property and the comparable property. The photographs show the floor plan was flipped and the comparable property has added an office. The comparable property has more square footage and more land than the subject property, yet the taxes are lower. *Strych testimony; Pet'r Exs. 6 – 12.*
- b) The neighborhood factor appears to be wrong and is too high. *Strych testimony.*
- c) The Petitioner presented the subject property record from the 1995 reassessment which shows the adjusted rate for land was \$91.00. The subject property record card for the 2002 reassessment shows the adjusted rate for land to be \$501.00. The Petitioner does not understand how the value could have gone up so much. *Strych testimony; Pet'r Exs. 5, 6.*
- d) The Petitioner believes the square footage of the subject property should be 1850, not 2010 square feet as shown on the property record card. *Strych testimony.*
- e) There are homes that are bigger and built by the same builder, but the taxes are lower. The Petitioner presented photographs of properties in the neighborhoods of the subject property and the comparable property. The Petitioner also presented Property Profiles for properties located in an upscale subdivision. *Strych testimony; Pet'r Exs. 13 - 15.*

12. Summary of Respondent's contentions in support of the assessment:

- a) The subject property is located in Neighborhood 3911. The comparable property, located at 547 S. Cline Avenue, presented by the Petitioner is located in Neighborhood 3912. The subject property and the Petitioner's comparable may be located near each other, but they are located in different neighborhoods. *Toumey testimony; Resp't Exs. 1, 6.*
- b) The Respondent presented the Top 20 Comparables and Statistics. The Respondent picked the top three comparable sales. The top three comparables are tri-levels with square footage similar to the subject property. The top three comparables are not

from the same neighborhood as the subject property. The time adjusted sale price per square foot for the top three comparables are \$74.59, \$70.63, and \$82.59. The subject property is valued at \$99.70 per square foot. *Toumey testimony; Resp't Ex. 3.*

- c) The Petitioner's comparable appears on the Top 20 Comparables and Statistics. The Petitioner's comparable sold for \$168,000 on October 21, 1998. The time adjusted sale price is \$169,799 and the time adjusted sale price per square foot is \$82.99. *Toumey testimony; Resp't Ex. 3.*
- d) The Respondent found sales from subject property neighborhood. These sales were not used because the Grades and square footages were not comparable to the subject property. *Toumey testimony; Resp't Ex. 4.*
- e) The Petitioner contends the subject property should be 1850 square feet, but did not provide any evidence to show the actual measurements. The Respondent believes the Petitioner's claim of 1850 square feet may be based on interior measurements of the subject property. Exterior dimensions are used for assessments purposes. *Toumey 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. # 1522.
- c) Exhibits:
 - Petitioner Exhibit 1: Form 139L Petition
 - Petitioner Exhibit 2: Summary of Petitioner's arguments
 - Petitioner Exhibit 3: Notice of Assessment of Land and Structures - Form 11
 - Petitioner Exhibit 4: Notice of Final Assessment
 - Petitioner Exhibit 5: 2001 Property Record Card (PRC) for subject property
 - Petitioner Exhibit 6: 2002 PRC for subject property
 - Petitioner Exhibit 7: 2002 PRC for 547 S. Cline Avenue
 - Petitioner Exhibit 8: Map showing distance between subject property and 547 S. Cline Ave.
 - Petitioner Exhibit 9: Property Profile for subject property
 - Petitioner Exhibit 10: Property Profile for 547 S. Cline Ave.
 - Petitioner Exhibit 11: Comparison table of subject property and 547 S. Cline Ave.
 - Petitioner Exhibit 12: Photographs of subject property and 547 S. Cline Ave.
 - Petitioner Exhibit 13: Photographs of properties in subject neighborhood
 - Petitioner Exhibit 14: Photographs of properties in neighborhood of 547 S. Cline Ave.

