

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-016-02-1-5-00352
Petitioners: Jack G. & Theresa A. Taillon
Respondent: Department of Local Government Finance
Parcel #: 006-27-18-0266-0014
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 January, 2004, in Lake County, Indiana. The Department of Local Government Finance (DLGF) determined that the Petitioners' property tax assessment for the subject property was \$112,200 and notified the Petitioners on March 26, 2004.
2. The Petitioners filed a Form 139L on April 20, 2004.
3. The Board issued a notice of hearing to the parties dated October 18, 2004.
4. A hearing was held on November 18, 2004, in Crown Point, Indiana before Special Master Dalene McMillen.

Facts

5. The subject property is a one-story 1,478 square foot ranch-style dwelling on a 60-foot by 127-foot lot, located at 11 North Wabash, Hobart, Hobart Township in Lake County.
6. The Special Master did not conduct an on-site visit of the property.
7. The assessed value of the subject property;

As determined by the DLGF:

Land: \$21,600	Improvements: \$90,600	Total: \$112,200
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As requested by the Petitioners:

Land: \$21,600

Improvements: \$80,000

Total: \$101,600

8. The following persons were present and sworn in at the hearing:

For the Petitioners: Theresa A. Taillon, Owner

For the DLGF: Steven McKinney, Assessor/Auditor, DLGF

Issue

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

- a. The assessed value of the subject property is overstated in comparison with properties located within the subject neighborhood. The Petitioners requested the subject property be assessed at \$21,600 for the land and \$80,000 for the improvements for an overall assessed value of \$101,600. *Board Ex. A; Taillon argument.*
- b. The Petitioners presented multiple listing sheets and a newspaper advertisement for properties located in the subject neighborhood showing listing prices from \$95,000 to \$105,900. According to Petitioners, this indicates that the neighborhood in which a property is located affects its market value. *Petitioner Ex. 5; Taillon argument.*
- c. The Petitioners presented information concerning eight (8) properties that Petitioners contend are comparable to the subject property. Those comparable properties are located within the same neighborhood as the subject property. Six (6) of the eight (8) properties have assessed values that are lower than the assessed value of the subject property. Two (2) of the properties have assessed values that are slightly higher than the assessed value of the subject property. *Petitioner Ex. 4; Taillon testimony.*

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

The subject property is assessed fair and consistent with the subject area at \$21,600 for the land and \$90,600 for the improvements for an overall assessed value of \$112,200. *Respondent Ex. 2; McKinney argument.*

Record

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

- a. The Petition, and all subsequent submissions by either party.
- b. The tape recording of the hearing labeled Lake Co. #663.

c. The following exhibits were presented:

Petitioner Exhibit 1 – A copy of the Form 139L petition.

Petitioner Exhibit 2 – Summary of Petitioners' argument.

Petitioner Exhibit 3 – A copy of the Notice of Assessment of Land and Structures-Form 11/Lake County and copy of the Notice of Final Assessment.

Petitioner Exhibit 4 – DLGF property profiles for William Simmons, Bernard Hoffman, Jack Taillon, Robert Freeville, Thomas Woronecki, Elbert Hurd, Luis Colon, Ann Coleman, and George Brasich.

Petitioner Exhibit 5 – Newspaper advertisement on two comparable properties at 43 North Wilson Street and 309 North Wisconsin Street, Residential Agent Detail Report for 43 North Wilson Street and a multiply listing sheet for 57 North Wabash.

Respondent Exhibit 1 – A copy of the Form 139L petition.

Respondent Exhibit 2 – A copy of Jack Taillon's 2002 property record card.

Respondent Exhibit 3 – An exterior photograph of the subject dwelling.

Respondent Exhibit 4 – A top 3 comparable worksheet.

Respondent Exhibit 5 - Three comparable property record cards with exterior photographs for Glen Hoffman, Robert Freeville, and Elbert Hurd.

Board Exhibit A – Form 139L petition, dated April 20, 2004

Board Exhibit B – Notice of Hearing on Petition, dated October 18, 2004

Board Exhibit C – Hearing sign-in sheet.

d. These Findings and Conclusions.

Analysis

12. The most applicable 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 Township Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also, Clark v. State Board of Tax Commissioners*, 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 Township 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 Insurance Company 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.

13. The Petitioners did not provide sufficient evidence to support their contentions. This conclusion was arrived at because:

- a) The Petitioners submitted 2004 listing prices of properties located within the subject area to show that a neighborhood affects the market value of a property. *Taillon argument; Petitioner Ex. 5*. However, the Petitioners did not explain how those listings related to the market value of the subject property or even to the market values of properties within the subject property's neighborhood. The Petitioners therefore failed to explain the relevance of this evidence. *See Indianapolis Racquet Club, Inc.*, 802 N.E.2d at 1022 ("[I]t is the taxpayer's duty to walk the Indiana Board ...through every element of the analysis").
- c) The Petitioners also submitted DLGF property profiles listing the assessed values of eight (8) properties claimed to be comparable to the subject property. *Taillon testimony; Petitioner Ex. 4*. Six (6) of those properties are assessed for amounts less than the subject property. *Id.* The other two properties are assessed for amounts slightly more than the subject property, but the Petitioners contend that they are superior to the subject property. *Id.*
- d) In submitting this evidence, the Petitioners essentially rely on a sales comparison approach to establish the market value in use of the subject property. *See 2002 REAL PROPERTY ASSESSMENT MANUAL 2* (incorporated by reference at 50 IAC 2.3-1-2)(stating that the sales comparison approach "estimates the total value of the property directly by comparing it to similar, or comparable, properties that have sold in the market."); *See also, Long v. Wayne Township Assessor*, 821 N.E.2d 466, 469 (Ind. Tax Ct. 2005). The primary difference between the Petitioners' methodology and the sales comparison approach is that the Petitioners seek to establish the value of the subject property by analyzing the *assessments* of purportedly comparable properties rather than the *sale prices* of those properties. Nevertheless, the requirements for assigning probative value to evidence derived from a sales comparison approach are equally applicable to the assessment comparison approach used by the Petitioner in this case
- e) In order to effectively use the sales comparison approach as evidence in a property assessment appeal, the proponent must establish the comparability of the properties being examined. Conclusory statements that a property is "similar" or "comparable"

to another property do not constitute probative evidence of the comparability of the two properties. *Long*, 821 N.E.2d at 470. Instead, the proponent must identify the characteristics of the subject property and explain how those characteristics compare to the characteristics of the purportedly comparable properties. *Id.* at 471. Similarly, the proponent must explain how any differences between the properties affect their relative market values-in-use. *Id.*

- f) The Petitioners did not explain how the properties upon which they rely are comparable to the subject property beyond their assertions that the properties are all located in the same neighborhood, that all of the houses on the block have six rooms and that the properties are all basically the same. *Taillon testimony*. The Petitioners did not provide property record cards for the purportedly comparable properties or otherwise describe the square footage, age, physical features, or condition of those properties. As explained in *Long*, general assertions of comparability without an analysis of the salient features of the properties being compared is insufficient to establish comparability. Consequently, the evidence in this case is insufficient to establish comparability between the subject property and the other properties identified by the Petitioners.

- g) Based on the foregoing, the Petitioners did not establish a prima facie case for a change in assessment.

Conclusion

- 14. The Petitioners failed to make a prima facie case regarding an error in the assessment. 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.