

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-028-02-1-5-00221
Petitioners: John R. & Cynthia A. Sobczak
Respondent: Department of Local Government Finance
Parcel #: 008-08-15-0425-0031
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. An informal hearing as described in Ind. Code § 6-1.1-4-33 was held between the Petitioners and the Respondent. The Department of Local Government Finance (DLGF) determined that the Petitioners' property tax assessment for the subject property was \$110,300 and notified the Petitioners on March 31, 2004.
2. The Petitioners filed a Form 139L on April 26, 2004.
3. The Board issued a notice of hearing to the parties on September 14, 2004.
4. A hearing was held on October 14, 2004, in Crown Point, Indiana before Special Master Peter Salvesson.

Facts

5. The subject property is located at 7318 Wilson Place, Merrillville, in Ross Township.
6. The subject property is a single family-home on 0.202 acres of land.
7. The Special Master did not conduct an on-site visit of the property.
8. Assessed Value of the subject property as determined by the DLGF:
Land \$20,300 Improvements \$90,000 Total \$110,300
Assessed Value requested by the Petitioner during hearing:
Land \$ 7,000 Improvements \$90,000 Total \$97,000
9. The persons indicated on the sign-in sheet (Board Exhibit C) were present at the hearing.

9. Persons sworn in at hearing:

For Petitioner: John R. & Cynthia A. Sobczak, Owners
For Respondent: Larry Vales, Representing the DLGF

Issue

11. Summary of Petitioners' contentions in support of alleged error in assessment:

- a. The Petitioners' contention on the Form 139L for a lower value is based on the belief that the assessed value of the land is too high. *J. Sobczak Testimony.*
- b. The Petitioners do not contest the value of the improvements. *Id.*
- c. The Petitioners purchased the land portion of the subject property in 1968 for \$3,600. *Id.*

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

- a. The Respondent contends that the land value is based on the effective frontage of the subject property and is assessed equitably in relationship to other land in the Petitioners' neighborhood. *Vales Testimony.*
- b. The Respondent contends that comparable sales for improved properties support the current valuation of the improved parcel. *Vales Testimony; Respondent Exhibit 4*

Record

13. The official record for this matter is made up of the following:

- a. The Petition and all subsequent pre-hearing submissions by either party.
- b. The tape recording of the hearing labeled Lake Co. #529.
- c. Exhibits:

Petitioners Exhibit 1: Subject property record card
Petitioners Exhibit 2: Form 11 Notice of Assessment and Notice of Final
Assessment
Petitioners Exhibit 3: Notice of Hearing
Petitioners Exhibit 4: 2002-2003 Provisional Property Tax Bill
Petitioners Exhibit 5: 2002-2003 Reconciliation Property Tax Bill

Respondent Exhibit 1: Form 139L Petition
Respondent Exhibit 2: Subject property record card
Respondent Exhibit 3: Subject photograph

Respondent Exhibit 4: Property record cards and photographs of three similarly styled, improved properties

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, by preponderance of the evidence, 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. Wash. 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 provided insufficient evidence to support their request for a reduction in assessed value. This conclusion was arrived at because:
- a. The Petitioners contend that the subject property is located in a subdivision that is thirty-five (35) years old. *J. Sobczak testimony*. John Sobczak testified to his belief that, if the subject house were destroyed, the subject land could not be sold for anything close to its current assessed value. *Id.* Mr. Sobczak further testified that the value of the subject land is closer to \$8,000. *Id.*
 - b. However, the Petitioners did not present any evidence to support their opinion of value. Consequently, Mr. Sobczak's testimony amounts to nothing more than a conclusory statement. Mere conclusory statements do not constitute probative evidence of value. *See Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).

- c. In their Form 139L petition, the Petitioners also alleged that they purchased the subject land for \$3600 in 1968. *Board Exhibit A*. However, the Petitioners did not explain how that purchase amount related to the subject property's value as of the relevant valuation date of January 1, 1999. *See Long v. Wayne Twp. Assessor*, Cause No. 49T10-0404-TA-20 at 8-9 (Ind. Tax Ct. corrected original opinion dated January 28, 2005) (holding that an appraisal indicating a property's value for December 10, 2003 was not probative regarding the property's fair market value-in-use as of January 1, 1999).
- d. Based on the foregoing, the Petitioners failed to establish a prima facie case that the assessment is in error.

Conclusion

- 16. The Petitioners did not make a prima facie case for a reduction in the assessed value of the subject property. 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.