

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petitions: 45-026-02-1-5-00421
45-026-02-1-5-00422
45-026-02-1-5-00426
45-026-02-1-5-00427

Petitioners: Joseph F. & Bernice J. Belovich

Respondent: Department of Local Government Finance

Parcels: 007263501020007
007263501020005
007263501020006
007263501020008

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 March 3, 2004. The Department of Local Government Finance (the "DLGF") determined that the assessments for the subject properties were \$4,800 for each parcel and notified the Petitioners on March 31, 2004.
2. The Petitioners filed Form 139L Petitions on April 28, 2004.
3. The Board issued notices of hearings to the parties dated September 9, 2004.
4. Special Master Kathy J. Clark held a consolidated hearing in Crown Point on October 13, 2004.

Facts

5. The subject properties are four contiguous lots located at 1003, 1005, 1007 and 1009 Kenwood Street, Hammond, in North Township.
6. The subject properties are vacant residential lots. Each lot has 25 feet of frontage and 125 feet of depth for a combined frontage of 100 feet and a combined square footage of 12,500.

7. The Special Master did not conduct an on-site visit of the properties.
8. Assessed value of as determined by the DLGF is \$4,800 for each parcel.
9. Assessed Value requested by the Petitioner is \$1,000 for each parcel.
10. The following persons were sworn as witnesses at the hearing:
For Petitioners — Joseph F. Belovich, owner,
For Respondent — Sharon S. Elliott, Staff Appraiser, Cole-Layer-Trumble,
John Toumey and Gary Brown, DLGF observers.

Issues

11. Summary of Petitioners' contentions in support of an alleged error in the assessments:
 - a. The lots are issued individual tax bills and therefore should be considered as individual lots, not contiguous lots. Each individual lot has only 25 feet of frontage. That fact makes them unbuildable and unusable. *Belovich testimony.*
 - b. The properties are in a distressed area that results in a reduction in value. *Id.*
 - c. The Petitioners tried to donate the lots to the city, but the Redevelopment Agency refused to take them. *Id.*
12. Summary of Respondent's contentions in support of the assessment:
 - a. The lots are contiguous and the property is buildable. The lots could be legally combined into one parcel or sold as a group. *Respondent Exhibit 3; Elliott testimony.*
 - b. All four lots are currently receiving a 20 percent discount for being vacant. *Id.; Respondent Exhibit 2.*

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 Lake Co. 473,
 - c. Exhibits:
Petitioner submitted no exhibits,
Respondent Exhibit 1: Form 139L Petitions,
Respondent Exhibit 2: Subject property record cards,
Respondent Exhibit 3: Plat maps,
Board Exhibit A: Form 139 L Petitions,

Board Exhibit B: Notices of Hearings,
Board Exhibit C: Hearing Sign-In Sheet,

d. These Findings and Conclusions.

Analysis

14. 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, by preponderance of the evidence, 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 Petitioners failed to provide sufficient evidence to establish a prima facie case. This conclusion was arrived at because:
- a. Joseph Belovich opined that the lots are worthless individually because the frontage on each is 25 feet and a lot that size is considered unbuildable. According to him, the lots should not be considered as contiguous property even though he owns them all. There is, however, no documentation in the record to support those conclusions. The conclusory statement that this property is unbuildable and worthless does not constitute probative evidence. *Whitley Products v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998). In determining market value of the property, it would be unrealistic to ignore the fact that Petitioners own four contiguous lots. Furthermore, given the fact that the lots have a total frontage of 100 feet, the Board does not find the testimony that they are unbuildable and worthless to be credible.
 - b. Joseph Belovich further opined that the lots have a lower market value because they are in a distressed area. There is, however, no documentation or proof of specific facts in the record to support this conclusion. Again, such conclusory statements do not constitute probative evidence in support of Petitioners' claim. *Id.*

- c. Testimony that the City of Hammond refused to accept these lots as a gift was not challenged or rebutted, but Petitioners failed to explain how that fact indicates a market value for the subject property. Without meaningful explanation and analysis, this fact provides no weight to Petitioners' claim that the market value of the lots is too high. *Indianapolis Racquet Club*, 802 N.E.2d at 1022.

Conclusion

16. The Petitioners failed to provide sufficient evidence to establish a prima facie case. The Board finds for the Respondent.

Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessments 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.