

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-028-02-1-5-00009
Petitioner: Joseph Shih
Respondent: Department of Local Government Finance
Parcel #: 008-08-15-0004-0031
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. An informal hearing as described in Ind. Code § 6-1.1-4-33 was held between the Petitioner and the Respondent. The Department of Local Government Finance (DLGF) determined that the Petitioner's property tax assessment for the subject property was \$190,500 and notified the Petitioner on March 21, 2004.
2. The Petitioner filed a Form 139L on April 14, 2004.
3. The Board issued a notice of hearing to the parties dated June 29, 2004.
4. A hearing was held on September 9, 2004, in Crown Point, Indiana before Special Master Barbara Wiggins.

Facts

5. The subject property is located at 8305 Randolph Street, Crown Point, Ross Township.
6. The subject property is a single-family home on 30 acres of land currently occupied by a tenant.
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 \$149,800 Improvements \$40,700 Total \$190,500
9. The Petitioner did not indicate a proposed corrected assessed value.
10. The following persons were present and sworn in at the hearing:
For Petitioner: Joseph Shih, Owner
For Respondent: David Depp, Senior Appraiser, Cole-Layer-Trumble (CLT)

Issue

11. Summary of Petitioner's contentions in support of alleged error in assessment:
 - a. The Petitioner's contention on the Form 139L was that, based on the 70-year-old age of the farmhouse and the owner being a disabled senior citizen, the assessed value is too high. *Shih testimony.*
 - b. The agriculturally zoned parcel could not be farmed due to the proximity of pipelines and a creek, and due to the elevation and the presence of trees. *Shih testimony; Petitioner's Exhibit 1.*
 - c. The neighboring farmed property has a lower assessed value and the taxes are only \$2,000. *Shih testimony; Petitioner's Exhibit 2.*
 - d. The property was purchased for \$30,000 in 1995. *Shih testimony.*

12. Summary of Respondent's contentions in support of assessment:
 - a. The Petitioner had an informal hearing and, as a result, the assessed value of the building was reduced substantially. However, the Township officials initially had furnished CLT with the incorrect amount of acreage, which was why there was an increase in the land value. *Depp testimony.*
 - b. The Respondent reviewed the property record cards and photographs presented by the Petitioner and determined the parcel was correctly assessed as being excess residential land with a one-acre homesite. *Depp testimony.*
 - c. The property may be zoned agricultural, but the Petitioner has chosen not to farm it. The comparable property is assessed at a lower value because it is actually being farmed. *Depp testimony.*
 - d. The Respondent contends the property is assessed in line with other properties in the area, the Petitioner did not provide any evidence to prove the contrary, and no change in the assessment is warranted.

Record

13. The official record for this matter is made up of the following:
 - a. The Petition and all subsequent pre-hearing submissions by either party.
 - b. The tape recording of the hearing labeled Lake Co. #368.
 - c. Exhibits:
 - Petitioner's Exhibit 1: Subject photographs and Real Property Maintenance Report from Lake County.
 - Petitioner's Exhibit 2: Photographs of 7719 E. 83rd Street, Real Property Maintenance Report from Lake County, and the property record card.
 - The Respondent presented no exhibits.
 - d. These Findings and Conclusions.

Analysis

14. The most applicable governing law is:
 - a. The Petitioner must do two things: (1) prove that 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. *See Indianapolis Racquet Club, Inc. v. Washington Twp. Assessor*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004).
 - b. The Petitioner must submit 'probative evidence' that adequately demonstrates the alleged error. Mere allegations, unsupported by factual evidence, will not be considered sufficient to establish an alleged error. *Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113 (Ind. Tax 1998); *see also Herb v. State Bd. of Tax Comm'rs*, 656 N.E.2d 1230 (Ind. Tax 1998).
 - c. Residential acreage parcels of more than one acre and not used for agricultural purposes are valued using the residential homesite base rate and the excess acreage base rate. The excess acreage base rate represents the 1999 acreage value of land when purchased for residential purposes. If the parcel has a dwelling, one acre is valued using the residential homesite value. The remaining acreage is valued using the excess acreage rate. *See Real Property Assessment Guideline, Version A, Chapter 2, Page 69.*

15. The Petitioner did not provide sufficient evidence to support the Petitioner's contention. This conclusion was arrived at because:
 - a. The Petitioner did not present any evidence to support a lower assessed value other than providing photographs and a property record card for a neighboring property.
 - b. The neighboring property has been assessed using agricultural base rates. The Petitioner's photographs reveal the presence of crops and horses, supporting the accuracy of the agricultural classification. *Petitioner's Exhibit 2.*
 - c. The Petitioner's testimony and photographs of his own property (*Petitioner's Exhibit 1*) confirmed the subject is not farmed or used as pasture. It cannot be valued using agricultural base rates. Ind. Code § 6-1.1-4-13(a).
 - d. The Petitioner's property is therefore not comparable to his neighbor's property.

Conclusion

16. The Petitioner failed to make a prima facie case for a reduction in the assessed value of the property. 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.