

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-013-02-1-5-00061
Petitioners: Stanley M & Sara J Hendricks
Respondent: Department of Local Government Finance
Parcel #: 005-30-24-0002-0077
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 October 29, 2003. The Department of Local Government Finance (the "DLGF") determined that the property tax assessment for the subject property is \$103,800 and notified the Petitioners on March 25, 2004.
2. The Petitioners filed a Form 139L on April 26, 2004.
3. The Board issued a notice of hearing to the parties dated October 22, 2004.
4. Special Master Patti Kindler held a hearing in Crown Point on November 29, 2004.

Facts

5. The subject property is located at 11311 West 132nd Avenue, Cedar Lake, Indiana.
6. The subject property is a single-family residential dwelling with integral garage on a lot measuring 92 feet by 185 feet as shown on the subject property record card.
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 \$22,400 Improvements \$81,400 Total \$103,800.
9. Assessed Value requested by Petitioners:
Land \$22,400 Improvements \$71,400 Total \$93,800.

10. Persons present and sworn as witnesses at the hearing:
For Petitioners – Stanley M. Hendricks, taxpayer,
For Respondent – Tommy P. Bennington, Assessor/Auditor.

Issue

11. Summary of Petitioners' contentions in support of an alleged error in the assessment:
- a) The 1999 through 2003 financial statements report the estimated value of the subject property at \$75,000. *Hendricks testimony; Petitioner Exhibit 8.*
 - b) In 1999, the subject property would have sold for approximately \$70,000. *Hendricks testimony; Petitioner Exhibit 6.*
 - c) The photographs show the cracks in the concrete floor and foundation. *Petitioner Exhibit 4(a), 4(b), 4(c), 4(d).* The assessment should be reduced to reflect the costs to repair the structural damage, which would be \$10,000. *Hendricks testimony; Petitioner Exhibit 6.* The current assessment should be reduced \$10,000 to account for the structural damage. The correct assessment should be \$71,400. *Hendricks testimony; Petitioner Exhibit 6.*
12. In support of the assessment Respondent contends that the property should be considered as a whole rather than viewing the land and improvement separately for the purposes of establishing value. Changes in data characteristics, grade, condition, neighborhood factors and so on that are relevant to the subject property do not necessarily warrant a reduction in the assessment of the subject property. *Bennington 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 767,
 - c) Exhibits:
 - Petitioner Exhibit 1: A copy of the Form 139L petition,
 - Petitioner Exhibit 2: A copy of the Form 11,
 - Petitioner Exhibit 3: A copy of the Notice of Final Assessment,
 - Petitioner Exhibit 4(a): A photograph showing a crack in the concrete flooring,
 - Petitioner Exhibit 4(b): A photograph showing a crack in the concrete flooring,
 - Petitioner Exhibit 4©: A photograph showing a crack in the concrete flooring,
 - Petitioner Exhibit 4(d): A photograph showing a crack in the foundation,
 - Petitioner Exhibit 5: The subject property record card,
 - Petitioner Exhibit 6: A summary of the Petitioners' contentions,

Petitioner Exhibit 7: A copy of the notice of hearing,
Petitioner Exhibit 8: Copies of financial statements from 1999 through 2003,
Respondent Exhibit 1: A copy of the Form 139L petition,
Respondent Exhibit 2: The subject property record card,
Respondent Exhibit 3: A photograph showing the front view of the subject property,
Respondent Exhibit 4: A copy of page 36 from the 2002 REAL PROPERTY ASSESSMENT MANUAL – VERSION A,
Board Exhibit A: The Form 139L,
Board Exhibit B: The Notice of Hearing,
Board Exhibit C: The Sign in Sheet,

d) These Findings and Conclusions.

Analysis

14. The most applicable governing cases:
- 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 contentions. This conclusion was arrived at because:
- a) While the photographs presented by the Petitioners show that the concrete floor and foundation have suffered some damage, the Petitioners have not shown how that damage negatively impacts the value of the subject property. The Petitioners merely pointed to the cracks and concluded that the assessment should be reduced \$10,000. The Petitioners’ claim that the \$10,000 reduction is equivalent to the cost to repair the foundation of the subject property. They did not present any additional evidence to support this claim. As such, the Petitioners’ claim is simply a conclusory statement

and does not constitute probative evidence. *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 470 (Ind. Tax Ct. 2005); *Whitley Products v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).

- b) The financial statements presented by the Petitioners' contain information regarding their total net worth based on their assets. The financial statements report the value of the subject property at \$75,000. While the reported value of \$75,000 is identified as the market value of the subject property, the record is void of any explanation how this estimate was determined. The Petitioners' simply point to the estimated value reported on the financial statements and makes the conclusion that the assessed value of the subject property should be \$71,400, or \$10,000 less than the current assessed value. Again, making conclusory statements falls short of the Petitioners' burden because conclusory statements do not constitute probative evidence. *Id.*

- c) The testimony presented by the Petitioners' indicates that the Petitioners' would have sold the subject property for approximately \$70,000 in 1999. While the sale price of a property could be viewed as probative, this evidence is simply another conclusory statement. The Petitioners did not present any other evidence showing that the market value of the subject property in 1999 would have been \$70,000. As such, the Petitioners' claim that the market value would have been approximately \$70,000 carries no probative value. *Id.*

Conclusion

- 16. The Petitioner failed to make a prima facie case. 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.