

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions

Petition #: 21-010-02-1-5-00239
Petitioner: Dale Jones
Respondent: Connersville Township Assessor
Parcel 010183500
Assessment Year: 2002

The Indiana Board of Tax Review (IBTR) issues this determination in the above matter, and finds and concludes as follows:

Procedural History

1. The Petitioner initiated an assessment appeal with the Fayette County Property Tax Assessment Board of Appeals (PTABOA) by written document dated October 31, 2003.
2. The Petitioner received notice of the decision of the PTABOA on April 19, 2004.
3. The Petitioner filed an appeal to the Indiana Board of Tax Review (IBTR) by filing a Form 131 with the county assessor on May 13, 2004.
4. The IBTR issued a hearing notice to the parties dated July 16, 2004.
5. The IBTR held an administrative hearing on August 31, 2004, before the duly appointed Administrative Law Judge Jennifer Bippus.
6. Persons present and sworn in at hearing:
 - A. For Petitioner: Sondra Sayers, Taxpayer Representative
 - B. For Respondent: Donna Chandler, Connersville Township Assessor
Virginia R. Whipple, Township Representative

Facts

7. The property is classified as residential vacant lot as shown on the property record card.

8. The Administrative Law Judge (ALJ) did not conduct an inspection of the property.
9. Assessed Value of subject property as determined by the Fayette County PTABOA:
Land \$2,300 Improvements \$0
10. Assessed Value requested by Petitioner:
Land \$0 Improvements: \$0

Contentions

11. Summary of Petitioner's contentions in support of alleged error in assessment:
 - a) There is no access to this land. There is no alley or any other road leading into this land. It is landlocked. *Sayers Testimony.*
 - b) The city has blocked off the street access to this land and none of the neighbors are willing or able to buy this parcel. *Sayers Testimony.*
 - c) The land is worth nothing at this point.
12. Summary of Respondent's contentions in support of assessment:
 - a) The Petitioner did not show up for the PTABOA hearing, but the PTABOA changed the land to a rear lot, lowering the value from \$9,700 to \$2,300. The land value page and sales used to ascertain the rear lot value are submitted as evidence. *Whipple Testimony. Respondent Ex.1.*
 - b) The land has some value and the Petitioner has not proven the value of \$0. *Whipple Testimony.*

Record

13. The official record for this matter is made up of the following:
 - a) The Petition, and all subsequent pre-hearing, or post-hearing submissions by either party.
 - b) The tape recording of the hearing labeled BTR # 5877 and included in hearing jacket #21-010-02-1-5-00238.
 - c) Exhibits:

Petitioner Exhibit 1: Authorization for Sondra Sayers to represent
Petitioner

Respondent Exhibit 1:	Land and sales value chart
Respondent Exhibit 2:	Authorization for Appraisal Research Corporation to represent the Respondent
Board Exhibit A:	Form 131 petition
Board Exhibit B:	Notice of Hearing on Petition

d) These Findings and Conclusions.

Analysis

14. The most applicable governing statutes/rules/case law are:

- a) A petitioner seeking review of a determination of a county property tax assessment board of appeals has the burden to establish a *prima facie* case proving, by a preponderance of the evidence, that the current assessment is incorrect, and specifically what the correct assessment would be. *See Meridian Towers East & West v. Washington Township Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also Clark v. State Board of Tax Commissioners*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998); *North Park Cinemas, Inc. v. State Board of Tax Commissioners*, 689 N.E.2d 765 (Ind. Tax Ct. 1997).
- b) A petitioner may offer evidence relevant to the fair market value-in-use of his or her property to rebut an assessment and to establish the actual true tax value of the property. This evidence includes, but is not limited to, actual construction costs, sales information regarding the subject or comparable properties, and appraisals prepared in accordance with generally recognized appraisal practices. *See*, 2002 REAL PROPERTY ASSESSMENT MANUAL at 5 (incorporated by reference at 50 IAC 2.3-1-2).
- c) Regardless of the type of evidence offered, a petitioner 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). Thus, it is insufficient for a petitioner to put forth evidence, such as photographs, calculations or assessment rules without an explanation. *Id.* Instead, it is the petitioner's duty to walk the Board through every element of the analysis. *See, Id., citing Clark v. State Bd. Of Tax Comm'rs*, 779 N.E.2d 1277, 1282, n.4 (Ind. Tax Ct. 2002). Conclusory statements do not constitute probative evidence of a property's value. *Whitley Products, Inc. v. State Board of Tax Commissioners*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).
- d) 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.

15. The Petitioner did not provide sufficient evidence to support his contentions. This conclusion was arrived at because:
- a) The Petitioner did not introduce any probative evidence to support his assertion that the assessment was incorrect or that the subject property is completely valueless.
 - b) The Petitioner presented evidence that the City of Connersville completely blocked access to the subject property. *Sayers Testimony*. The Petitioner did not explain the circumstances surrounding the City's actions or whether the blocked access was expected to be permanent. *Sayers Testimony*. However, following its hearing on the matter, the Fayette County PTABOA reclassified the subject property as a rear lot to account for the lack of access and lowered the assessed value from \$9700 to \$2,300. *Exhibit A*. The Petitioner did not explain why the PTABOA's action did not adequately address the decreased value of the subject property stemming from the lack of access to the subject property.
 - c) The Petitioner also contended that he was unable to sell the subject property to the owners of surrounding properties. *Sayers Testimony*. However, the Petitioner did not present any evidence concerning his asking price or whether the surrounding property owners made any counteroffers. At most, the evidence presented by the Petitioner shows that a limited number of potential buyers declined to purchase the subject property for an undisclosed price. The Petitioner therefore failed to present probative evidence sufficient to show either that the PTABOA's assessment was incorrect or what the correct assessment would be. *See, Meridian Towers*, 805 N.E.2d at 478.

Conclusion

16. The Petitioner failed to establish a prima facie case for a change in assessment.

IBTR Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessed value of the subject property will not be changed.

ISSUED: _____
(date)

Commissioner

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.