

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition: 45-037-02-1-5-00115
Petitioner: Barbara D. Goetz
Respondent: The Department of Local Government Finance
Parcel: 010-10-01-0011-0054
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 December 30, 2003. The Department of Local Government Finance (the DLGF) determined that the Petitioner's property tax assessment for the subject property is \$299,300 and notified the Petitioner on March 23, 2004.
2. The Petitioner filed a Form 139L on April 23, 2004.
3. The Board issued a notice of hearing to the parties dated November 10, 2004.
4. Special Master Kathy J. Clark held the hearing in Crown Point on December 10, 2004.

Facts

5. The subject property is located at 12104 Belshaw Road, Lowell. The location is in West Creek Township.
6. The subject property consists of a two-story frame dwelling, agricultural outbuildings, and a commercial dog kennel.
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 is:
Land \$35,300 Improvements \$264,000 Total \$299,300.
9. The assessed value requested by Petitioner is:
Land \$35,300 Improvements \$264,000 Total \$299,300.

10. Persons sworn as witnesses at the hearing:
Barbara D. Goetz, Owner,
Rick Niemeyer, West Creek Township Assessor,
Stephen H. Yohler, Department of Local Government Finance,
Phillip E. Raskosky, Department of Local Government Finance.

Issues

11. Summary of Petitioner's contentions in support of an error in the assessment:
- a. The property was purchased in 1997 for \$299,000. The current assessed value of \$299,300 is not being contested. *Form 139L; Goetz testimony.*
 - b. After the purchase of the subject property, but prior to the assessment date of March 1, 2002, an existing 40' by 50' stable, built in 1928, was converted to a commercial dog kennel. The building has its original wood/pole frame, a 20' by 20' frame loft with ladder access only, and frame exterior walls. The interior is divided into a 20' by 50' section that is 25' high and has a finished open interior except for the new kitchen, office, and restroom spaces. This section is flanked by two 10' by 50' sections that are 9' high and divided into individual dog kennel areas. The conversion also included the following:
 - 40' by 50' concrete floor,
 - Exterior vinyl siding,
 - New doors and windows,
 - Replacement roof,
 - Insulation throughout,
 - Drywall throughout the interior,
 - Electrical system, central heating system, and central air conditioning,
 - 5' wide by 10' deep by 9' high interior wood stalls along both sides,
 - 9' by 9' kitchen with kitchen sink and drywall on the ceiling,
 - 10' by 10' office with drywall on the ceiling,
 - 5' by 9' restroom with one sink, one commode, and drywall on the ceiling,
 - Septic system, separate from the one supporting the existing dwelling.
- This building was incorrectly assessed as a second dwelling for the 2002 reassessment. It is a stable converted to a commercial dog kennel, not a dwelling or a rental house. *Goetz testimony; Niemeyer testimony; Respondent Exhibit 2.*
- c. Petitioner filed a Form 133, Petition for Correction of Error, for the assessment date of March 1, 2003. The West Creek Township Assessor visited the property and has reassessed the 40' by 50' building as a 1928 pre-engineered building, 12' high, with some interior finish, plumbing fixtures, heating and air conditioning systems, some interior dividing walls, a kitchen, and a mezzanine. *Petitioner Exhibits 1, 2; Niemeyer testimony.*

d. The Township Assessor testified that he determined that the pre-engineered cost schedule (GCK) contained in the Guidelines, Appendix G, page 16, best represents the building in question. These changes have resulted in a new total assessed value for 2003 of \$225,800. *Id.*

12. Summary of Respondent's contentions:

- a. Respondent had not visited the subject property and did not know what the building looked like. The owner refused entry to the property at the time of data collection. *Respondent Exhibit 2, memorandum section, page 1; Yohler testimony.*
- b. Respondent contends that Petitioner purchased the property in 1997/1998 for \$299,000, prior to the conversion of the building in question. This purchase confirms that the assessed value of \$299,300 is correct. *Yohler 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 854,
- c. Exhibits:
 - Petitioner Exhibit 1 - Form 133 filed for March 1, 2003/2004,
 - Petitioner Exhibit 2 - Subject property record card as a result of Form 133,
 - Petitioner Exhibit 3 - 1995 subject property record card,
 - Respondent Exhibit 1 - Form 139L,
 - Respondent Exhibit 2 - Subject property record card,
 - Respondent Exhibit 3 - Subject photographs,
 - 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 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”).
15. The Petitioner provided sufficient evidence to establish that a 40’ by 50’ structure was incorrectly identified as a dwelling, but failed to provide probative evidence that the assessed value currently assigned to the structure was incorrect. This conclusion was arrived at because:
- a. Respondent and Petitioner agreed that the total assessment of the subject property is correct at \$299,300. Significantly, Petitioner did not appeal the assessed value, but only the method used to assess one structure.
 - b. The West Creek Township Assessor testified for the Petitioner that he used the GCK schedule because it seemed the most representative of the building’s components. How this converted structure should be assessed is not an issue that needs to be determined when the market value and the assessment itself are agreed to be correct.
 - c. Petitioner’s own testimony that the 2002 assessed value of \$299,300 is acceptable makes further consideration and decision unnecessary. The Board finds that the current assessed value of \$299,300 is correct, regardless of how a particular building is identified on the property record card.

Conclusion

16. Though the Petitioner established a prima facie case as to establishing that the 40’ by 50’ structure was incorrectly assessed as a dwelling, the Petitioner testified that the current assessed value of \$299,300 was not under appeal and was accepted as correct. Petitioner failed to prove any basis for changing the current assessment.

Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the total assessment should not be changed.

ISSUED: _____

 Commissioner,
 Indiana Board of Tax Review

Barbara D. Goetz
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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>.