

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-001-02-1-5-00459
Petitioner: Lake County Trust #3645 Dorothy Forbes
Respondent: Department of Local Government Finance
Parcel #: 001-25-43-0359-0003
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 \$10,000 and notified the Petitioner.
2. The Petitioner filed a Form 139L on April 15, 2004.
3. The Board issued a notice of hearing to the parties dated September 9, 2004.
4. A hearing was held on October 12, 2004, in Crown Point, Indiana before Special Master Barbara Wiggins.

Facts

5. The subject property, according to the property record card (PRC), is a vacant parcel of land located at: 1401 E. 37th Avenue, Gary, Calumet Township.
6. The Special Master did not conduct an on-site visit of the property.
7. Assessed Value of subject property as determined by the DLGF:
Land \$10,000 Improvements \$0 Total \$10,000
8. Assessed Value requested by Petitioner: Not Provided
9. The persons indicated on the sign-in sheet (Board Exhibit C) were present at the hearing.
10. Persons sworn in at hearing:

For Petitioner: Dorothy Forbes, Owner
For Respondent: David Depp, Representing the DLGF

Issues

11. Summary of Petitioner's contentions in support of an alleged error in the assessment:

The Petitioner contends that the subject land's only use is for parking and thus the assessment is too high. *Forbes testimony.*

12. Summary of Respondent's contentions in support of the assessment:

The Respondent testified the subject land is assessed in accordance with other commercially zoned parking lots in the area and therefore no change in assessment is warranted. *Depp 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. #239.
- c. Exhibits:

Petitioner Exhibits: None

Respondent Exhibit 1: Form 139L Petition
Respondent Exhibit 2: Subject PRC

Board Exhibit A: Form 139 L
Board Exhibit B: Notice of Hearing
Board Exhibit C: Sign in Sheet

- d. These Findings and Conclusions.

Analysis

14. The most applicable cases are:

- a. A petitioner seeking review of a determination of an assessing official has the burden to establish a prima facie case proving, by 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 Twp. Assessor*, 805 N.E.2d at 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. Wash. 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 testimony and evidence to support the Petitioner's contentions. This conclusion was arrived at because:
- a. The Petitioner testified the subject property is only used for customer parking for the Petitioner's nearby business. *Forbes Testimony*. The Petitioner therefore argues that the assessment of the subject property is excessive.
 - b. The Petitioner did not explain how its use of the subject land for parking renders that land's market value-in-use as something less than its current assessed value. In fact, the Petitioner did not present any evidence to quantify the value of the subject land. Instead, the Petitioner relied solely upon the unsubstantiated assertion that the current assessment is too high. *Forbes testimony*. The Indiana tax court has repeatedly recognized that unsubstantiated allegations do not constitute probative evidence of an error in assessment. *See, Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).
 - c. Based on the foregoing, the Petitioner failed to establish a prima facie case for a change in assessment.

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.