

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petitioner: Elizabeth G. Zoladz
Respondent: Department of Local Government Finance
Assessment Year: 2002

<u>Petition Numbers:</u>	<u>Parcel Numbers:</u>
45-016-02-1-5-00038	006192100110028
45-016-02-1-5-00039	006192100110029
45-016-02-1-5-00040	006192100110030
45-016-02-1-5-00041	006192100110031
45-016-02-1-5-00042	006192100110032
45-016-02-1-5-00043	006192100110033
45-016-02-1-5-00044	006192100110034

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 hearings as described in Ind. Code § 6-1.1-4-33 were held in December 2003 in Lake County, Indiana. The Department of Local Government Finance (DLGF) determined that the Petitioner's total property tax assessments (land and improvements) for the subject properties were:

Parcel #'s:	
006192100110028	\$6,100
006192100110029	\$6,100
006192100110030	\$6,100
006192100110031	\$46,100
006192100110032	\$6,100
006192100110033	\$6,100
006192100110034	\$6,100

2. The DLGF's assessment determinations were sent to the Petitioners on March 26, 2004.
3. The Petitioner filed a Form 139L for each of the above referenced properties on April 13, 2004.

4. The Board issued a notice of hearing for each appeal, to the parties dated July 6, 2004.
5. A joint hearing was held on September 1, 2004, in Crown Point, Indiana before Special Master Kathy J. Clark.

Facts

6. The subject properties are located at: 19 Cleveland Avenue, New Chicago, Hobart Township, Lake County.
7. The subject properties are comprised of seven (7) contiguous parcels. Six (6) of the parcels are vacant lots and measure 25 feet by 125 feet each and one (1) lot measures 38.7 feet by 125 feet. The 38.7-foot by 125-foot parcel has a ranch style single-family dwelling and a detached garage on it. These improvements are not under appeal.
8. The Special Master did not conduct an on-site visit of the properties
9. The Assessed Values of subject properties as determined by the DLGF:

<u>Parcel #'s:</u>	<u>Land</u>	<u>Improvement</u>	<u>Total</u>
006192100110028	\$6,100		\$6,100
006192100110029	\$6,100		\$6,100
006192100110030	\$6,100		\$6,100
006192100110031	\$11,100	\$35,000	\$46,100
006192100110032	\$6,100		\$6,100
006192100110033	\$6,100		\$6,100
006192100110034	\$6,100		\$6,100

10. The Assessed Values requested by Petitioner per the Form 139L petitions:

<u>Parcel #'s:</u>	<u>Land</u>	<u>Improvement</u>	<u>Total</u>
006192100110028	\$1,000		\$1,000
006192100110029	\$1,000		\$1,000
006192100110030	\$1,000		\$1,000
006192100110031	\$7,600	\$35,000	\$42,600
006192100110032	\$1,000		\$1,000
006192100110033	\$1,000		\$1,000
006192100110034	\$1,000		\$1,000

11. The following persons were present and sworn in at the hearing:

For Petitioner: Carol Kellen, Daughter of Elizabeth Zoladz (deceased)
Dennis Kellen, Son-In-Law of Elizabeth Zoladz

For Respondent: Sharon Elliott, Staff Appraiser, Cole-Layer-Trumble (CLT)

Issues

12. Summary of Petitioner's contentions in support of alleged error in assessment:
 - a) Petitioner contends that due to building code restrictions, six (6) of the lots are worth no more than \$1,000 each. *C. Kellen testimony.*
 - b) The dwelling lot should be worth no more than \$7,600, the lot value of some of her neighbors. *C. Kellen testimony*

13. Summary of Respondent's contentions in support of assessment:
 - a) The Base Land Rate for the subject properties neighborhood is based on a standard lot size of 25 feet of frontage. *Elliott testimony.*
 - b) Each lot, except the one (1) containing the dwelling, was given the appropriate vacancy factor for having no utilities. *Elliott testimony*

Record

14. The official record for this matter is made up of the following:
 - a) The Petition and all subsequent pre-hearing submissions by either party.
 - b) The tape recording of the hearing labeled Lake Co. Tape #366.
 - c) Exhibits:
 - Petitioner Exhibit 1: Summary of Petitioner's Case
 - Petitioner Exhibit 2: Comparable property values to subject properties
 - Petitioner Exhibit 3: Property information sheet for subject properties
 - Petitioner Exhibit 4: Property information sheet for 3616 Illinois
 - Petitioner Exhibit 5: Property information sheet for 22 Harrison
 - Petitioner Exhibit 6: Property information sheet for 3609 Indiana
 - Petitioner Exhibit 7: New Chicago Town Code, page 103
 - Petitioner Exhibit 8: Notice of Final Assessment for Parcel #006192100110028
 - Petitioner Exhibit 9: Notice of Final Assessment for Parcel #006192100110029
 - Petitioner Exhibit 10: Notice of Final Assessment for Parcel #006192100110030
 - Petitioner Exhibit 11: Notice of Final Assessment for Parcel #006192100110031
 - Petitioner Exhibit 12: Notice of Final Assessment for Parcel #006192100110032
 - Petitioner Exhibit 13: Notice of Final Assessment for Parcel #006192100110033
 - Petitioner Exhibit 14: Notice of Final Assessment for Parcel #006192100110034