Petitioner Exhibit 15: Comparison of assessments for properties in “upscale” subdivision

Respondent Exhibit 1: Subject Property Record Card (PRC)

Respondent Exhibit 2: Subject Property Photograph

Respondent Exhibit 3: Top 20 Comparables and Statistics

Respondent Exhibit 4: Calumet Township Sales in Neighborhood 3911

Respondent Exhibit 5: Comparable PRCs and photographs

Respondent Exhibit 6: Neighborhood/Street Maps

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 Township 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 Township 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 did not provide sufficient evidence to support her contentions. This conclusion was arrived at because:

Comparable Assessments

- a) The Petitioner contends the subject property is over assessed compared to a similar property in an adjoining neighborhood. The Petitioner also presented Property Profiles for four properties located in a nearby subdivision.

- b) In making this argument, the Petitioner essentially relies on a sales comparison approach to establish the market value in use of the subject property. *See* 2002 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.3-1-2)(stating that the sales comparison approach “estimates the total value of the property directly by comparing it to similar, or comparable, properties that have sold in the market.”); *See also, Long v. Wayne Township Assessor*, 821 N.E.2d 466, 469 (Ind. Tax Ct. 2005). The primary difference between the Petitioner’s methodology and the sales comparison approach is that the Petitioner seeks to establish the value of the subject property by analyzing the *assessments* of purportedly comparable properties rather than the *sale prices* of those properties. Nevertheless, the requirements for assigning probative value to evidence derived from a sales comparison approach are equally applicable to the assessment comparison approach used by the Petitioner in this case.
- c) In order to effectively use the sales comparison approach as evidence in a property assessment appeal, the proponent 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. *Long*, 821 N.E.2d at 470. Instead, the proponent 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 proponent must explain how any differences between the properties affect their relative market values-in-use. *Id.*
- d) The Petitioner presented Property Profiles of four properties located in the same subdivision as 547 S. Cline Avenue. The Property Profiles contain the Parcel Number, Owner Name, Property Address, Total Land Value, Total Structure Value, and Total. However, the Petitioner did not explain how the four properties were actually comparable to the subject property as required by the court in *Long*. The Petitioner provided no comparison of square footages, lot sizes, neighborhood, or amenities such as fireplaces, attics, and basements. The Petitioner has not established the four properties are comparable to the subject property. Consequently, the Petitioner’s evidence concerning the assessments of the four properties lacks probative value.
- e) The Petitioner presented property record cards for the subject property and the comparable property located at 547 S. Cline Avenue. A review of the property record cards shows the assessments to be similar. The comparable property has 2046 square feet and is graded a C+2. The subject property has 2010 square feet and is graded a C+1. The assessments are similar up through the computation of the remainder value.
- f) The Petitioner also presented a comparison of the subject property and the comparable property. The Petitioner’s comparison highlights the differences in the properties. The properties are not located in the same neighborhood, the lots are not the same size, the land base rate is different, and the neighborhood factor is different.

- g) Under *Long*, the Petitioner must explain how the characteristics of the properties compare, which the Petitioner did. However, the Petitioner must also explain any differences between the properties and how the differences affect the market value-in-use. The biggest difference between the assessments of the subject property and the comparable property is that they are located in different neighborhoods.
- h) The dwelling assessments are similar through the computation of the remainder value. The remainder value is then multiplied by the neighborhood factor to compute the improvement value. Because the properties are located in different neighborhoods, the neighborhood factors and land base rates are different. The subject property has a neighborhood factor of 1.27 and a land base rate of \$550. The comparable has a neighborhood factor of 0.86 and a land base rate of \$350. *Pet'r Exs. 7, 8, 11*. The difference in the assessment of the subject property and the property located at 547 S. Cline Avenue is due to the neighborhood factor and the land base rate. The Petitioner did not explain how the difference in neighborhood affected the relative market values-in-use.

