

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petitions: 45-026-02-1-5-01078
45-026-02-1-5-01079
Petitioner: John Loxas
Respondent: Department of Local Government Finance
Parcels: 007-26-35-0047-0023
007-26-35-0047-0022
Assessment Year: 2002

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

Procedural History

1. The informal hearing as described in Ind. Code § 6-1.1-4-33 was held on January 27, 2004. The Department of Local Government Finance (the DLGF) determined that the property tax assessment for the subject property is \$7,300 for each parcel and notified the Petitioners on March 31, 2004.
2. The Petitioner filed a Form 139L for each parcel on April 30, 2004.
3. The Board issued a notice of hearing for each parcel to the parties dated September 9, 2004.
4. Special Master Kathy J. Clark held the hearing in Crown Point on October 13, 2004.

Facts

5. The subject property is located at 244 and 246 Condit Street in Hammond.
6. The subject property has two undeveloped lots, each measuring 25 feet by 124 feet. They are classified as vacant residential property.
7. The Special Master did not conduct an on-site visit of the property.
8. The assessed value of each parcel as determined by the DLGF is \$7,300 (land only).
9. The assessed value requested by Petitioners for each parcel is \$550.

10. Persons sworn as witnesses at the hearing:
George J. Loxas, owner's son with Power of Attorney attached to Form 139L,
Sharon S. Elliott, Staff Appraiser, Cole-Layer-Trumble.

Issues

11. Summary of Petitioners' contentions in support of an alleged error in the assessment:
- a) The subject property was purchased at tax sales. Petitioner paid \$2,250 for parcel 007-26-35-0047-0023 in September 1999. Petitioner paid \$5,151 for parcel 007-26-35-0047-0022 in September 2001. *Loxas testimony; Petitioners' Exhibit 5.*
 - b) There are larger parcels of land around the City of Hammond that are valued at a much lower value. These lots were approximately 0.309 acres and they are assessed for \$1,100. *Loxas testimony, Petitioner's Exhibits 2; 3.*
12. Summary of Respondent's contentions in support of the assessment:
- a) Tax sales are not considered to be arms-length transactions and therefore are not recognized as representative of the market. *Elliott testimony.*
 - b) The subject parcel is receiving a Code 7 discount of 20 percent. In Lake County that represents a deduction for being undeveloped. *Id.*

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. 478,
 - c) Exhibits:
Petitioner Exhibit 1–Form 139L Petition,
Petitioner Exhibit 2–Property Record Card for Similar Parcel,
Petitioner Exhibit 3–Property Record Card for Similar Parcel,
Petitioner Exhibit 4–Deed for Similar Parcel,
Petitioner Exhibit 5–Deed for Subject Parcel,
Petitioner Exhibit 6–Property Record Card for Subject Parcel,
Respondent Exhibit 1–Form 139L,
Respondent Exhibit 2–Subject Property Record Card,
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 cases and rules 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.
15. The Petitioner did not provide sufficient evidence to support his contentions. This conclusion was arrived at because:
- a) The subject properties were purchased at a tax sale for \$2,250 and \$5,151. The purchase prices were equal to the back taxes owed. Tax sales are not reliable indicators of true market value. *See 2002 REAL PROPERTY ASSESSMENT MANUAL* at 10 (defining Market Value as a price in a competitive and open market that is unaffected by undue stimulus). Tax sales are by their very nature not indicative of a competitive and open market. Tax sales are held to recover all or part of delinquent taxes owed on the property and not an attempt to get a market price for the property.
 - b) Furthermore, what Petitioner paid for a lot in September 2001 is not probative of what the market value for that lot would have been on January 1, 1999. *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005).
 - c) The Petitioner offered the assessments on two other properties that are both larger than his lots as proof that the subject assessments are too high. Petitioner did not explain how these properties are comparable to the subject property. They are not identified with the same neighborhood as the subject. Petitioner did not explain how the land is comparable. There is no comparison of lot shapes, no comparison of topography or geographical features, no comparison of lot accessibility or uses. Rather, Petitioner merely asserted that the land is comparable. Such conclusions are not probative evidence. Thus, those other assessments do not support a prima

facie case. *Blackbird Farms Apts. v. Dep't of Local Gov't Fin.*, 765 N.E.2d 711, 715 (Ind. Tax Ct. 2002); *Whitley Products v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).

- d) Petitioner did not present probative evidence indicating an error in the assessment. Petitioner did not make a prima facie case.
- e) The burden never shifted to Respondent to rebut the evidence. *Lacy Diversified Indus. v. Dep't of Local Gov't Fin.*, 799 N.E.2d 1215, 1222 (Ind. Tax Ct. 2003).

Conclusion

16. 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 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. 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>.