

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-037-02-1-5-00018A
Petitioner: Ray & Helen McIntire LTD
Respondent: Department of Local Government Finance
Parcel #: 010-10-01-0026-0005
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 in Lake County, Indiana. The Department of Local Government Finance (DLGF) determined that the Petitioner's property tax assessment for the subject property was \$130,900. The DLGF's Notice of Final Assessment was sent to the Petitioner on March 23, 2004.
2. The Petitioner filed a Form 139L on April 8, 2004.
3. The Board issued a notice of hearing to the parties dated July 21, 2004.
4. A hearing was held on August 27, 2004, in Crown Point, Indiana before Special Master S. Sue Mayes.

Facts

5. The subject property is located at: 21402 Chestnut Road, Lowell, West Creek Township, Lake County.
6. The subject property is 113 acres of farmland with no improvements.
7. The Special Master did not conduct an on-site visit of the property.
8. The Assessed Values of the subject property as determined by the DLGF are:
Land \$130,900 Improvements \$ -0- Total \$130,900

Assessed Values requested by the Petitioner per the Form 139L petition are:
The Petitioner did not request any specific assessed values on the Form 139L.

9. The persons indicated on the attached sign-in sheet (Board Exhibit C) were present at the hearing.
10. Persons sworn in at the hearing:
 - For Petitioner: Stephen C. McIntire, Partner
Michael R. McIntire, General Partner
 - For Respondent: David M. Depp, Sr. Appraiser for Cole-Layer-Trumble (CLT),
representing the DLGF

Issue

11. Summary of Petitioner's contention in support of an alleged error in the assessment:
 - a. West Creek floods this agricultural parcel. The problem becomes worse as more houses and roads are built. The local township assessor took note of the flooding and made changes on the property record card (PRC). *M. McIntire testimony & Petitioner Exhibit 1.*
 - b. PRC for the subject parcel dated August 26, 2004, shows five (5) acres receiving a negative 30% adjustment. *Petitioner Exhibit 1.*
12. Summary of Respondent's contentions in support of the assessment:
 - a. There is no record of any adjustment made for flooding prior to the reassessment. When the subject property was inspected it was dry. *Depp testimony.*
 - b. The Petitioner knows the property. The local township assessor knows the property. There is no problem agreeing to the value adjustments as shown on the PRC. *Depp testimony & Petitioner Exhibit 1.*

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. #169.

- c. Exhibits:
 - Petitioner Exhibit 1: PRC for subject property dated August 2004

 - Respondent Exhibit 1: Form 139L Petition
 - Respondent Exhibit 2: PRC for subject property

 - Board Exhibit A: Form 139 L Petition
 - Board Exhibit B: Notice of Hearing on Petition
 - 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 Township Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also Clark v. State Board of Tax Commissioners*, 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 Township 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 Petitioner provided sufficient evidence to support the Petitioner’s contentions. This conclusion was arrived at because:
 - a. The Petitioner testified that the land flooded and submitted a PRC dated August 26, 2004 showing that the local township assessor had made a negative 30% adjustment to five (5) acres of the subject parcel. *M. McIntire testimony & Petitioner Exhibit 1*.
 - b. The Respondent stated that the Petitioner and the local assessor know the property and that the Respondent has no problem agreeing to the valuation adjustment on this property. *Depp testimony*.

Conclusion

16. At the hearing, the Petitioner and Respondent agreed that a negative influence factor of 30% should be applied to five (5) acres of the subject parcel.
17. The agreement between the Petitioner and the Respondent is a decision between these parties and the Board will accept the agreement.

Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should be changed to reflect the application of a 30% negative influence factor to five (5) acres of the subject's land.

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.