

INDIANA BOARD OF TAX REVIEW
Small Claims
Final Determination
Findings and Conclusions

Petition #: 49-400-02-1-5-03062
Petitioner: Boardwalk Homeowners Assoc.
Respondent: Lawrence Township Assessor (Marion County)
Parcel #: 4001791
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 initiated an assessment appeal with the Marion County Property Tax Assessment Board of Appeals (PTABOA) by filing a Form 130 dated July 2, 2002.
2. The Petitioner received notice of the decision of the PTABOA on March 26, 2004.
3. The Petitioner filed an appeal to the Board by filing a Form 131 with the county assessor on April 23, 2004. The Petitioner elected to have this case heard in small claims.
4. The Board issued a notice of hearing to the parties dated October 19, 2004.
5. The Board held an administrative hearing on November 30, 2004, before the duly appointed Administrative Law Judge Paul Stultz.
6. Persons present and sworn in at hearing:
 - a. For Petitioner: John Johantges, Property Tax Group 1
 - b. For Respondent: Beth Brown, Lawrence Township Deputy Assessor

Facts

7. The property is classified as undeveloped common area, as is shown on the property record card for parcel #4001791.
8. The Administrative Law Judge did not conduct an inspection of the property.

9. The total Assessed Value of the subject property as determined by the Marion County PTABOA is \$16,500 (land only).
10. The total Assessed Value requested by the Petitioner was not indicated on the Form 131 petition.

Issue

11. Summary of Petitioner's contentions in support of alleged error in assessment:
 - a. The property under appeal is common ground in a planned unit development (PUD) that straddles the township line between Lawrence and Washington Townships. *Johantges testimony*.
 - b. The common ground under appeal is valued at \$2.00 per square foot. The common ground in the neighboring Washington Township section of the PUD is valued at \$1.94 per square foot. *Id.*
 - c. The Petitioner contended the Petitioner's common ground in the Lawrence Township section of the PUD should be assessed at the same rate as the common ground in the Washington Township section of the PUD. *Id.*
 - d. The Petitioner submitted the relevant Washington Township Residential Neighborhood Valuation Form and the property record cards of eight properties located in the Washington Township section of the PUD to establish that the common ground there is valued at \$1.94 per square foot. *Respondent Exhibits 1 & 2.*
12. Summary of Respondent's contentions in support of the assessment:
 - a. The Respondent contended the subject property is assessed correctly. *Brown testimony*.
 - b. The Respondent asserted that both Lawrence and Washington Townships used the same procedure to assess the subject common area. During the reassessment, appraisers used sales data to determine the land value ratio, the percentage of the total sale price that is attributable to the land. This figure was used in the determination of the land base rate. *Id.*¹
 - c. However, the base rates in the Washington and Lawrence Township sections of the PUD are different as a result of differences in the lot sizes. The lots in the Washington Township section of the PUD are larger than the lots in the Lawrence Township section. *Brown testimony; Respondent Exhibit 3.*

¹ The determination of the land value ratio is a required step in the determination of land base rates. REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 – VERSION A, ch. 2 at 8 (incorporated by reference at 50 IAC 2.3-1-2).

- d. In Marion County, the common ground is valued at a uniform 20% of the base rate. However, because the land base rates vary due to lot size, the common ground in the Lawrence Township section of the PUD is valued higher than the common ground in the Washington Township section. *Brown testimony*.
- e. The Lawrence Township Assessor had more sales data than Washington Township officials because approximately two-thirds of the PUD is located in Lawrence Township. The Lawrence Township land value is more credible because it was based on more sales data. *Id.*

Record

13. The official record for this matter is made up of the following:
- a. The Petition and all subsequent pre-hearing and post-hearing submissions by either party.
 - b. The tape recording of the hearing labeled BTR #5626.
 - c. Exhibits:
 - Petitioner Exhibit 1: Copy of the Residential Neighborhood Valuation Form for the subject neighborhood located in Washington Township.
 - Petitioner Exhibit 2: Copies of eight property record cards of properties located in Washington Township.

 - Respondent Exhibit 1: Copy of a data sheet showing the square foot price for lots and the square foot price for the common area.
 - Respondent Exhibit 2: Copy of the subject property record card.
 - Respondent Exhibit 3: Aerial photograph of the subject property.
 - d. These Findings and Conclusions.

Analysis

14. 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 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 Petitioner did not provide sufficient evidence to support the Petitioner’s contentions. This conclusion was arrived at because:
- a. The Petitioner contends that common ground in the Lawrence Township section of the PUD should be assessed at the same rate as the common ground in the Washington Township section of the PUD. *Johantges testimony*. The base rate for the common ground is \$2.00 per square foot in Lawrence Township and \$1.94 per square foot in Washington Township. *Petitioner Exhibit 1; Respondent Exhibit 2*.
 - b. In support of its position, Petitioner submitted property record cards for eight properties in the PUD that fall in Washington Township. *Pet’r Ex. 2*. Petitioner argues that these eight properties are comparable to the subject parcel and justify a change in the base rate of the subject to achieve “uniformity.” *Johantges testimony*.
 - c. Petitioner’s property is in Lawrence Township and was assessed under a properly developed land valuation procedure performed by the Township. *Brown testimony*. Neither party disputed the development of the base rate as performed by Lawrence Township.
 - d. Petitioner’s evidence does not demonstrate that the properties in Washington Township are comparable to the subject. The PRCs show that the comparables vary greatly in size (ranging from 1.748 acres to .144 acres). *Pet’r Ex. 2*. Different base rates can occur under the guidelines when lot sizes vary from neighborhood to neighborhood (or township to township), establishing different land to value ratios, which in turn causes the base rate for lots and common area to be different. *Brown testimony; Resp’t Ex. 1, 2, 3*. Thus the fact that the comparables are in the same development does not entitle them to the same base rate when the development crosses township boundaries. *Brown testimony*.
 - e. Further, Petitioner did not explain how these properties were physically comparable to the property in Lawrence Township. The Petitioner presented no discussion of lot sizes or shapes, no comparison of topography or geographical features, and no comparison of lot accessibility and uses. Rather, the Petitioner merely asserted that the common ground in Lawrence Township was comparable

to the common ground in Washington Township. Conclusory statements concerning the comparability of properties do not constitute probative evidence. *Blackbird Farms Apts., LP v. Dep't of Local Gov't Fin.*, 765 N.E.2d 711, 715 (Ind. Tax 2002).

- f. The only evidence in the record that suggests such a comparison is possible is the aerial photo offered by Respondent. *Resp't Ex. 3*. This photograph clearly shows the lot and common area dimensions of the properties in Lawrence Township, but does not give sufficient detail to compare the properties in Washington Township. *Resp't Ex. 3*. It is also not possible to identify on the photo that sections of land relate to the comparable properties. *Compare Pet'r Ex. 2 and Resp't Ex. 3*.
- g. Petitioner's evidence failed to demonstrate an error in the application of base rate to the subject property. Petitioner did not prove that the \$ 2.00 per square foot base rate was incorrectly applied or not indicative of market value-in-use. Petitioner did not establish that Washington Township's base rate should be applied.

Conclusion

- 16. The Petitioner failed to make a prima facie case. The Board finds in favor of the Respondent.

Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should not 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.