

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-008-02-1-5-00019
Petitioners: Ernest Jay & Marilyn Summers
Respondent: Department of Local Government Finance
Parcel #: 007-26-34-0159-0006
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 Petitioner and the Respondent on January 22, 2004. The Department of Local Government Finance (DLGF) determined that the Petitioner's property tax assessment for the subject property should be \$45,000 and notified the Petitioner on March 31, 2004.
2. The Petitioner filed a Form 139L on April 8, 2004.
3. The Board issued a notice of hearing to the parties dated June 24, 2004.
4. A hearing was held on August 12, 2004, in Crown Point, Indiana before Special Master Barbara Wiggins.

Facts

5. The subject property is located at: 6326 Jackson Street, Hammond, North Township.
6. The subject property is a single-family home on .103 acres of land.
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 \$13,200 Improvements \$31,800 Total \$45,000
9. Assessed Value requested by Petitioner during the hearing:
Land \$4,500 Improvements \$31,800 Total \$36,300

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

For Petitioner: Ernest Jay Summers, Homeowner.

For Respondent: Sharon Elliott, Staff Appraiser for Cole-Layer-Trumble Company.

Issue

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

- a) The Petitioner testified during the hearing that the home was assessed too high due to air conditioning being included in the calculation. When the air conditioning was removed, the decrease in the assessed value was only \$600, not the \$1,200 value shown on the original card. *Summers testimony.*
- b) The Petitioner testified the land value is too high because vacant lots are selling for \$3,000. *Summers testimony.*

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

- a) The Respondent testified the air conditioning system was removed from the property assessment following the Petitioner's informal hearing. *Elliott testimony; Respondent's Exhibit 2.*
- b) The Respondent testified the total assessed value is fair according to comparable sales information. *Elliott testimony; Respondent's Exhibit 3.*

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. #253.
- c) Exhibits:

The Petitioner presented no exhibits.

Respondent's Exhibit 1: Form 139L Petition.

Respondent's Exhibit 2: Subject property record card and photograph.

Respondent's Exhibit 3: Comparison of comparable properties with detailed property record cards and photographs for each comparable.

- d) These Findings and Conclusions.

Analysis

14. The most applicable governing cases are:
 - a) The Petitioner must sufficiently explain the connection between the evidence and Petitioner's assertions in order for it to be considered material to the facts. *See generally, Heart City Chrysler v. State Bd. of Tax Comm'rs*, 714 N.E.2d 329, 333 (Ind. Tax Ct. 1999).
 - b) The Board will not change the determination of the DLGF unless the Petitioner has established a prima facie case and, by a preponderance of the evidence, proven both the alleged errors in the assessment and specifically what assessment is correct. *See Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998); *North Park Cinemas, Inc. v. State Bd. of Tax Comm'rs*, 689 N.E.2d 765 (Ind. Tax Ct. 1997).
 - c) The Petitioner must submit 'probative evidence' that adequately demonstrates the alleged error. Mere allegations, unsupported by factual evidence, will not be considered sufficient to establish an alleged error. *Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113 (Ind. Tax Ct. 1998), and *Herb v. State Bd. of Tax Comm'rs*, 656 N.E.2d 1230 (Ind. Tax Ct. 1998).

15. The Petitioner did not provide sufficient evidence for a reduction in assessed value. This conclusion was arrived at because:
 - a) The Petitioner stated the property does not have air conditioning and thus should be \$1,200 lower in assessed value.
 - b) The Respondent testified the air conditioning system had been incorrectly assessed and was removed from the assessment following the Petitioner's successful informal appeal. This was demonstrated by a detailed examination and explanation of the property record card.
 - c) The Petitioner testified that vacant land parcels are being sold for \$3,000 in his area and the land assessment on his homestead is too high. No appraisals or sales disclosure forms were presented as evidence. In fact, the Petitioner did not present any documentary evidence regarding this issue. The Petitioner's conclusory statements do not constitute probative evidence. *Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113 (Ind. Tax 1998).
 - d) The Respondent presented three comparable properties in the area with property record cards and photographs of each. The actual sale prices were \$43,000, \$53,000 and \$75,000 between 1998 and 2002. The comparable properties were of similar sizes, types and ages to illustrate the subject property was fairly assessed. The base rate for the land was the same for all three comparable properties, as well as the property under appeal.

Conclusion

16. The Petitioner did not make a prima facie case for any further reduction in assessed value. The air conditioning was correctly removed from the assessment prior to this hearing. The Petitioner did not present any evidence to support his contention regarding the land issue. Although the burden of proof did not shift to the Respondent, the Respondent's evidence further supported the value as assessed.

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.