

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-016-02-1-5-00018
Petitioner: Curtis L. Watters
Respondent: Department of Local Government Finance
Parcel #: 006-27-18-0229-0005
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 Petitioner's property tax assessment for the subject property was \$19,900 and notified the Petitioner on March 26, 2004.
2. The Petitioner filed a Form 139L on April 1, 2004.
3. The Board issued a notice of hearing to the parties dated June 24, 2004.
4. A hearing was held on August 31, 2004, in Crown Point, Indiana, before Special Master S. Sue Mayes.

Facts

5. The subject property is located at 847 Garfield Street, Hobart, in Hobart Township.
6. The subject property is a vacant 50 by 127 foot parcel of land.
7. The Special Master did not conduct an on-site inspection of the property.
8. Assessed Value of the subject property as determined by the DLGF:
Land \$19,900 Improvements \$ -0- Total \$19,900.
9. At the time of the 2002 reassessment, the Petitioner owned two adjoining parcels of land: 006-27-18-0229-0004 (Lot 4) and 006-27-18-0229-0005 (Lot 5). The Petitioner requested a combined total assessed value of \$115,000 for both parcels. The Petitioner filed a separate appeal for parcel 006-27-18-0229-0004.

10. Persons sworn as witnesses at the hearing:
For Petitioner: Curtis L. Watters, Homeowner,
For Respondent: Sharon S. Elliott, Staff Appraiser, Cole-Layer-Trumble.

Issues

11. Summary of Petitioner's contentions in support of an alleged error in the assessment:
- a. The Petitioner alleged two errors in the assessment: (1) there has been a double assessment of lot 5, and (2) the subject land is assessed too high compared to the neighboring parcel located at 844 Linda. *Petitioner Exhibit 2; Watters testimony.*
 - b. Only one lot should be reassessed. At the informal hearing, the Petitioner was advised to combine his two lots. He subsequently talked with his assessor and the lots were combined. The Petitioner asserted that when Lot 4 and Lot 5 were combined into one Lot 4 the county official forgot to remove Lot 5 from the assessment. *Petitioner Exhibit 2; Watters testimony.*
 - c. The Petitioner compared the net assessed value of the property on Linda to his own, as shown on the printouts of the Real Property Maintenance screens (2005 pay 2006 for the subject, 2003 pay 2004 for the property on Linda). *Petitioner Exhibit 2; Watters testimony.*
 - d. Printouts of the Real Property Maintenance screens were provided for purported comparable parcels at 901 Garfield (showing the 2005 assessed values) and 908 Garfield (showing the 2003 assessed values). *Petitioner Exhibit 4.*
12. Summary of Respondent's contentions in support of the assessment:
- a. For the assessment year of 2002, the Petitioner was not assessed twice for Lot 5. The Petitioner was assessed for two separate fifty-foot lots. *Respondent Exhibit 2; Elliott testimony.*
 - b. The parcel on Linda is adjacent to the Petitioner's backyard, but it is in another neighborhood. The two parcels are not the same size. The parcel on Linda has 100 feet of frontage and received a negative influence factor of eight percent due to excess frontage. *Respondent Exhibits 2, 5, 6; Elliott testimony.*
 - c. The parcel at 908 Garfield is in the same neighborhood as the subject property. The Garfield land base rate is the same as that of the subject property. The difference in the total land values is due to the lots at 908 Garfield being smaller. The subject lot has a 50-foot frontage and the 908 Garfield parcels have 40-foot frontages. Because it is vacant, one of the lots at 908 Garfield received a negative influence factor of twenty percent. *Respondent Exhibits 2, 7, 8; Elliott testimony.*
 - d. The comparable sales printout shows that the subject's value is in the same range as comparable properties in the neighborhood. *Respondent Exhibit 4; Elliott testimony.*

Record

13. The official record for this matter is made up of the following:
- a. The Petition and all subsequent submissions by either party,
 - b. The tape recording of the hearing labeled Lake Co. – 181,

