

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-041-02-1-5-00221
Petitioner: Jerry Reiling
Respondent: Department of Local Government Finance
Parcel #: 003312500470002
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 October 24, 2003, in Lake County, Indiana. The Department of Local Government Finance (DLGF) determined that the Petitioner's property tax assessment for the subject property was \$34,600 and a notice was mailed to the Petitioner on March 12, 2004.
2. The Petitioner filed a Form 139L on April 7, 2004.
3. The Board issued a notice of hearing to the parties dated July 30, 2004.
4. A hearing was held on September 16, 2004, in Crown Point, Indiana before Special Master Kathy J. Clark.

Facts

5. The subject property is located at: 14024 Morse Street, Cedar Lake, in Center Township.
6. The subject property is a vacant residential lot measuring 62.7 feet by 159 feet.
7. The Special Master did not conduct an on-site visit of the property.
8. Assessed Value of subject property as determined by the DLGF:
Land \$34,600.
9. Assessed Value requested by Petitioner:
Land \$17,000.

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

For Petitioner: Jerry Reiling, Owner

For Respondent: 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 lot was purchased for \$17,150 on May 14, 2003, and should be assessed at no more than that value. *Reiling testimony; Petitioner Exhibit 11.*
- b) The lot is unbuildable according to local zoning ordinances. *Reiling testimony.*

12. Summary of Respondent's contentions:

- a) The subject parcel has the incorrect neighborhood number assigned to it that does affect the base land rate used to calculate the value. *Elliott testimony.*
- b) The subject parcel should receive an additional adjustment for excess frontage of negative 6%. *Elliott testimony; Respondent Exhibit 2.*
- c) Petitioner did not submit evidence to substantiate Petitioner's claim that the lot is unbuildable due to zoning ordinances. *Elliott testimony.*

Record

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

- a) The Petition and all subsequent submissions by either party.
- b) The tape recording of the hearing labeled BTR #135.
- c) Exhibits:
 - Petitioner Exhibit 1: Form 139L
 - Petitioner Exhibit 2: Notice of Assessment of Land
 - Petitioner Exhibit 3: Notice of Final Assessment
 - Petitioner Exhibit 4: Real Property Maintenance Report-2002
 - Petitioner Exhibit 5: Real Property Maintenance Report-2001
 - Petitioner Exhibit 6: Plat of Survey
 - Petitioner Exhibit 7: Buyer's Statement
 - Petitioner Exhibit 8: Warranty Deed

Respondent Exhibit 1: Form 139L

Respondent Exhibit 2: Subject Property Record Card

Respondent Exhibit 3: Subject Photograph

Respondent Exhibit 4: Comparable Sales Analysis Sheet

Respondent Exhibit 5: Site Maps
Respondent Exhibit 6: Limited Appraisal submitted at Informal Hearing

Board Exhibit A: Form 139 L
Board Exhibit B: Notice of Hearing
Board Exhibit C: Sign in Sheet

d) These Findings and Conclusions.

Analysis

14. The most applicable 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.
15. The Petitioner did not provide sufficient probative evidence to establish a prima facie case. Evidence of a May 2003 sale without data documenting that sale’s relationship to January 1, 1999, has no probative value. *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466 (Ind. Tax Ct. 2005). Petitioner’s testimony that the property is unbuildable is conclusory and not supported by substantial evidence, such as zoning restrictions.
16. Respondent acknowledged that an error had been made in regards to pricing of the subject property but successfully rebutted the Petitioner’s position the subject’s 2003 sale being an acceptable indication of value. This conclusion was arrived at because:
- a) The Petitioner contends the zoning of the subject parcel does not allow future building to occur. However, the Petitioner failed to present any evidence regarding the current zoning of the subject property. Furthermore, the Petitioner never presented any information regarding any attempt to have the zoning of the subject property changed to allow building.
 - b) The May 14, 2003, purchase of the subject property was not an arms-length transaction. The Petitioner testified that he was acquainted with the seller and that the property was not advertised on the open market. The Petitioner did not present any

comparable sales indicating the sale was indicative of market value. The sale of the property from 2003 is determined to be unreliable in establishing the market value-in-use of the subject property.

- c) The Respondent testified that an error had been made on the neighborhood number assigned to the subject parcel and also acknowledged that the land value should receive an added deduction for excess frontage of 6%. When these errors are corrected, the Assessed Value of the land becomes \$26,900. *Elliott testimony; Respondent Exhibit 2.*

Conclusion

17. The Petitioner failed to provide probative evidence to establish a prima facie case, but the Respondent testified that the current assessment was not correct. Based on testimony and evidence presented by the Respondent the subject parcel should have a neighborhood number of 3117 which has a base front foot land rate of \$500.00 per front foot. Further, the Respondent testified that the negative influence factor should be 26% instead of 20%.

Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the total assessment should be changed to \$26,900.

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.