

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-016-02-1-4-00255
Petitioners: Muhammad & Andleeb Javed
Respondent: Department of Local Government Finance
Parcel #: 006355002310020
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 Lake County, Indiana. The Department of Local Government Finance ("DLGF") determined that the Petitioners' property tax assessment for the subject property was \$77,100 and notified the Petitioners on March 26, 2004.
2. The Petitioners filed a Form 139L petition on April 14, 2004.
3. The Board issued a notice of hearing to the parties dated March 14, 2005.
4. A hearing was held on April 14, 2005, in Crown Point, Indiana before Special Master Beth Hammer.

Facts

5. The subject property is a commercial property with a garage located at 3400 Liverpool Road, Lake Station, Hobart Township.
6. The Special Master did not conduct an on-site visit of the property.
7. Assessed Value of subject property as determined by the DLGF:
Land \$34,400 Improvements \$42,700 Total \$77,100
8. Assessed Value requested by Petitioners on the Form 139L petition:
Land \$15,000 Improvements \$35,000 Total \$50,000
9. The persons indicated on the sign-in sheet (Board Exhibit C) were present at the hearing.

10. Persons sworn in at hearing:

For Petitioners: Muhammad Javed, Owner

For Respondent: Stephen Yohler, DLGF

Issues

11. Summary of Petitioners' contentions in support of an alleged error in the assessment:

- a) The assessment of the subject property is incorrect and the taxes are too high. *Javed testimony.*
- b) The Petitioners bought the subject property for \$25,000 in 1987. The Petitioners' tenant operates the subject property as a used car lot. The property contains a paved lot and a garage. The subject property is not located on a main road. The Petitioners rent the subject property out for \$500 per month. The current tenant has not paid rent for six months. *Javed testimony.*
- c) Taxes on the subject property went from \$600 per year to \$4,200 following the 2002 reassessment. That increase does not make any sense. *Javed testimony.*
- d) Mr. Javed, who is a realtor, estimates the value of the subject property to be \$42,000. Mr. Javed arrived at that conclusion by multiplying the subject property's annual rental income of \$6,000 by a "gross income factor" of 7. *Javed testimony.*

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

- a) The Respondent presented the property record card for the subject property. The garage has a quality grade of "D-1." Because the garage was built in 1991, it does not get much depreciation. *Yohler testimony; Resp't Ex. 1.*
- b) The Respondent explained Respondent Exhibit 4, showing how it computed the land value for the subject property. *Yohler testimony; Resp't Ex. 4.*
- c) The Respondent found an error in the square footage of the subject land. The subject land is actually 11,545 square feet, not 11,900 as shown on the property record card. The Respondent presented a corrected property record card showing the correct square footage and a change in value from \$34,390 to \$33,540. *Yohler testimony; Resp't Exs. 1, 4.*

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 #1541.

c) Exhibits:

The Petitioners presented no exhibits

Respondent Exhibit 1: Subject Property Record Card (PRC)

Respondent Exhibit 2: Subject Photograph

Respondent Exhibit 3: Plat Map Page

Respondent Exhibit 4: Land Calculations/NBHD Land Summary Sheet

Respondent Exhibit 5: Corrected PRC

Board Exhibit A: Form 139L petition

Board Exhibit B: Notice of Hearing

Board Exhibit C: Sign in Sheet

d) These Findings and Conclusions.

Analysis

14. The most applicable laws 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 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) The Petitioners contend the assessment of the subject property is incorrect and the taxes are too high.

- b) The only evidence presented by the Petitioners was the testimony of Mr. Javed that the assessment was incorrect. Mr. Javed, however, did not point out any errors in the assessment or offer any evidence regarding the market value-in-use of the subject property. While Mr. Javed testified that he calculated a market value for the subject property of \$42,000 using a “gross income factor” of 7, he did not explain the basis underlying his choice of a “gross income factor.” Thus, Mr. Javed’s opinion of value is conclusory. Conclusory statements, unsupported by factual evidence, are not sufficient to establish an error in assessment. *Whitley Products, Inc. v. State Bd. of Tax Comm’rs*, 704 N.E.2d 1113, 1120 (Ind. Tax Ct. 1998).
- c) The Petitioners also argue that their taxes increased significantly because of the 2002 general reassessment. Each assessment and each tax year, however, stand alone. *Fleet Supply, Inc. v. State Bd. of Tax Comm’rs*, 747 N.E.2d 645, 650 (Ind. Tax Ct. 2001) (citing *Glass Wholesalers, Inc. v. State Bd. of Tax Comm’rs*, 568 N.E.2d 1116, 1124 (Ind. Tax Ct. 1991)). Thus, evidence as to a property’s assessment in one tax year is not probative of its true tax value in a different tax year. *See, Id.*
- d) Based on the foregoing, the Petitioners failed to establish a prima facie case of error.

Conclusion

- 16. The Petitioners failed to make a prima facie case of error. The Board finds for the Respondent.
- 17. Nonetheless, the Respondent admitted to an error regarding the measured area of the subject land. The Respondent recommended corrected measurements and provided a corrected property record card. The Board finds that the assessment should be changed to reflect that the subject parcel contains 11,545 square feet of land, and that the assessed land value should be reduced to \$33,540.

Final Determination

In accordance with the above findings and conclusions, the Indiana Board of Tax Review now determines that the land portion of the assessment should be changed as set forth in paragraph 17.

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