

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-026-02-1-4-01892
Petitioners: Salvador & Mirtala Monjaras
Respondent: Department of Local Government Finance
Parcel #: 007-24-30-0157-0003
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 Petitioners' property tax assessment for the subject property was \$83,800 and notified the Petitioners.
2. The Petitioners filed a Form 139L on July 28, 2004.
3. The Board issued a notice of hearing to the parties dated June 6, 2005.
4. Special Master Peter Salveson held a hearing on July 7, 2005, in Crown Point, Indiana.

Facts

5. The subject property is located at 4908 Indianapolis Blvd., East Chicago. The location is in North Township.
6. The subject property is assessed as a four-unit commercial property on .121 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 \$ 47,900 Improvements \$ 35,900 Total \$83,800.
9. Assessed value requested by Petitioners:
Total \$ 60,000.
10. Persons sworn in as witnesses at the hearing:
Alicia Gonzalez, Daughter of Petitioner,

Mirtala Monjaras, Owner
Lori Harmon, Asst. Director, Assessment Division, DLGF.

Issues

11. Summary of Petitioners' contentions in support of an alleged error in the assessment:
 - a. The Petitioners contend that the subject property is assessed higher than the market value of the subject property. The Petitioners testified that the subject property was purchased in September 1997 for \$53,000. The Petitioners presented the first page of a four page appraisal that shows the purchase price was \$55,000. *Gonzalez testimony; Petitioner Exhibit .1*
 - b. The Petitioners contend that the subject property is used as a residence and not as a commercial property as indicated on the subject property record card. The Petitioners testified that the subject property has been used as a two-family residence since it was purchased in 1997. *Gonzalez testimony; Petitioner Exhibit 2.*
12. Summary of Respondent's contentions in support of the assessment:
 - a. The Respondent noted that the purchase price of the subject property is shown as \$55,000 in 1997 on the Petitioner's Exhibit 1. *Harmon testimony; Petitioner Exhibit 5.*
 - b. The Respondent noted that the subject property is show to be a three-unit on the Petitioner's Exhibit 1. *Id.*
 - c. The Respondent testified that the subject property was appraised as a four-unit dwelling with an unfinished basement. *Harmon testimony; Petitioner Exhibit 1.*
 - d. The Respondent stated that there appears to be problems with the current assessment. *Harmon 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 County 1903,
 - c. Exhibits:
 - Petitioner Exhibit 1: Page 1 of Residential Appraisal,
 - Petitioner Exhibit 2: Real Property Maintenance Report,
 - Respondent Exhibit 1: Subject property record card,

Respondent Exhibit 2: Subject property photo,
Respondent Exhibit 3: Incremental/Decremental Land Value,
Respondent Exhibit 4: Plat map,

Board Exhibit A: Form 139L 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 provide sufficient evidence to support the Petitioners’ contentions. The Respondent failed to rebut the Petitioners’ contentions. This conclusion was arrived at because:
- a. The Petitioners testified that the subject property had been purchased in September 1997. The first page of the appraisal presented by the Petitioners shows that the subject property sold for \$55,000 in September 1997. *Gonzalez testimony; Petitioners Exhibit 1.*
 - b. The Petitioners testified that the property has been a two-family residence since 1997 purchase date. *Gonzalez testimony.*
 - c. The Respondent stated that the current assessment was incorrect as it was assessed as a commercial property with four-units. *Harmon testimony*

Conclusion

16. The Petitioners made a prima facie case. The Respondent did not rebut the Petitioners' evidence. The Board finds in favor of the Petitioners and concludes that the current assessment should be changed to reflect a value equal to the \$55,000 purchase price of the subject property in September 1997 when trended to the January 1, 1999, valuation date.

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>.