

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition: 45-013-02-1-5-00174
Petitioner: Margaret J. Alexander
Respondent: Department of Local Government Finance
Parcel: 005-30-24-0113-0008
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. The Department of Local Government Finance (the DLGF) determined that the Petitioner's property tax assessment for the subject property is \$4,500 and notified the Petitioner on March 25, 2004.
2. The Petitioner filed a Form 139L on April 23, 2004.
3. The Board issued a notice of hearing to the parties dated October 22, 2004.
4. Special Master S. Sue Mayes held the hearing in Crown Point on November 29, 2004.

Facts

5. The subject property is located at 14627 Huseman, Cedar Lake. The location is in Hanover Township.
6. The subject property is a vacant 40 by 125 foot parcel.
7. The Special Master did not conduct an on-site visit of the property.
8. Assessed value of the subject property as determined by the DLGF:
Land \$4,500 Improvements \$0 Total \$4,500.
9. Assessed value requested by Petitioner:
Land \$2,000 Improvements \$0 Total \$2,000.

10. Persons sworn as witnesses at the hearing:
For Petitioner – Margaret J. Alexander, owner,
For Respondent – Everett D. Davis, assessor/auditor.

Issue

11. Summary of Petitioner’s contentions in support of an alleged error in the assessment:
 - a. Petitioner owns the subject property and an adjoining lot with a dwelling (under separate appeal). Since a two million dollar sewer project was put in between Pine Crest and Shady Beach, these properties have flooded. *Petitioner Exhibit 1; Alexander testimony.*
 - b. As a result of the informal hearing, the land value of the adjoining property was reduced. The value of the subject property was not reduced. The Petitioner questioned why the adjoining lot was lowered and not the subject property. They should be the same. *Alexander testimony.*
12. Summary of Respondent’s contentions in support of the assessment:
 - a. Respondent could not explain why the value on the adjoining lot was lowered, but not the value on the subject. *Davis testimony.*
 - b. Respondent acknowledged that the subject property floods. Without evidence to indicate a different value for the subject property, the current assessed value should stand. *Davis testimony.*

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. 832,
 - c. Petitioner Exhibit 1 – Copies of 12 photographs,
Respondent Exhibit 1 – Form 139L,
Respondent Exhibit 2 – Subject property record card,
Board Exhibit A – Form 139L,
Board Exhibit B – Notice of Hearing,
Board Exhibit C – Sign-in sheet,
 - d. These Findings and Conclusions.

Analysis

14. The most applicable laws 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. There is sufficient evidence to support the Petitioner’s contentions that the land value was erroneous. This conclusion was arrived at because:
 - a. The Petitioner had presented her photographs of the subject and adjoining property at the informal hearing. The land value of the adjoining property was reduced from \$7,600 to \$3,800 as a result of a flooding problem. Both parcels have the same flooding issue. Both are the same size. No reduction was made to this parcel because it floods.
 - b. The subject property did, however, receive a negative 70 percent influence factor for “vacancy”, and “other”. The comparable adjoining parcel has a negative 75 percent influence factor for “topography”. The discrepancy was not explained by either party. The evidence is unclear as to the exact reason or reasons for the negative influence factor that was previously allowed. Therefore, it is not possible to reach any conclusion about how the flooding issue might add to that factor.
 - c. Nevertheless, the assessment on the adjoining parcel should be recognized as a valid comparable that strongly indicates the market value for this one. Respondent has provided no evidence or explanation to prove a reason for determining different market values when assessing these two parcels.
 - d. The evidence in this case proves that both parcels are very similar. Because of that high degree of comparability, the land assessments for both parcels should be the

same. The land assessment on the adjoining parcel at \$3,800 is the best evidence of market value for this parcel.

Conclusion

16. The Petitioner made a prima facie case. Respondent did not rebut or impeach that case.

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: _____

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.