

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-016-02-1-5-00175
Petitioner: Barrington Courtyards Homeowners
Respondent: Department of Local Government Finance
Parcel #: 006-27-17-0291-0105
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 December 12, 2003. The Department of Local Government Finance (the DLGF) determined that the Petitioner's property tax assessment for the subject property was \$3,900. The Notice of Final Assessment was sent to the Petitioner on March 26, 2004.
2. The Petitioner filed the Form 139L petition on May 12, 2004.¹
3. The Board issued a notice of hearing to the parties dated March 3, 2005.
4. Special Master Dalene McMillen held a hearing on April 5, 2005, at 9:40 a.m. in Crown Point, Indiana.

Facts

5. The subject property is a vacant lot identified as Outlot F, Barrington Ridge, Unit 2. The location is Hobart Township.
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: \$3900 Improvements: -0- Total: \$3,900
8. The assessed value of the subject property as requested by the Petitioner:
Note: The Petitioner did not request an assessed value on the Form 139L petition.

¹ The petition is determined to be timely, as the original notice was delivered to an incorrect address.

9. Persons sworn as witnesses at the hearing:
C. Eugene Marker, President of Barrington Courtyards
Virginia Madison, Secretary of Barrington Courtyards
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 subject lot is 20 feet by 110 feet, and is being over-assessed when compared to other outlots located in the neighborhood. *Petitioner Exhibits 3 & 4; Marker testimony.*
 - b. The value of the land should be \$200. *Marker testimony.*
11. Summary of Respondent's testimony:
 - a. The Respondent testified the lot is incorrectly listed on the DLGF property record card at 1.3 acres. Upon further review of the plat map of the subject area, the subject lot is 20 feet by 110 feet. *McKinney testimony.*
 - b. The subject lot should be valued on an acreage basis, therefore the lot would be valued as follows; 20 feet times 110 feet equals 2,200 square feet. The 2,200 square feet is divided by 43,560 square feet (1-acre), which equal .05 acre. The .05-acre would then be multiplied by the residential excess acreage rate determined by the Residential Neighborhood Valuation Form of \$3,000; this equals \$150 rounded to a land value of \$200. *Respondent Exhibit 3; 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. 1440.
 - c. Exhibits:
 - Petitioner Exhibit 1 - Notice of Final Assessment,
 - Petitioner Exhibit 2 - Subject property record card,
 - Petitioner Exhibit 3 - A copy of Nipsco's plat map of the subject area,
 - Petitioner Exhibit 4 - Plat of the Barrington Courtyards Subdivision, dated October 4, 1993,
 - Petitioner Exhibit 5 - Summary of Petitioner's argument,
 - Respondent Exhibit 1 - Form 139L petition,
 - Respondent Exhibit 2 - Subject's 2002 property record card,
 - Respondent Exhibit 3 - Residential Neighborhood Valuation Form for neighborhood number 04210,
 - Respondent Exhibit 4 - Barrington Courtyards Homeowner's property record card for parcel #006-27-17-0291-0103,
 - Respondent Exhibit 5 - Barrington Courtyards Homeowner's property record card for parcel #006-27-17-0291-0104,
 - 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 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 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.

14. The Petitioner provided sufficient evidence to establish a prima facie case. The Respondent agreed with the Petitioner. This conclusion was arrived at because:
 - a. The Petitioner provided a plat map showing that the subject vacant lot was 20 feet by 110 feet, not 1.3 acres. The Respondent agreed the lot was assessed incorrectly. *Petitioner Exhibits 3 & 4; Marker testimony; McKinney testimony.*
 - b. The parties agreed that the residential excess acreage base rate applied to the subject area was \$3,000 per acre. *Respondent Exhibit 3; Marker testimony; McKinney testimony.*
 - c. The parties agreed that a 20-foot by 110-foot lot equals .05 acre. Therefore the subject lot should be valued at \$200 (.05 acre times \$3000 per acre).
 - d. The Board accepts the agreement of the parties that the subject vacant lot be assessed at \$200.

Conclusion

15. The Petitioner and the Respondent agreed the vacant lot is .05 acres in size and therefore should be assessed at \$200. The Board will accept this testimony and agreement. The Board finds in favor of the Petitioner.

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