

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition: 45-028-02-1-4-00338
Petitioners: Mirko and Zora Gros
Respondent: Department of Local Government Finance
Parcel: 008-43-53-0005-0010
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 November 19, 2003. The Department of Local Government Finance (the DLGF) determined that the tax assessment for the subject property is \$388,500 and notified Petitioners on March 31, 2004.
2. Petitioners filed a Form 139L on April 29, 2004.
3. The Board issued a notice of hearing to the parties dated July 25, 2005.
4. Special Master Peter Salveson held the hearing in Crown Point on September 8, 2005.

Facts

5. The subject property is located at 5112 E. U.S. Highway 30 in Merrillville.
6. The subject property is an improved industrial lot consisting of 3.189 acres of land.
7. The Special Master did not conduct an on-site inspection of the property.
8. The assessed value of the subject property as determined by the DLGF is:
land \$311,600 improvements \$76,900 total \$388,500.
9. The assessed value requested by Petitioners on the Form 139L is:
land \$130,000 improvements \$75,000 total \$205,000.
10. Mirko Gros, owner, and James Hemming, assessor/auditor, were sworn as witnesses at the hearing.

Issues

11. Summary of Petitioners' contentions in support of an alleged error in the assessment:
 - a) This property is assessed higher than similar properties in the area. Petitioners' property should be assessed in the same manner as these comparable properties, which are valued as residential lots. *Gros testimony; Petitioners Exhibits 2-4.*
 - b) An area of 2.189 acres is currently classified as undeveloped usable. Petitioners' property has a drainage ditch along the west boundary of the property. As a result, approximately 75% of this 2.189 acres is not usable. Petitioners presented a site elevation map showing the area that cannot be developed. *Gros testimony; Petitioners Exhibit 5.*
12. Respondent recommended the current classification of 2.189 acres be changed from undeveloped usable to undeveloped unusable. Furthermore, 16,800 square feet of the 2.189 acres should also receive a 95% negative influence factor to account for the drainage area. The assessment of the one acre currently classified as primary land should be left unchanged. *Hemming testimony.*
13. Petitioners agreed with Respondent's recommendation. *Gros testimony.*

Record

14. 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. 1656,
 - c) Petitioners Exhibit 1 - Form 139L Petition,
Petitioners Exhibit 2 - Comparable assessment west of the subject,
Petitioners Exhibit 3 - Comparable assessment east of the subject,
Petitioners Exhibit 4 - Comparable assessment east of the subject,
Petitioners Exhibit 5 - Drainage map,
Respondent Exhibit 1 - Subject property record card,
Respondent Exhibit 2 - Subject photograph,
Respondent Exhibit 3 - Incremental/decremental land summary,
Respondent Exhibit 4 - Plat map,
Respondent Exhibit 5 - Petitioners' comparable property record card,
Board Exhibit A - Form 139L Petition,
Board Exhibit B - Notice of Hearing,
Board Exhibit C - Sign-in sheet,
 - d) These Findings and Conclusions.

Analysis

15. The parties agreed that 2.189 acres should be classified as undeveloped unusable instead of undeveloped usable. In addition, 16,800 square feet of that acreage should have a 95% negative influence factor based on the drainage area. The assessment of the one acre currently classified as primary land should be left unchanged.

Conclusion

16. The assessment should be changed to conform to the parties' agreement.

Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should 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. 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>.