

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petitions: 45-001-02-1-5-00869
45-001-02-1-5-00870
45-001-02-1-5-00871
Petitioners: David L. & Veronica J. Keck
Respondent: Department of Local Government Finance
Parcels: 001-01-39-0113-0011
001-01-39-0113-0012
001-01-39-0113-0005
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 Petitioners participated in the informal hearing described in Ind. Code § 6-1.1-4-33. The Department of Local Government Finance (the DLGF) determined that the tax assessments for the subject properties are \$9,700 for each parcel and notified the Petitioners on April 1, 2004.
2. The Petitioners filed a Form 139L petition for each parcel on April 30, 2004.
3. The Board issued a notice of hearing to the parties dated February 25, 2005.
4. Special Master Brian McKinney held the hearing in Crown Point on March 31, 2005.

Facts

5. The property associated with Petition 45-001-02-1-5-00869 is located at 4160 Tompkins Street. The property associated with Petition 45-001-02-1-5-00870 is located at 4146 Tompkins Street. The property associated with 45-001-02-1-5-00871 is located at 4145 Calhoun Street. The location is in Calumet Township.¹
6. The subject properties are all vacant 0.215-acre residential lots.
7. The Special Master did not conduct an on-site visit of the property.

¹ 4160 Tompkins Street and 4146 Tompkins Street are adjacent lots. 4145 Calhoun Street is directly behind 4146 Tompkins Street.

8. The assessed value of each lot as determined by the DLGF is \$ 9,700 (land only).
9. The assessed value requested by Petitioner for each lot is \$ 1,100.
10. Persons sworn as witnesses at the hearing:
David L. and Veronica J. Keck, owners,
Diane Spenos, assessor/auditor.

Issues

11. Summary of Petitioners' contentions in support of an alleged error in the assessment:
 - a. These lots are all unimproved lots with no sewers, sidewalks, or water hookups. The two lots located on Tompkins Street do not have gas or electricity hookups. *Petitioner Exhibits 1a, 1b, 1c; Keck testimony.*
 - b. The Petitioner purchased the lot located at 4160 Tompkins 3 years ago at a tax sale for \$600. This lot is located in a flood zone. *Keck testimony.*
12. Summary of Respondent's contentions in support of the assessment:
 - a. The lot located at 4160 Tompkins Street should have an additional negative 25% influence factor for location in wetlands. *Spenos testimony.*
 - b. All lots have the standard negative influence factor for unimproved lots. *Spenos testimony.*
 - c. The three lots have the same base rate as other lots in the neighborhood. *Spenos testimony.*

Record

13. The official record for this matter is made up of the following:
 - a. The Petition,
 - b. The tape recording of the hearing labeled Lake County 1359,
 - c. Exhibits:
Petitioner Exhibit 1a - Form 139L (45-001-02-1-5-00869) with 3 pictures attached,
Petitioner Exhibit 1b - Form 139L (45-001-02-1-5-00870) with 2 pictures attached,
Petitioner Exhibit 1c - Form 139L (45-001-02-1-5-00871) with 2 pictures attached,

Respondent Exhibit 1a - Form 139L (45-001-02-1-5-00869),
Respondent Exhibit 2a - Property record card for subject property,
Respondent Exhibit 3a - Plat map of area,
Respondent Exhibit 1b - Form 139L (45-001-02-1-5-00870),
Respondent Exhibit 2b - Property record card for subject property,
Respondent Exhibit 3b - Plat map of area,
Respondent Exhibit 1c - Form 139L (45-001-02-1-5-00871),
Respondent Exhibit 2c - Property record card for subject property,
Respondent Exhibit 3c - Plat map of area,
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 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 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 Petitioners did not provide sufficient evidence to support their contentions. This conclusion was arrived at because:
- a. Petitioners failed to present any probative evidence that the lack of gas, electricity, sewers, sidewalks, or water hookups for these lots results in a market value that is lower than the current assessed value.
 - b. Petitioners contend the lots are worth \$1,100 each. This amount was the assessed value for previous years. All property in Indiana was reassessed for the 2002 tax year. Indiana’s assessment regulations state that for the 2002 general reassessment, a property’s assessment is to reflect its value as of January 1, 1999. 2002 REAL

PROPERTY ASSESSMENT MANUAL at 4, (incorporated by reference in 50 IAC 2.3-1-1(a)); *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005).

- c. The assessed values from previous years carry no probative value. Each tax year stands on its own. *Barth, Inc. v. State Bd. of Tax Comm'rs*, 699 N.E.2d 800, 805 n. 14 (Ind. Tax Ct. 1998).
- d. The Petitioners stated that the lot located at 4160 Tompkins Street was purchased in September of 2001 for \$612.03 at a tax sale. The Petitioners failed to present probative evidence that this sale is reliable evidence of market value. Without such supporting evidence, the tax sale has no probative value.
- e. Furthermore, even if the tax sale were reliable, the Petitioners are required to provide some explanation as to how the price demonstrates, or is relevant to, the value as of January 1, 1999. Because the Petitioners provided no such explanation, the evidence does not carry any probative value. *Long*, 821 N.E.2d at 471.
- f. The Petitioners failed to present a prima facie case. The burden never shifted to the Respondent to rebut the Petitioners' evidence. *Lacy Diversified Indus. v. Dep't of Local Gov't Fin.*, 799 N.E.2d 1215, 1222 (Ind. Tax Ct. 2005).
- g. Nevertheless, the Respondent admitted that the property located at 4160 Tompkins Street should have received an additional negative 25% influence factor because it is in a flood plain.
- h. Based on this undisputed testimony of the Respondent, the value of parcel 001-01-39-0113-0011 should be changed to \$6,600.

Conclusions

- 16. The Petitioners failed to make a prima facie case. The Respondent, however, acknowledged that parcel 001-01-39-0113-0011 should be assessed at \$6,600. This correction will be made, but there will be no other changes.

Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should be changed for parcel 001-01-39-0113-0011 only.

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>.