

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-032-02-1-5-00451
Petitioner: Ilija Prentoski
Respondent: Department of Local Government Finance
Parcel #: 009-20-13-0232-0013
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. An informal hearing as described in Ind. Code § 6-1.1-4-33 was held in Lake County, Indiana in December, 2004. The Department of Local Government Finance (DLGF) determined that the Petitioner's property tax assessment for the subject property was \$19,300 and notified the Petitioner on March 26, 2004.
2. The Petitioner filed a Form 139L on April 15, 2004.
3. The Board issued a notice of hearing to the parties on September 9, 2004.
4. A hearing was held on October 12, 2004, in Crown Point, Indiana before Special Master Peter Salvesson.

Facts

5. The subject property is located at 11422 Irvin Place, Schererville, in St. John Township.
6. The subject property is an unimproved residential parcel consisting of 0.396 acres of land.
7. The Special Master did not conduct an on-site visit of the property.
 - a) Assessed Value of the subject property as determined by the DLGF:
Land \$19,300
 - b) Assessed Value requested by the Petitioner:
Land \$100

8. The persons indicated on the sign-in sheet (Board Exhibit C) were present at the hearing.
9. Persons sworn in at hearing:
- | | |
|-----------------|------------------------------------|
| For Petitioner: | Ilija Prentoski, Owner |
| For Respondent: | Larry Vales, Representing the DLGF |

Issue

10. Summary of Petitioner’s contentions in support of alleged error in assessment:
- a) The Petitioner bought the subject property at tax sale in 1994 for \$1,000. *Prentoski testimony.*
 - b) The highest bid that the Petitioner received for the property was \$2,000 in 2004. *Id.*
 - c) The subject property is “nothing but wilderness” and has never been developed. There are no utilities or water, and the only access to the property is via dirt path. *Id; Petitioner Exs. A-B.*
11. Summary of Respondent’s statements regarding of assessment:
- a) The subject property has been properly valued as being on a “paper street,” meaning that no real street access to the property exists. As a result, a 50% negative influence factor has been applied to the property. *Vales testimony and argument; Respondent Ex. 2.*

Record

12. 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. #510.
 - c. Exhibits:

| | |
|-------------------------|-----------------------------------------------|
| Petitioner’s Exhibit A: | Photo of Subject Property |
| Petitioner’s Exhibit B: | Photo of Primitive Access to Subject Property |
| Respondent’s Exhibit 1: | Form 139L Petition |
| Respondent’s Exhibit 2: | Subject Property Record Card |
| Respondent’s Exhibit 3: | Arial Map |
| Respondent’s Exhibit 4: | Platt Map |
| Board Exhibit A: | Form 139L Petition |

Board Exhibit B: Notice of Hearing
Board Exhibit C: Sign in Sheet

d. These Findings and Conclusions.

Analysis

13. The most applicable governing cases 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.
14. The Petitioner did not provide sufficient evidence to support his contentions. This conclusion was arrived at because:
- a) The Petitioner testified that he purchased the subject property at a tax sale in 1994 for \$1,000. Generally, a tax sale is not probative evidence of a property's fair market value, because the buyer and seller are not typically motivated and the property has not been exposed to the market for a sufficient period of time. Thus, the burden is on the Petitioner to prove that the circumstances surrounding the sale render it representative of the fair market value of the property. The Petitioner failed to meet this burden.
 - b) Moreover, for the 2002 general reassessment, a property's assessment must reflect its value as of January 1, 1999. 2002 REAL PROPERTY ASSESSMENT MANUAL 4 (incorporated by reference at 50 IAC 2.3-1-2). Consequently, a party that submits evidence of a property's market value as of a date substantially removed from January 1, 1999, must explain how that evidence demonstrates or is relevant to the property's value as of January 1, 1999. *See Long v. Wayne Township Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005) (holding that an appraisal indicating the value for a property on December 10, 2003, lacked probative value in an appeal from the

2002 assessment of that property). The Petitioner failed to provide such an explanation.

- c) The Petitioner also testified that the subject property is “nothing but wilderness,” that it lacks utilities and water and that the only access to the property is via a dirt path. *Prentoski testimony*. The Petitioner corroborated his testimony with photographs showing the subject property covered with trees and other vegetation and of the dirt path leading to the property. *Petitioner Exs. 1-2*.
- d) The Petitioner, however, did not present any evidence to quantify the effect of those factors on the market value of the subject property. Even if one were to accept the Petitioner’s claim that the factors described above demonstrate that the current assessment is incorrect, the Petitioner failed to establish what the correct assessment should be. *See Meridian Towers*, 805 N.E.2d at 478.
- e) Based on the foregoing, the Petitioner failed to establish a prima facie case for a change in assessment.

Conclusion

- 15. The Petitioner did not establish 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 be not 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>.