

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-026-02-1-5-01510
Petitioner: Willna J. Joyce
Respondent: Department of Local Government Finance
Parcel #: 007-18-28-0579-0044
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 Petitioner's property tax assessment for the subject property was \$278,200 and notified the Petitioner.
2. The Petitioner filed a Form 139L on July 22, 2004.
3. The Board issued a notice of hearing to the parties dated June 10, 2005.
4. Special Master Barbara Wiggins held a hearing in Crown Point on July 12, 2005.

Facts

5. The subject property is located at 1626 James Edward Dr. in Munster.
6. The subject property is a single family residential condominium unit.
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:
Land \$0 Improvements \$278,200 Total \$278,200.
8. The assessed value requested by Petitioner:
Land \$0 Improvements \$214,000 Total \$214,000.
9. The following persons were present and sworn in at hearing:
For Petitioner – Willna Joyce, property owner,
For Respondent – Everett Davis, DLGF.

Issues

10. Summary of Petitioner's contentions in support of an alleged error in the assessment:
- a) The subject property is over valued compared to other condominiums with the same floor plan. *Joyce testimony*. The assessment data of comparable properties show that the subject property's assessment is \$20,000 to \$40,000 higher than the comparable properties. *Joyce testimony; Petitioner Exhibit 1*.
11. Summary of Respondent's contentions in support of the assessment:
- a) The sales of comparable properties fall between \$293,000 and \$294,000. *Davis testimony; Respondent Exhibit 4, 5*.
 - b) An error in pricing was discovered while reviewing the subject property record card. *Davis testimony*. The assessed value would be reduced by \$4,700 if the correction is made. *Davis testimony; Respondent Exhibit 6*.

Record

12. 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 1618,
 - c) Exhibits:
 - Petitioner Exhibit 1¹ – The assessment data and property record card for the subject property and the assessment data for 8 condominium properties located in the same complex as the subject property,
 - Respondent Exhibit 1 – Subject property record card,
 - Respondent Exhibit 2 – A photograph of the subject property,
 - Respondent Exhibit 3 – Property record cards for the land assessment of the condominium complex,
 - Respondent Exhibit 4 – A list of the top 20 comparable properties,
 - Respondent Exhibit 5 – The property record cards and photographs the most comparable properties identified in Respondent Exhibit 4,
 - Respondent Exhibit 6 – A recommended corrected assessment for the subject property,
 - Board Exhibit A – The Form 139L,
 - Board Exhibit B – The Notice of Hearing,

¹ These documents were initially submitted with the Form 139L and resubmitted by reference by the Petitioner during the hearing.

Board Exhibit C – The Sign in Sheet,

- d) These Findings and Conclusions.

Analysis

13. 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 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.

14. The Petitioner did not provide sufficient evidence to support the Petitioner's contentions. This conclusion was arrived at because:

- a) The Petitioner offered evidence to show that comparable condominiums in the same complex were valued at a lower level than the subject property. *Petitioner Exhibit 1; Joyce testimony*. However, the assessment summaries of the alleged comparable condominiums do not give any indication of how or why the proffered comparables are comparable to the subject property.
- b) Other than a general statement that the other condominiums had the same floor plan as the subject property, the Petitioner did not present any evidence comparing amenities or square footage of the subject property to the alleged comparable properties. Without any explanation of how or why the alleged comparables are comparable to the subject property, the evidence is simply conclusory in nature and lacks probative value. *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466 (Ind. Tax Ct. 2005); *Blackbird Farms Apts., LP v. Dep't of Local Gov't Fin.*, 765 N.E.2d 711 (Ind. Tax Ct. 2002); *Whitley Products, Inc. v. State Bd. Of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).

15. However, the evidence does establish that the assessment should be changed because:
- a) The Respondent admitted that a pricing error was discovered while reviewing the subject property record card. *Davis testimony; Respondent Exhibit 6*. As a result of correcting the pricing error, the assessed value should be \$273,830 rather than \$278,210. *Respondent Exhibit 6*.

Conclusion

16. The Petitioner did not make a prima facie case. The Respondent however admitted the assessed value should be \$273,830.
17. The undisputed testimony reveals that the current assessment is in error as a result of a pricing error and should be corrected.

Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should be changed to reflect the pricing error correction.

ISSUED: November 16, 2005

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>>.