 - Respondent Exhibit 1: Form 139L Petition
 - Respondent Exhibit 2: Subject property record card (PRC)
 - Respondent Exhibit 3: Photograph of subject residence for Petition #45-016-02-1-5-00041
 - Respondent Exhibit 4: Comparable sales analysis, property record cards and photographs for Petition #45-016-02-1-5-00041
 - Respondent Exhibit 5: Plat maps – Respondent Exhibit 3 (in all petitions except #45-016-02-1-5-00041)

- Board Exhibit A – Form 139L petition
Board Exhibit B – Notice of Hearing on Petition
Board Exhibit C – Appraisal on subject properties
d) These Findings and Conclusions.

Analysis

15. The most applicable governing cases:
- 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 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).
 - 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 Township 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 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.
16. Petitioner did not provide sufficient evidence to support the Petitioners’ contentions. This conclusion was arrived at because:

Vacant Lots

- a) Petitioner claims that the six vacant 25 foot by 125 foot lots (parcel numbers ending in 28-30 and 32-34) are only worth \$1000 each. *See C. Kellen testimony*. Petitioner asserts this is due to the town code which prohibits building on lots with less than 50’ frontage. *See Pet’r Ex. 7*. Petitioner acknowledged that no one in the area owns one lot – residents typically own three or four contiguous lots. *C. Kellen testimony*. Petitioner has not offered the individual lots for sale and had no market data to support the \$1000 per lot value. *C. Kellen testimony*.

Improved Lot

- b) Regarding the seventh lot on which a dwelling and detached garage are located, the Petitioners failed to provide sufficient data about the parcel sizes of the purported comparable properties (Petitioner Exhibits 2 thru 6a). Petitioners only submitted information that indicated what the current land and improvement assessed values were and their general location in relation to the subjects. *See Pet’r Ex. 1*. There was

no information submitted that showed the various sizes of the parcels that were deemed comparable by the Petitioner. Identifying comparable properties and demonstrating that the property under appeal has been treated differently for property tax purposes can show an error in the assessment. However, the Petitioners never establish how the properties were comparable. “[Petitioners’] conclusory statement that something is comparable does not constitute probative evidence. Because [Petitioners] did not present evidence that the [other dwellings] were comparable to its own, [they] did not present a prima facie case.” *Blackbird Farms Apts., LP v. Dep’t of Local Gov’t Fin.*, 765 N.E.2d 711, 715 (Ind. Tax Ct. 2002).

- c) Under questioning, Petitioner acknowledged that they had paid for an independent appraisal done by Ron Schwuchow on September 30, 2003, for the purpose of establishing the inheritance value of the subject properties after the death of Elizabeth Zoladz. *Board Ex. C*. The appraisal had been originally provided as evidence in the informal hearing held in December 2003 and was offered as evidence upon request by the Special Master.
- d) This appraisal included all seven (7) parcels under review in this appeal, as a single entity. The appraisal considered both the Cost Approach to Value, determined to be \$106,900, and the Sales Approach, set at \$92,000. The appraiser estimated the market value of the subject properties at \$92,000. The Income Approach was not used as it was determined not to be applicable. *Board Ex. C*.
- e) Upon further questioning, the Petitioners stated potential buyers had approached them on the subject properties, and that they had set an asking price of \$120,000. *C. Kellen testimony*. Petitioner testified that the price was set high because she was not motivated to sell at that time. *C. Kellen testimony*.
- f) Given that the lots are contiguous, and the Petitioner themselves had the properties appraised for inheritance as a “whole” and not as individual lots, the Petitioner’s issue of not being able to build on the property due to the New Chicago Town Code lot size restrictions, is irrelevant to the valuation.
- g) Petitioner has not shown by probative evidence that the assessed value does not adequately represent the market value-in-use for the subject parcels either collectively or individually. Petitioner’s appraisal suggests a higher total value than the current assessment. *See Board Ex. C*. Petitioner has not presented enough information for the Board to determine that the land values reached by Cole-Layer-Trumble are incorrect.

Conclusion

- 17. The Petitioner failed to establish a prima facie case. The Board finds in favor of Respondent.

Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the individual assessments 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.