

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petitions #: 45-016-02-1-5-00021
45-016-02-1-5-00022
Petitioner: Kenneth J. Gagliardi
Respondent: Department of Local Government Finance
Parcels #: 006-27-17-0121-0011
006-27-17-0121-0010
Assessment Year: 2002

The Indiana Board of Tax Review (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 in Lake County, Indiana. The Department of Local Government Finance (DLGF) determined that the Petitioner's property tax assessment for the subject property was \$7,100 for each parcel and notified the Petitioner of that decision on March 26, 2004.
2. The Petitioner filed a Forms 139L on April 8, 2004.
3. The Board issued notices of hearing to the parties dated June 24, 2004.
4. Special Master S. Sue Mayes held the hearing in Crown Point on August 27, 2004.

Facts

5. The subject property is located in the 900 block of East Jane Street in Hobart, Indiana.
6. The subject property consists of two vacant lots. Each lot measures 50 feet wide and 110 feet deep.
7. The Special Master did not conduct an on-site inspection of the property.
8. Assessed Value of each parcel as determined by the DLGF:
Land \$7,100 Improvements 0 Total \$7,100.
9. Assessed Values requested by the Petitioners per the Form 139L for each parcel:
Land \$50 Improvements 0 Total \$50.

10. Persons sworn as witnesses at hearing:
For Petitioner — Kenneth J. Gagliardi, Owner,
For Respondent — Cathi Gould, Staff Appraiser, Cole-Layer-Trumble.

Issue

11. Summary of Petitioner's contentions in support of an alleged error in the assessment:
- a. These two parcels are rear lots with very limited value that is much less than the current assessment.
 - b. Petitioner owns the three lots identified on the plat map as 8, 9, and 10.¹ Lot 10 is the one on Indiana Street, which is not being appealed. Petitioner has a house on lot 10. Lots 8 and 9 are rear lots, which are being appealed. As separate lots, they are landlocked and they are unbuildable. *Gagliardi testimony; Petitioner Exhibit 1.*
 - c. Lots 8 and 9 do not have sidewalks or sewers. *Gagliardi testimony; Petitioner Exhibit 1.*
 - d. The plat map shows Jane Street and Illinois Street, but neither of them exists. The area identified as Jane Street is actually a gravel parking lot for a factory on the other side of Jane Street. The lots behind Petitioner's property and the area identified as Illinois Street are a swamp. *Gagliardi testimony; Petitioner Exhibit 1.*
 - e. The two lots just behind Petitioner's property, identified as 6 and 7 on the plat map, have been offered for sale by the Board of Commissioners for \$99 each for the past ten years, but they have not sold. Petitioner contends this fact is evidence that the market value for those lots is not even \$99. They would be available to Petitioner for \$50 each because he is an adjoining landowner. *Gagliardi testimony.*
 - f. At the hearing, Petitioner agreed with Respondent's testimony and offer that these two lots should be treated as rear lots with one valued at \$2,800 and the other at \$2,100. *Gagliardi testimony.*
 - g. Petitioner has taken action to get lots 8, 9, and 10 assessed as one parcel, but that action was not effective until after 2002. *Gagliardi testimony.*
12. Summary of Respondent's contentions in support of the assessment:
- a. Respondent agrees that Jane Street as shown on the plat map does not really exist. *Petitioner Exhibit 1; Gould testimony.*
 - b. These two lots and Petitioner's other lot that is not under appeal really should be treated as one property for assessment purposes. Petitioner should get the county records corrected to reflect that fact. Furthermore, doing so should result in the entire property being eligible for the homestead exemption. *Gould testimony.*
 - c. Nobody would purchase lots 8 or 9 separately. Logically nobody would purchase them. *Gould testimony.*
 - d. These two lots should be priced as rear lots, with parcel 006-27-17-0121-0011 valued at \$2,800 and parcel 006-27-0121-0010 valued at \$2,100. *Gould testimony.*

¹ The plat map shows the lots identified in two different ways. One is a series of numbers that are circled and the other is a series of numbers that are not circled. References herein are to the numbers that are not circled.

Record

13. 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.—379,
 - c. Exhibits:
 - Petitioner Exhibit 1 — Plat map,
 - Petitioner Exhibit 2 — Photograph of vacant lots just behind subject property,
 - Petitioner Exhibit 3 — May 19, 2004, Commissioners Sale, page 39, for two vacant lots behind subject property,
 - Respondent Exhibit 1a — 139L Petition 45-016-02-1-5-00021,
 - Respondent Exhibit 1b — 139L Petition 45-016-02-1-5-00022,
 - Respondent Exhibit 2a — PRC for Petition 45-016-02-1-5-00021,
 - Respondent Exhibit 2b — PRC for 45-016-02-1-5-00022,
 - Board Exhibit A1 and A2 — Forms 139L for each parcel,
 - Board Exhibit B1 and B2 — Notices of Hearing for each parcel,
 - Board Exhibit C1 and C2 — Sign-in Sheets,
 - d. These Findings and Conclusions.

Analysis

14. The Board finds that the assessed value on both parcels should be changed to conform to the parties' agreement.

Conclusion

15. The assessed value on these two vacant lots should be reduced to \$2,800 on one and \$2,100 on the other. The Board finds in favor of the Petitioner.

Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should be changed.

ISSUED: February 28, 2005

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.