

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-026-02-1-5-01056
Petitioner: Maria T. Torres, Trustee
Respondent: Department of Local Government Finance
Parcel #: 007-24-30-0287-0008
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 Petitioner filed the Form 139L petition on April 30, 2004.
2. The Board issued a notice of hearing to the parties dated March 3, 2005.
3. Special Master Dalene McMillen held the hearing on April 5, 2005, at 8:15 a.m. in Crown Point, Indiana.

Facts

4. The subject property is located at 3615 Grand Boulevard, East Chicago. The location is North Township.
5. The subject property is a five-unit apartment building.
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: \$23,600 Improvements: \$148,200 Total: \$171,800.
8. The assessed value as requested by the Petitioner:
Land: \$23,600 Improvements: \$46,400 Total: \$70,000.

9. Persons sworn in as witnesses at the hearing:
Joe Krnich, Taxpayer Representative
Steve McKinney, Assessor/Auditor, DLGF

Issue

10. Summary of Petitioner's contentions in support of an alleged error in the assessment:
- a. The Petitioner contends the assessed value is overstated in comparison with properties located in the subject area. The Petitioner requested the subject property be assessed for an overall value of \$68,000. *Krnich testimony.*
 - b. The Petitioner presented multiple listing sheets for properties located in the East Chicago area showing listing prices from \$77,500 to \$109,900. According to the Petitioner, this indicates that the geographic area in which a property is located affects its market value. *Petitioner Exhibit 5; Krnich argument.*
 - c. The Petitioner submitted a limited/summary appraisal establishing the value as of October 23, 2004. The appraisal report shows an estimated value of \$68,000. *Petitioner Exhibit 4.*
 - d. The Petitioner testified that the building was constructed in 1925 and there has been no remodeling. The building should have an 80% depreciation factor. *Krnich testimony.*
11. Summary of Respondent's contentions in support of assessment:
The Respondent testified the subject property is correctly assessed with land at \$23,600 and improvements at \$148,200 for an overall assessed value of \$171,800. *Respondent Exhibit 2; McKinney testimony.*

Record

12. The official record for this matter is made up of the following:
- a. The Petition,
 - b. The tape recording of the hearing labeled Lake Co. 1442,
 - c. Exhibits:
 - Petitioner Exhibit 1 - Power of Attorney from Maria T. Torres to Joe Krnich, dated March 28, 2005,
 - Petitioner Exhibit 2 - Authorization of Representative for Property Tax Appeal from Maria T. Torres to Joe Krnich & Associates, dated March 28, 2005,
 - Petitioner Exhibit 3 - Disclosure statement from Maria Torres to Joe Krnich as required by 52 IAC 1-2-2,
 - Petitioner Exhibit 4 - A limited/summary appraisal prepared by Bochnowski Appraisal Company, dated October 23, 2004,
 - Petitioner Exhibit 5 - Eight (8) multiple listing sheet from the East Chicago area,
 - Petitioner Exhibit 6 - Level I & II Indiana Assessor-Appraiser certificates for Joe Krnich, dated February 8 and March 15, 2005,
 - Respondent Exhibit 1 - A copy of Maria Torres' 2002 property record card,

- Respondent Exhibit 2 - An exterior photograph of the subject property,
Board Exhibit A - Form 139L petition,
Board Exhibit B - Notice of Hearing on Petition,
Board Exhibit C - Hearing sign-in sheet,
- d. These Findings and Conclusions.

Analysis

13. The most applicable governing cases are:
- a. A Petitioner seeking review of a determination of assessing officials 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 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.

