

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-001-02-1-5-00645
Petitioners: Eugene Edwards and Samuel A. Schatz
Respondent: Department of Local Government Finance
Parcel #: 001-25-40-0009-0031
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 on February 10, 2004, in Lake County, Indiana. The Department of Local Government Finance (DLGF) determined that the Petitioners' property tax assessment for the subject property was \$46,700 and notified the Petitioners on March 31, 2004.
2. The Petitioners filed a Form 139L on April 30, 2004.
3. The Board issued a notice of hearing to the parties dated July 28, 2004.
4. Special Master S. Sue Mayes held the hearing in Crown Point on September 14, 2004.

Facts

5. The subject property is located at 7201 E. Melton Road, Gary, in Calumet Township.
6. The subject property is a one-acre parcel of vacant 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: \$46,700 Improvements: \$ -0- Total: \$46,700
9. Assessed Value requested by Petitioners:
Land: \$38,000 Improvements: \$ -0- Total: \$38,000
10. Persons sworn as witnesses at the hearing:
For Petitioners — Samuel A. Schatz, Partner and Nick Thomas, CPA,
For Respondent — Cathi Gould, Staff Appraiser, Cole-Layer-Trumble

Issue

11. Summary of Petitioners' contentions in support of an alleged error in the assessment:
 - a. The value of the parcel is overstated. The property was purchased in 1988 for \$28,600.¹ The parcel has limited access and is mostly sand dune. *Schatz testimony.*
 - b. Adjacent property owned by the Petitioners is valued between \$10,000 and \$38,824 an acre. *Board Exhibit A.*
 - c. At the informal hearing, the Petitioners were told that combining the parcels together would cause the rate to be reduced. Instead, the rate increased. *Schatz testimony.*

12. Summary of Respondent's contentions in support of the assessment:
 - a. This parcel is adjacent to another parcel owned by the Petitioners (parcel #001-25-40-0009-0004), which is improved with a building used for commercial purposes. If the two parcels are considered as one business enterprise, the total value is \$358,500, or \$21 per square foot. Three comparable sales have an average square foot price of \$34. *Respondent Exhibit 4; Gould testimony.*
 - b. An income approach analysis for the combined parcels indicated a rental value of \$3 per square foot, which is not out of line for this type of office and garage. *Gould 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 Co. 434.
 - c. Exhibits:
 - The Petitioners presented no exhibits.
 - Respondent Exhibit 1: Form 139L petition.
 - Respondent Exhibit 2: Property record card (PRC) for the subject property.
 - Respondent Exhibit 3: PRC and photograph for the adjoining property.
 - Respondent Exhibit 4: PRCs and photographs for three comparable properties.
 - Board Exhibit A: Form 139L petition.
 - Board Exhibit B: Notice of Hearing.
 - Board Exhibit C: Sign-in sheet.
 - d. These Findings and Conclusions.

¹ On the 139L petition, the Petitioners indicated the purchase price was \$18,600, but the correct figure was \$28,600. *Schatz testimony.*

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.
 - d. The true tax value of property is estimated as of the valuation date. In the case of the 2002 general reassessment, this date is January 1, 1999. 2002 REAL PROPERTY ASSESSMENT MANUAL at 12 (incorporated by reference at 50 IAC 2.3-1-2). Regardless of the approach used to prove the market value-in-use of a property, Indiana’s assessment regulations provide that for the 2002 general reassessment, a property’s assessment must reflect its value as of January 1, 1999. *Long v. Wayne Township Assessor*, No. 49T10-0404-TA-20, slip op. at 8 (Ind. Tax Ct. January 28, 2005).
15. The Petitioners did not provided sufficient evidence to establish a prima facie case for their contention that the value of the land was erroneous. This conclusion was arrived at because:
 - a. The Petitioners testified the property was purchased in 1988 for \$28,600. This purchase date was more than ten years prior to the relevant date of January 1, 1999. The Petitioners did not present any market evidence to demonstrate how the purchase price related to the subject property’s value on January 1, 1999. Accordingly, the 1988 purchase price has no probative value for the 2002 assessment. *Id.*
 - b. The Petition claimed the adjacent property is valued between \$10,000 and \$38,824 per acre. The Petitioners, however, presented no evidence to demonstrate the adjoining property is comparable. The only evidence concerning any adjacent property was a property record card. *Respondent Exhibit 3*. The subject property is valued as primary land at a base rate of \$50,750. The property record card of the

adjoining parcel indicated this parcel is valued as primary land at a base rate of \$39,640. The Petitioners failed to explain how this evidence is relevant to the requested assessment. *Indianapolis Racquet Club*, 802 N.E.2d at 1022.

- c. The Petitioners made a fatal error when they provided little, if any, comparison of the adjoining property to the subject property. Conclusory statements do not constitute probative evidence. Rather, specific reasons must be given about why a taxpayer believes another property is comparable. *Long*, slip op. at 6-7.
- d. The Petitioners' failure to provide probative evidence supporting their position on land value means that the Respondent's duty to support the assessment with substantial evidence was not triggered. In the event that Petitioners fail to provide probative evidence supporting their position on an issue, the Respondent's duty to support the assessment with substantial evidence is not triggered. *Whitley Prods. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).

Conclusion

- 16. The Petitioners 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.