

INDIANA BOARD OF TAX REVIEW
Small Claims
Final Determination
Findings and Conclusions

Petition #: 53-008-02-1-5-00115
Petitioner: Phillip L. Jacobs
Respondent: Perry Township Assessor, Monroe County
Parcel: 014-17680-00
Assessment Year: 2002

The Indiana Board of Tax Review (IBTR) issues this determination in the above matter, and finds and concludes as follows:

Procedural History

1. The Petitioner initiated an assessment appeal with the Monroe County Property Tax Assessment Board of Appeals (PTABOA) by written document dated May 13, 2003.
2. The Petitioner received notice of the decision of the PTABOA on June 19, 2003.
3. The Petitioner filed an appeal to the Indiana Board of Tax Review (IBTR) by filing a Form 131 with the county assessor on July 3, 2003.
4. The IBTR issued a notice of hearing notice to the parties dated January 7, 2004.
5. The IBTR held an administrative hearing on February 19, 2004, before the duly appointed Administrative Law Judge Rick Barter.
6. Persons present and sworn in at hearing:
 - a. For Petitioner: Phillip Jacobs, Taxpayer
 - b. For Respondent: Judith Sharp, Monroe County Assessor
7. Matters agreed to at the hearing:
 - a. The parties agreed to continue with the hearing and waived the requirement to exchange witness list and evidence found in 52 IAC 3-1-5(f).
 - b. Perry Township authorized Judy Sharp, Monroe County Assessor to represent the township in this matter in accordance with 52 IAC 3-1-4.

Facts

8. The property is classified as a vacant residential lot, as is shown on the property record card #014-17680-00.
9. The Administrative Law Judge (ALJ) did not conduct an inspection of the property.
10. Assessed Value of subject property as determined by the Monroe County PTABOA: Land – \$12,300.
11. Assessed Value requested by Petitioner: Land – \$1,030.

Contentions

12. Petitioner's contentions in support of alleged error in assessment is:
 - a. The property is overvalued because the property is landlocked with no ingress or egress.
 - b. In 1995, the State Board of Tax Commissioners applied a negative 75% influence factor to the property citing to the lack of access (landlocked).
 - c. The property has not changed between the 1995 assessment and the current assessment.
 - d. The correct assessment is the assessed value set by the State Board of Tax Commissioners in 1995 (\$1,030).
13. Respondent's contentions in support of the assessment is:
 - a. The PTABOA applied a 50% negative influence factor to reduce the land value from \$24,700 to \$12,300 due to the lack of access.
 - b. The original land value assigned of \$24,700 was established by applying the land order adopted by Monroe County.

Record

14. The official record for this matter is made up of the following:
 - a. The Petition, and all subsequent pre-hearing, or post-hearing submissions by either party.
 - b. The tape recording of the hearing labeled BTR #5825.
 - c. The evidence submitted by the Petitioner, labeled Petitioner's Exhibits No. 1 through 2 and identified on the attached Exhibit List.
 - d. The evidence submitted by the Respondent, labeled Respondent Exhibit No. 1 through 5 and identified on the attached Exhibit List.
 - e. These Findings and Conclusions.

Analysis

15. The most applicable governing case law is:

- a. The petitioner must sufficiently explain the connection between the evidence and petitioner's assertions in order for it to be considered material to the facts. *See generally, Heart City Chrysler v. State Bd. of Tax Comm'rs*, 714 N.E.2d 329, 333 (Ind. Tax Ct. 1999).
- b. The Board will not change the determination of the County Property Tax Assessment Board of Appeals (PTABOA) unless the petitioner has established a 'prima facie case' and, by a 'preponderance of the evidence' proven, both the alleged error(s) in the assessment, and specifically what assessment is correct. *See Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998); *North Park Cinemas, Inc. v. State Bd. of Tax Comm'rs*, 689 N.E.2d 765 (Ind. Tax Ct. 1997).

16. Petitioner did not provide sufficient evidence to support Petitioner's contentions. This conclusion was arrived at because:

Prior State Board Determination

- a. Petitioner contends that the assessed value of the property should be \$1,030 – the assessed value established by the State Board of Tax Commissioners in 1995. *Jacobs testimony; Pet. Ex. 1*. However, an assessment for a prior year has no evidentiary value because “[i]n original tax appeals, each assessment and each tax year stands alone.” *Glass Wholesalers, Inc. v. State Bd. of Tax Comm'rs*, 568 N.E.2d 1116, 1124 (Ind. Tax Ct. 1991). The Board finds that this evidence lacks probative value.¹

The Property is Landlocked

- b. The fact that the property is landlocked is undisputed. *Sharp testimony; Jacobs testimony*. The PTABOA recognized that this condition affects the value of the property and gave it a 50% negative influence factor to account for that condition. *Resp. Ex. 3, 5; Board Ex. 4*. The fact remains that the land is in a very highly valued area of Monroe County, and accordingly the land order dictates a heightened value.² *Resp. Ex. 5 at 6;*

¹ The Final Determination from 1995 is a one-page document that lists an assessed value and provides no reasoning or explanation for the value whatsoever. *See Pet. Ex. 1*. Without any explanation of the reasoning behind the State Board's decision, this Board cannot give it any weight. Furthermore, the property assessment system in Indiana has undergone fundamental changes between the 1995 reassessment and the 2002 reassessment. *See generally*, 2002 REAL PROPERTY ASSESSMENT MANUAL, (incorporated by reference at 50 IAC 2.3-1-1(a)).

² The record also reflects that Jacobs listed the property approximately ten years ago. *Resp. Ex. 5 at 8; Sharp testimony*. The listing price at that time was \$30,000. *Id. at 9; Sharp testimony*. No sale was consummated at that time. *Resp. Ex. 5 at 11*. That evidence suggests that the property is worth more than \$1,030.

Sharp testimony. Petitioner has not presented evidence to prove that this influence factor does not accurately reflect the value of the property.

17. The Petitioner has failed to make a prima facie case regarding the value of the land.

IBTR 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

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.