

**Final Determination
Findings and Conclusions
Lake County**

Petition: 45-026-02-1-5-01065
Petitioner: George Alanis
Respondent: Department of Local Government Finance
Parcel: 007-24-30-0326-0008
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 informal hearing as described in Ind. Code § 6-1.1-4-33 was held. The Department of Local Government Finance (the DLGF) determined that the tax assessment for the subject property is \$93,200 and notified the Petitioner on March 31, 2004.
2. The Petitioner filed a Form 139L on April 30, 2004.
3. The Board issued a notice of hearing to the parties dated November 4, 2004.
4. Special Master Ellen Yuhan held the hearing in Crown Point on December 7, 2004.

Facts

5. The subject property is located at 3713 Hemlock in East Chicago.
6. The subject property is a residential dwelling with two extra living units. It is located on a lot measuring 35 feet by 123 feet.
7. The Special Master did not conduct an on-site visit of the property.
8. The assessed value of the property as determined by the DLGF is:
Land \$12,900 Improvements \$80,300 Total \$93,200.
9. Petitioner did not request a specific assessed value.
10. Persons sworn as witnesses at the hearing:
George Alanis, owner,
Sharon Elliott, assessor/auditor.

Issues

11. Summary of Petitioner's contentions in support of alleged error in assessment:
 - a. The building needs repairs. Petitioner's insurance company cancelled his policy because he was unable to complete the repairs required. *Alanis testimony; Petitioner Exhibit 1.*
 - b. The property at 3708 Hemlock is larger, but is assessed for less. *Alanis testimony; Petitioner Exhibits 3, 4.*
 - c. Petitioner purchased the property for \$45,000 in 1998 or 1999. *Alanis testimony.*

12. Summary of Respondent's contentions in support of assessment:
 - a. There are significant differences between the subject property and Petitioner's comparable. *Elliott testimony; Respondent Exhibits 2, 5.*
 - b. The subject assessment is below the average price per square foot. *Respondent Exhibit 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 Lake Co. 951,
 - c. Petitioner Exhibit 1: Letter from insurance company,
Petitioner Exhibit 2: Business card with estimate for windows,
Petitioner Exhibit 3: Subject property record card (PRC),
Petitioner Exhibit 4: PRC for 3708 Hemlock,
Respondent Exhibit 1: Form 139L,
Respondent Exhibit 2: Subject PRC,
Respondent Exhibit 3: Photograph of subject,
Respondent Exhibit 4: Comparable sheet,
Respondent Exhibit 5: PRCs and photographs of comparables,
Board Exhibit A: Form 139L,
Board Exhibit B: Notice of Hearing,
Board Exhibit C: Sign in Sheet,
 - d. These Findings and Conclusions.

Analysis

14. The most applicable governing cases and regulations 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. Wash. 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. Petitioner did not provide sufficient evidence to support his contention for a reduction in the assessed value. This conclusion was arrived at because:
 - a. Petitioner testified that the building needs repairs and that his insurance company cancelled his policy because he was unable to complete the repairs they required. The company referenced rotting wood on the rear of the dwelling, need for tuck pointing bricks on the front, front door repairs and a cracked window. Other than a dollar amount for windows written on the back of a business card, there was nothing submitted to establish how these items might alter the value of the building. Therefore, this evidence is not probative regarding value.
 - b. Petitioner testified that the property at 3708 Hemlock is larger and is assessed for less than the subject. Petitioner is correct, but the property at 3708 Hemlock has 55% obsolescence applied and there is no explanation shown on the PRC. Petitioner failed to establish a basis for comparison between these properties. *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005).
 - c. Petitioner testified that he purchased the property for \$45,000 in 1998 or 1999, but he did not submit any corroborating documentation. Without more

specific evidence, such conclusory testimony is not probative evidence that the current assessment should be changed. *Lacy Diversified Indus. v. Dep't of Local Gov't Fin.*, 799 N.E.2d 1215, 1221 (Ind. Tax Ct. 2003); *Whitley Products v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).

- 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*, 799 N.E.2d at 1222.

Conclusion

Petitioner did not establish a prima facie case. Board finds in favor of the Respondent.

Final Determination

The Indiana Board of Tax Review determines that the assessment should not be changed.

ISSUED: _____

Commissioner,
Indiana Board of Tax Review

- 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>.