Value

14. The Petitioner did not provide sufficient evidence to support the Petitioner’s contentions. This conclusion was arrived at because:
- a. The Petitioner submitted 2004 and 2005 multiple listing prices of properties in the East Chicago area. The Petitioner failed to explain how these properties were comparable to the subject property or how they affected the value of the subject property other than being located in the East Chicago area. Without knowing how the physical features of the properties compare, it is impossible for the Board to determine the relationship between the market values of the properties and the value of the subject. *See Blackbird Farms Apartments, LP v. Dep’t. of Local Gov’t. Fin.*, 765 N.E.2d 711, 715 (Ind. Tax Ct. 2002).
 - b. The valuation date for the 2002 general reassessment is January 1, 1999. 2002 REAL PROPERTY ASSESSMENT MANUAL at 12 (incorporated by reference at 50 IAC 2.3-1-2). Because the 2002 assessment must reflect the value of the property as of that date, any evidence of value presented by the Petitioner must include an explanation of how this evidence demonstrates the subject property’s value as of January 1, 1999. Lacking such explanation, evidence of value applicable to any valuation date other than January 1, 1999, has no probative value. *William & Dorothy Long v. Wayne Twp Assessor*, 821 N.E.2d 466 (Ind. Tax Ct. 2005)

- c. The limited/summary appraisal established the value of the subject property on October 23, 2004. The appraisal of the subject property is more than five (5) years after the relevant assessment date of January 1, 1999. The Petitioner failed to provide an explanation of how that estimate of value is relevant to, or demonstrates the market value of the property as of January 1, 1999. Therefore, the estimate of value presented has no probative value in this matter. *Id.*
- d. Where the Petitioner has not supported the claim with probative evidence, the Respondent's duty to support the assessment with substantial evidence is not triggered. *Lacy Diversified Indus. V. Dep't. of Gov't. Fin.*, 799 N.E.2d 1215, 1221-1222 (Ind. Tax Ct. 2003).

Effective Age/Depreciation

- 15. The Petitioner did provide sufficient evidence to support the Petitioner's contention. The Respondent did not rebut the Petitioner's evidence. This conclusion was arrived at because:
 - a. The Petitioner contends that the effective age of 1960 is incorrect, as no additions have been added and no remodeling has been done. This is mentioned by the appraiser in the Comment Addendum to the Quantitative Analysis Appraisal Report, where it is stated that the apartments are dated and the baths very dated. The subject property should have an 80% depreciation factor. *Petitioner Exhibit 4; Krnich testimony.*
 - b. The Respondent testified that he wasn't certain why there was a different date because that generally happens when an addition is built or remodeling takes place. *McKinney testimony.*
 - c. Structures which have had additions built subsequent to the construction of the principal or original structure must have a "weighted" age calculated. REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 – VERSION A, APP. F at 5 (incorporated by reference at 50 IAC 2.3-1-2).
 - d. The evidence submitted by the Petitioner and the sketch on the property record card give no indication of any additions to the structure; therefore, the actual age of the property, 74 years, should be used to calculate the depreciation.
 - e. The GUIDELINES give instructions for determining a normal depreciation percentage.
 - Step 1 Determine the actual age (weighted age) of the structure using the procedure discussed in the section **Determining the Actual Age of a Structure** earlier in this appendix.
 - Step 2 Assign a structure condition classification to the structure by comparing it to structures of similar age. Structure condition classifications are summarized in **Table F-1. Structure Condition Classifications** later in this appendix.
 - Step 3 Determine the effective age of the structure by correlating the actual age (weighted age) with the structure condition classification in **Table F-2. Actual Age to Effective Age Conversion Table** located later in this appendix.
 - Step 4 Determine the typical life expectancy in years of the structure by referring

to **Table F-3. Typical Structure Lives** located later in this appendix.

Step 5 Go to **Table F-4. Depreciation – Commercial/Industrial Structures** located later in this appendix and find the total life expectancy in year's column that you determined for the structure in Step 4 above.

Step 6 In the effective age column of the table, locate the row corresponding to the structure's effective age as determined in Step 3 above.

Step 7 Find the intersection of the selected row (effective age) and the selected column (typical life expectancy). This number is the percentage of normal depreciation from all causes suffered by the structure.

GUIDELINES, App. F at 7.

- f. The actual age of the building is 74 years. A building 74 years old in average condition has an effective age of 74 years. The economic life of a C grade apartment building is 50 years. The percentage of normal depreciation for this building is 80%.

Conclusions

16. The Petitioner failed to make a prima facie case regarding the total value of the subject property, but prevailed on the issue of effective age/depreciation.

Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should be changed to reflect an 80% depreciation factor.

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. 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/inde.html. The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code>.