

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-032-02-1-5-00020
Petitioners: Robert & Mary Lou Pieters
Respondent: Department of Local Government Finance
Parcel #: 009-09-11-0017-0059
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 in November 2003. The Department of Local Government Finance (DLGF) determined that the Petitioners' property tax assessment for the subject property was \$213,900 and notified the Petitioners on March 26, 2004.
2. The Petitioners filed a Form 139L on March 31, 2004.
3. The Board issued a notice of hearing to the parties dated July 20, 2004.
4. A hearing was held on August 24, 2004, in Crown Point, Indiana before Special Master Sue Mayes.

Facts

5. The subject property is located at 8525 W. 85th Ave., Schererville, IN.
6. The subject property is a residence located on a five-acre parcel of land.
7. The Special Master did not conduct an on-site inspection of the property.
8. Assessed Value of subject property as determined by the DLGF:
Land \$49,800 Improvements \$164,100
9. Assessed Value requested by Petitioners:
Land \$37,800 Improvements \$164,100
10. The following persons were present and sworn in at the hearing:
For Petitioners: Robert Pieters, Taxpayer
Mary Lou Pieters, Taxpayer

For Respondent: David M. Depp, Senior Appraiser, Cole-Layer-Trumble

Issue

11. Summary of Petitioners' contentions in support of alleged error in assessment:
Petitioners' land is valued \$12,000 higher than a neighbor's land. *M. Pieters argument*. Petitioner stated, "Either my value is wrong or the neighbor's is wrong." *M. Pieters testimony*. The property record card (PRC) for Petitioners' parcel shows that Petitioners' five acres of land are valued at \$49,800. *Pet'r Ex. 1*. The PRC for a neighboring parcel (#009-09-11-0265-0001) shows five acres valued at \$37,800. *Pet'r Exhibit 1; M. Pieters testimony*.

12. Summary of Respondent's contentions in support of assessment:
 - a. Petitioners' parcel and parcel #009-09-11-0265-0001 are in different neighborhoods. Note the neighborhood numbers on the PRCs. *Depp testimony*.
 - b. The plat map identifies the subject property and two neighboring parcels. The PRCs of these neighboring parcels (#009-09-11-0247-0001 and #009-09-11-0017-0054) have the same neighborhood code and the same base rate for land as the subject property. *Respondent Exhibit 5; Depp testimony*.
 - c. The comparable properties worksheet with attached PRCs and photographs of three comparable parcels (009-09-11-0276-0005, 009-09-11-0101-0001, and 009-09-11-0101-0012) show that the bottom line value for the Petitioners' parcel is correct. *Respondent Exhibit 4; Depp 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 BTR #149.
 - c. Exhibits:
Petitioners Exhibit 1: PRCs for the subject property (parcel #009-09-11-0017-0059) and for a purported comparable property, parcel #009-09-11-0265-0001.

Respondent Exhibit 1: Form 139L.
Respondent Exhibit 2: PRC for subject property, parcel #009-09-11-0017-0059.
Respondent Exhibit 3: Photograph for parcel #009-09-11-0017-0059.
Respondent Exhibit 4: Comparable properties worksheets with attached PRCs and photographs for parcels #009-09-11-276-0005, #009-09-11-0101-0001, and #009-09-11-0101-0012.
Respondent Exhibit 5: Plat Map with attached PRCs for parcels #009-09-11-0247-0001 and #009-09-11-0017-0054.
 - d. These Findings and Conclusions.

Analysis

14. The most applicable governing law is:
 - 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.
15. The Petitioners did not provide sufficient evidence to support their contention that their land value was overstated. This conclusion was arrived at because:
 - a. Petitioners argue that comparable properties were assessed and taxed differently than their own under the Land Order.
 - b. Petitioners provided the PRC for one residential property owned by the Gorelick family. *Pet'r Ex. 1*. Petitioners point out the fact that the Gorelick property is assessed at \$37,800 for land, less than the \$49,800 land value placed on the subject. *M. Pieters testimony*. Petitioners failed to discuss how the physical features of the properties compare in order to establish that they are comparable. *See Blackbird Farms Apts., LP v. Dep't of Local Gov't Fin.*, 765 N.E.2d 711, 715 (Ind. Tax Ct. 2002).
 - c. Further, Respondent testified that the purported comparable property is in a different neighborhood than the Petitioners' property. *Depp testimony*. This point alone, confirmed by the PRCs of the two properties, explains why the assessed land values are different. The Board cannot find the Gorelick PRC alone sufficient to prove that the assessment is in error.
 - d. Additionally, the Respondent testified and presented evidence that similarly situated properties from the same neighborhood were assessed using the same base rate that was used in the assessment of the Petitioners' land. *Depp testimony; Resp't Ex. 5*.

Conclusion

- 16. The Petitioners failed to make a prima facie case of error. The Board finds in favor of 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.