

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions

**Petition #:** 82-024-02-1-5-00008  
**Petitioner:** Gregory W. Combs  
**Respondent:** Perry Township Assessor (Vanderburgh County)  
**Parcel #:** 0511007274005  
**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 Petitioner initiated an assessment appeal with the Vanderburgh County Property Tax Assessment Board of Appeals (PTABOA) by written document dated May 5, 2003.
2. The Petitioner received notice of the decision of the PTABOA on November 10, 2003.
3. The Petitioner filed an appeal to the Board by filing a Form 131 with the county assessor on December 8, 2003.
4. The Board issued a notice of hearing to the parties dated January 22, 2004.
5. The Board held an administrative hearing on March 15, 2004, before the duly appointed Administrative Law Judge Debra Eads.
6. Persons present and sworn in at hearing:
  - a) For Petitioner: Gregory W. Combs
  - b) For Respondent: Jacqueline L. Doty-Fox  
Candy Wells

### Facts

7. The property is classified as residential, as is shown on the property record card for parcel #0511007274005.
8. The Administrative Law Judge did not conduct an inspection of the property.

9. Assessed Value of subject property as determined by the Vanderburgh County PTABOA: Land \$ 4400, Improvements \$ 0.

10. Assessed Value requested by Petitioner: Land \$ 500 Improvements \$ 0.

### **Issues**

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

- a) The Petitioner contends the enactment of ordinance 151.31C(1) (*Petitioner Exhibit 8*), which requires one (1) acre of land (two and one-half (2.5) acres if the soil is moderate to severe for septic tank absorption fields) to build a residence, effectively renders his lot (.71 ac. in size) useless.
- b) A letter submitted as evidence from the Vanderburgh County Health Department states the subject property failed to qualify for a private sewage disposal permit in 1990. *Petitioner Exhibit 6*.
- c) The Petitioner testified he had discussed the purchase of the subject property with the adjoining property owners and each expressed a lack of interest in purchasing the lot, thereby indicating the subject property to be valueless.
- d) The Petitioner contends the value of his lot has not increased since the previous assessment.

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

- a) Ordinance 151.31C(1) states "subdivisions approved and recorded prior to the date of this Ordinance and existing lots which were of record prior to 1957, shall not be required to meet the above stipulation", per Respondent testimony and supported by Petitioner Exhibit 12.
- b) The subject property is valued with the same base land rate as the adjoining lots and has received a negative influence factor of 63% due to the failure of the land to qualify for a private sewage disposal permit.
- c) The verbal refusal of the adjoining property owners to express interest in purchasing the subject property is not a reason to lower the currently assigned assessed value.
- d) Respondent testimony, acknowledged by the Petitioner, was that in 1973, the Petitioner paid \$ 4800 for the subject property. *See also Respondent Exhibit 1, PTABOA minutes.*

### **Record**

13. The official record for this matter is made up of the following:

- a) The Petition, and all subsequent pre-hearing and post-hearing submissions by either party.
- b) The tape recording of the hearing labeled BTR # 5901.
- c) Exhibits:

Petitioner Exhibit 1: *Copy of Form 131 Petition for subject property*

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- Petitioner Exhibit 2: *Memorandum outlining Petitioner contentions*
- Petitioner Exhibit 3: *Copy of Form 115 Determination*
- Petitioner Exhibit 4: *Memorandum from County Hearing Officer to PTABOA*
- Petitioner Exhibit 5: *2002 property record card for subject property*
- Petitioner Exhibit 6: *September 1990 letter to Petitioner from the environmental division of Vanderburgh County*
- Petitioner Exhibit 7: *Memorandum from the Township officials to the County Assessor*
- Petitioner Exhibit 8: *Copy of Ordinance amending ordinance 151.31C(1)*
- Petitioner Exhibit 9: *Copy of Form 130 petition for subject property*
- Petitioner Exhibit 10: *Copy of Notice of Determination from 1996*
- Petitioner Exhibit 11: *Memorandum from the Township officials to the County Assessor (duplicate exhibit)*
- Petitioner Exhibit 12: *Copy of Ordinance amending ordinance 151.31C(1) (duplicate exhibit)*
- Petitioner Exhibit 13: *Copy of 1995 property record card for subject property*
- Petitioner Exhibit 14: *Copy of Form 11 R/A dated April 25, 2003*
- Petitioner Exhibit 15: *2002 property record card for subject property (duplicate exhibit)*
- Petitioner Exhibit 16: *Copy of aerial photograph assessor map of subject property*
- Petitioner Exhibit 17: *Copy of line print plat map of subject property*
- Respondent Exhibit 1: *Memorandum from the County officials with attached PTABOA minutes*
- Respondent Exhibit 2: *Memorandum from the County Health Department with an attached field report*

d) These Findings and Conclusions.

### **Analysis**

14. The most applicable governing cases are:

- a. *Heart City Chrysler v. State Board of Tax Commissioners*, 714 N.E. 2d 329 (Ind. Tax 1999): “The petitioner must sufficiently explain the connection between the evidence and petitioner’s assertion in order for it to be considered material to the facts. Conclusory statements are of no value to the State in its evaluation of the evidence.”
- b. *State Board of Tax Commissioners v. Indianapolis Racquet Club, Inc.* 743 N.E. 2d 247, 253 (Ind. 2001), and *Blackbird Farms Apartment, LP v. Department of Local Government Finance*, 765 N.E. 2d 711 (Ind. Tax 2002): The Petitioner

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must do two things: (1) prove the assessment is incorrect; and (2) prove that the specific assessment he seeks, is correct. In addition to demonstrating that the assessment is invalid, the Petitioner also bears the burden of presenting sufficient probative evidence to show what assessment is correct.

- c. *Meridian Towers East & West v. Washington Township Assessor*, 805 N.E.2d 475 (Ind. Tax 2003): In the event the Petitioner sustains his burden, the burden then shifts to the Respondent to rebut Petitioner's evidence with substantial evidence. Should the Respondent fail to rebut Petitioner's evidence, the Board will find for the Petitioner.
15. The Petitioner did not provide sufficient evidence to support the Petitioner's contentions. This conclusion was arrived at because:
- a) The Petitioner's contention regarding the lack of increase in value since the previous reassessment was not sufficiently supported with market evidence. Petitioner's conclusory statement about a lack of desire from the neighboring property owners to purchase the property does nothing toward establishing the appropriate market value-in-use for the subject property. Further, the Petitioner's requested value of \$500 was not supported by any evidence presented at the hearing.
  - b) The Assessor acknowledged the Petitioner's perceived difference in value between the adjoining lots and the subject property through the application of the negative influence factor to the land value calculation.

### **Conclusions**

16. The Petitioner failed to make a prima facie case by failing to effectively establish the appropriate value of the subject property through documented market evidence. 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: \_\_\_\_\_

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Commissioner,  
Indiana Board of Tax Review

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## 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.**