

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-032-02-1-5-00012
Petitioner: Betty L. Gaisser
Respondent: Department of Local Government Finance
Parcel #: 009-20-13-0205-0021
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 November 13, 2003, in Lake County, Indiana. The Department of Local Government Finance (DLGF) determined that the Petitioner's property tax assessment for the subject property was \$152,200 and notified the Petitioner on March 26, 2004.
2. The Petitioner filed a Form 139L on April 6, 2004.
3. The Board issued a notice of hearing to the parties dated July 7, 2004.
4. Special Master Michael R. Schultz held the hearing in Crown Point on September 10, 2004.

Facts

5. The subject property is located at 406 York Road, Schererville in St. John Township.
6. The subject property is a residential parcel consisting of land, a dwelling, and a frame utility shed.
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 \$47,800 Improvements \$104,400 Total \$152,200.
9. Assessed Value requested by Petitioner:
Land \$47,800 Improvements \$103,400 Total \$151,200.

10. Persons sworn as witnesses at the hearing:
For Petitioner — Karl Gaisser, Agent for the Petitioner,
For Respondent — Larry Vales, Appraiser, Cole-Layer-Trumble.

Issue

11. Summary of Petitioner's contentions in support of an alleged error in the assessment:
- a) The utility shed measures 8' x 10' rather than 10' x 12' and it should not be assessed for \$1,000 because it is a portable structure. *Gaisser testimony; Pet. Ex. 3, 4.*
 - b) The dwelling room count of eight rooms on the property record card is incorrect. The correct dwelling room count is six, which includes three bedrooms, a kitchen, a family room, and living room. *Gaisser testimony; Pet. Ex. 5.*
12. Summary of Respondent's contentions in support of the assessment:
- a) The Respondent recommended removing the assessment of the utility shed because the square footage of the utility shed is less than 100 square feet. It is the policy of the assessment company not to assess any structure with an area of less than 100 square feet. *Vales testimony.*
 - b) The Respondent recommends changing the room count notation on the property record card from eight rooms to six rooms, but that count does not have any affect on the overall valuation of the subject property. *Vales 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.-371.
 - c) Exhibits:
 - Petitioner Exhibit 1: A copy of the Form 139L.
 - Petitioner Exhibit 2: A copy of the Notice of Final Assessment.
 - Petitioner Exhibit 3: A picture of the frame utility shed.
 - Petitioner Exhibit 4: A close up picture showing the ground level view of the frame utility shed.
 - Petitioner Exhibit 5: The 2002 property record card for the subject property.
 - Respondent Exhibit 1: A copy of the Form 139L.
 - Respondent Exhibit 2: The property record card for the subject property.
 - Respondent Exhibit 3: A photograph of the subject property.
 - Respondent Exhibit 4: Photographs and property record cards of other properties.

Board Exhibit A: Form 139 L
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. *Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *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 piece of evidence is relevant to the requested assessment. *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. *American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct.). 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 provided sufficient evidence to support her contentions. This conclusion was arrived at because the parties agreed that the utility shed should be removed from the assessment and that the room count should be reduced to six. *Gaisser testimony; Vales testimony; Pet. Ex. 3, 4, 5.*

Conclusion

16. The Petitioner made a case that Respondent did not dispute. The Board finds in favor of the agreement of the parties.

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 a total of \$151,200.

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.