- c. Exhibits:
 - Petitioner Exhibit 1: Form 139L
 - Petitioner Exhibit 2: Comparison of the subject and the parcel at 844 Linda
 - Petitioner Exhibit 3: Spivey Addition Plat Map
 - Petitioner Exhibit 4: Assessment 901 and 908 Garfield
 - Petitioner Exhibit 5: Assessment printouts for 847 Garfield
 - Respondent Exhibit 1: Form 139L
 - Respondent Exhibit 2: Property record card (PRC) for the subject property
 - Respondent Exhibit 3: Aerial map
 - 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 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.

Double Assessment of the Parcel

- 15. The Petitioner did not prove that the land value is erroneous. This conclusion was arrived at because:
 - a. Undisputed testimony indicated that, at the time of the reassessment, the Petitioner’s land was divided into two separate fifty-foot wide parcels. *Watters testimony; Elliott testimony*.
 - b. Subsequent to the informal hearing for this appeal, the Petitioner contacted the local officials and combined the two parcels. The Petitioner asserted he should not be assessed for two parcels, but only for one. *Watters testimony*.
 - c. This subsequent action, however, does not change the fact that the Petitioner owned two separate fifty-foot parcels on the assessment date.
 - d. There is no change in the assessment as a result of this issue.

Value of the Land

16. The Petitioner did not prove that the land value is erroneous. This conclusion was arrived at because:
- a. The Petitioner compared the net assessed values of the subject property and the neighbor's property at 844 Linda Street. The Petitioner failed, however, to establish these properties are comparable. Mere allegations that properties are comparable do not constitute probative evidence. See *Long v. Wayne Twp. Assessor*, No. 49T10-0404-TA-20, slip op. at 7 (Ind. Tax Ct. January 28, 2005); *Blackbird Farms Apt., LP v. Dep't of Local Gov't Fin.*, 765 N.E.2d 711, 714-715 (Ind. Tax Ct. 2002); *Whitley Prods., Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998). The parcel at 844 Linda is located in another neighborhood and has a land base rate different from that of the subject property. Further, the parcel on Linda has 100 feet of frontage and has received a negative influence factor of eight percent due to excess frontage. Additionally, the house on Linda has less living area, fewer exterior features and no attached garage. *Respondent Exhibits 5, 6; Elliott testimony*. Without some explanation or additional evidence, such differences deprive this comparable of any probative value regarding the subject property. *Id.*
 - b. The Petitioner also compared the subject property to property located at 908 Garfield. But again, the Petitioner failed to establish these properties are comparable. The subject property and the property at 908 Garfield are both in the same neighborhood and the land base rate is the same for both properties. Consequently, some degree of comparability would be presumed based on proximity. See *Blackbird*, 765 N.E.2d at 711. The evidence in this case, however, indicates significant differences between these parcels and the subject property even though they are located not far apart. The difference in the total land values is due to the fact the lots at 908 Garfield are smaller. The subject lot has a 50-foot frontage, but the 908 Garfield parcels have 40-foot frontages. Due to being vacant, one of the lots at 908 Garfield received a negative influence factor of ten percent. Additionally, the house at 908 Garfield does not have an attached garage and the Petitioner's house is newer. *Respondent Exhibits 7, 8; Elliott testimony*. Therefore, the value of the property at 908 Garfield does not help to establish the market value of the subject property. *Long*, slip op. 7-8.
 - c. The Petitioner also presented printouts showing the net assessed value of property located at 901 Garfield. *Petitioner's Exhibit 4*. These printouts refer to the assessed values for 2005. The Petitioner failed to explain the relevance of this data to the 2002 assessment. Accordingly, these documents also have no probative value. *Indianapolis Racquet Club*, 802 N.E.2d at 1022.

Conclusions

17. The Petitioner failed to successfully carry the burden of proof on either the double assessment issue or the land value issue. The Board finds in favor of the Respondent on both points.

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.