Neighborhood factor

- i) The Petitioner contends the neighborhood factor is too high.
- j) The 2002 general reassessment was performed in accordance with a system of mass appraisal governed by the REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 VERSION A (incorporated by reference at 50 IAC 2.3-1-2)(“GUIDELINES”). Pursuant to that system, all property within a township must be established as part of neighborhood. GUIDELINES, Ch. 2 at 8. Township assessors are required to define neighborhoods according to various factors, including, among other things: distinctive geographic boundaries, any manmade improvements that significantly disrupt the cohesion of adjacent properties, and sales statistics. *Id.*
- k) Assessors are required to engage in a similar process to account for the impact on the value of improvements caused by the physical, economic, governmental and social characteristics of a neighborhood. *See* GUIDELINES, Appendix B at 8-9. Assessors are required to examine property sales within the neighborhood between January 1, 1998 and December 31, 1999 and to determine the portion of each sale price attributable to improvements. *Id.* The assessors are then required to divide that amount by the depreciated replacement cost new of the improvements to arrive at a neighborhood factor. *Id.* The GUIDELINES require assessors to multiply the depreciated replacement cost new by the neighborhood factor determined by the process described above to arrive at the total value of each residential improvement being assessed.
- l) The Petitioner did not provide any evidence to support her claim that the neighborhood factor is too high. The Petitioner presented the property record card for a comparable property located at 547 S. Cline Avenue and a map showing the distance between the properties. *Pet'r Exs. 6 – 8*.

- m) As the Respondent stated and the Petitioner's evidence shows, the subject property and the property at 547 S. Cline Avenue are not located in the same neighborhood for purposes of tax assessment. The subject property is in neighborhood 3911 with a neighborhood factor of 1.27. The comparable property is in neighborhood 3912 with a neighborhood factor of 0.86. *Pet'r Exs. 6, 7.*
- n) While it may be unusual for properties located within a few blocks of each other to be assigned to different neighborhoods, the Petitioner did not present any evidence to demonstrate that the Respondent improperly applied the factors identified in the applicable administrative rules when drawing the neighborhood boundaries. *See GUIDELINES, Ch. 2 at 8.*
- o) The Petitioner similarly failed to introduce any evidence to demonstrate that the Respondent applied the wrong neighborhood or neighborhood factor to the subject property through inadvertence or for other reasons.
- p) The Petitioner has merely shown that the properties in question were assigned to different neighborhoods with different neighborhood factors. This does nothing to show the neighborhood factors are incorrect.
- q) Consequently, the Petitioner has failed to present a prima facie case to support her contention that the neighborhood factor is too high.

Land Value

- r) The Petitioner stated she did not understand how the adjusted base rate of the land could go from \$91.00 in the 1995 reassessment to \$501.00 for the 2002 reassessment.
- s) Land values for standard size lots in each neighborhood are determined through an analysis of actual sales within the neighborhood or comparable neighborhoods. *See GUIDELINES, Ch. 2 at 11-15.*
- t) The Petitioner did not present any evidence with regard to the land value. The Petitioner merely concludes the land value is too high. Unsubstantiated conclusory statements do not constitute probative evidence. *Whitley Products, Inc. v. State Board of Tax Commissioners*, 704 N.E.2d 1113, 1119 (Ind. Tax 1998).

Square footage

- u) The Petitioner stated she believed the square footage of the subject property should be 1850, not the 2010 square feet shown on the property record card.
- v) The Petitioner did not explain why she believed the square footage should be 1850. Nor did she present any measurements or evidence to show the actual square footage of the subject property. Unsubstantiated conclusory statements do not constitute probative evidence. *Whitley Products*, 704 N.E.2d at 1119.

Conclusions

Comparable Assessments

16. The Petitioner failed to make a prima facie case. The Board finds in favor of the Respondent.

Neighborhood factor

17. The Petitioner failed to make a prima facie case to support her contention that the neighborhood factor was incorrect. The Board finds in favor of the Respondent.

Land value

18. The Petitioner failed to make a prima facie case. The Board finds in favor of the Respondent.

Square footage

19. The Petitioner failed to make a prima facie case showing the square footage was incorrect. 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>>.