

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petitions:	45-028-02-1-5-00152	45-028-02-1-5-00153
	45-028-02-1-5-00154	45-028-02-1-5-00155
	45-028-02-1-5-00156	45-028-02-1-5-00157
	45-028-02-1-5-00158	45-028-02-1-5-00159
	45-028-02-1-5-00160	45-028-02-1-5-00161
	45-028-02-1-5-00162	45-028-02-1-5-00163
	45-028-02-1-5-00164	45-028-02-1-5-00165
	45-028-02-1-5-00166	45-028-02-1-5-00167
	45-028-02-1-5-00168	45-028-02-1-5-00169
	45-028-02-1-5-00170	45-028-02-1-5-00171
	45-028-02-1-5-00176	45-028-02-1-5-00177
	45-028-02-1-5-00178	
Petitioner:	Real Estate Innovations, LLC	
Respondent:	Department of Local Government Finance	
Parcels:	008-33-23-0190-0002	008-33-23-0190-0003
	008-33-23-0190-0008	008-33-23-0190-0009
	008-33-23-0190-0010	008-33-23-0190-0011
	008-33-23-0190-0013	008-33-23-0190-0012
	008-33-23-0190-0033	008-33-23-0190-0001
	008-33-23-0190-0027	008-33-23-0190-0028
	008-33-23-0190-0044	008-33-23-0187-0002
	008-33-23-0187-0003	008-33-23-0187-0004
	008-33-23-0187-0005	008-33-23-0187-0006
	008-33-23-0187-0007	008-33-23-0190-0014
	008-33-23-0190-0015	008-33-23-0190-0017
	008-33-23-0190-0026	
Assessment Year:	2002	

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

Procedural History

1. The informal hearings as described in Ind. Code § 6-1.1-4-33 were held December 1, 2003. The Department of Local Government Finance (the DLGF) determined the tax assessments for the subject properties and notified the Petitioner on March 31, 2004.
2. The Petitioner filed Form 139L petitions on April 28, 2004.

3. The Board issued notices of hearing to the parties dated February 15, 2005.
4. Special Master Dalene McMillen held the hearing in Crown Point on March 18, 2005.

Facts

5. The subject properties are located at 805, 812, 820, 825, 860, 868, 876, 884, 892, 919 and 959 White Hawk Drive, 1602, 1607, 1610, 1617, 1618 and 1634 Truchard Court and 908, 916, 924, 932, 940 and 948 Alder Brook Court in Crown Point. They are in Ross Township.
6. The subject properties are 23 vacant lots.
7. The Special Master did not conduct an on-site inspection of the property.
8. The assessed values of the subject properties as determined by the DLGF are:

Petition 45-028-02-1-5-00152	Land \$49,300	Improvements -0-
Petition 45-028-02-1-5-00153	Land \$44,900	Improvements -0-
Petition 45-028-02-1-5-00154	Land \$44,900	Improvements -0-
Petition 45-028-02-1-5-00155	Land \$44,900	Improvements -0-
Petition 45-028-02-1-5-00156	Land \$44,900	Improvements -0-
Petition 45-028-02-1-5-00157	Land \$39,300	Improvements -0-
Petition 45-028-02-1-5-00158	Land \$43,500	Improvements -0-
Petition 45-028-02-1-5-00159	Land \$39,300	Improvements -0-
Petition 45-028-02-1-5-00160	Land \$39,700	Improvements -0-
Petition 45-028-02-1-5-00161	Land \$53,100	Improvements -0-
Petition 45-028-02-1-5-00162	Land \$40,400	Improvements -0-
Petition 45-028-02-1-5-00163	Land \$40,100	Improvements -0-
Petition 45-028-02-1-5-00164	Land \$43,200	Improvements -0-
Petition 45-028-02-1-5-00165	Land \$44,000	Improvements -0-
Petition 45-028-02-1-5-00166	Land \$44,000	Improvements -0-

Petition 45-028-02-1-5-00167	Land \$44,000	Improvements -0-
Petition 45-028-02-1-5-00168	Land \$44,000	Improvements -0-
Petition 45-028-02-1-5-00169	Land \$44,000	Improvements -0-
Petition 45-028-02-1-5-00170	Land \$44,000	Improvements -0-
Petition 45-028-02-1-5-00171	Land \$43,000	Improvements -0-
Petition 45-028-02-1-5-00176	Land \$42,800	Improvements -0-
Petition 45-028-02-1-5-00177	Land \$40,100	Improvements -0-
Petition 45-028-02-1-5-00178	Land \$39,200	Improvements -0-

9. The Petitioner contends on the Form 139L petitions that the 23 vacant lots should be assessed at \$38,900 each.

10. The following persons were sworn in and presented testimony at the hearing:
 For the Petitioner—Gerold L. Stout, Attorney,
 For the DLGF—Stephen H. Yohler, Assessor/Auditor.

Issue

11. Summary of the Petitioner’s contentions in support of alleged error in the assessments:
- a. The current assessments for each of the 23 vacant lots should be reduced by \$4,200. *Stout testimony.*
 - b. The Petitioner purchased 103 vacant lots located in Ross and Center Townships for \$4 million on March 27, 2000. For accounting purposes, the Petitioner determined the average price paid per lot was \$38,900 (\$4 million purchase price divided by 103 lots). *Stout testimony; Petitioner Exhibits 2, 3, 5, 6.*
 - c. To account for the size and location of each lot, the Petitioner computed the current aggregate assessed value of the 36 lots in Ross Township, \$1,497,400, and subtracted the total average price paid for the 36 lots, \$1,400,400 (36 lots x \$38,900 per lot), a difference of \$97,000. The difference of \$97,000, divided by 23 (the number of lots on appeal), equals a net adjustment to each lot on appeal of approximately \$4,200. *Id.*
 - d. The Petitioner acknowledged that the values of the various lots may not be identical. *Stout testimony.*

- e. Approximately 40 percent of the lots remain to be sold. *Id.*
12. Summary of Respondent's contentions in support of the assessments:
- a. The subject properties are valued with the same base rate as adjoining lots in the area, at \$550 per front foot.
 - b. The base rate of \$550 per front foot was developed from sales within the area at the time of the reassessment. *Respondent Exhibit 3; Yohler testimony.*
 - c. The methodology used by the Petitioner in determining an average price per lot of \$38,900 (obtained by dividing the \$4 million purchase price by the 103 lots purchased) is flawed, as it does not address the market value of each individual lot. *Yohler argument.*

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. 1283,
 - c. Petitioner Exhibit 1 - Form 139L petitions and Notices of Hearing,
Petitioner Exhibit 2 - Closing statement between Hawk Development Corporation and Real Estate Innovations, LLC, dated April 14, 2000,
Petitioner Exhibit 3 - Copy of the Tigor Title Insurance Company's owner policy,
Petitioner Exhibit 4 - Notice of Final Assessment and Notice of Assessment of Land and Structures – Form 11,
Petitioner Exhibit 5 - Purchase and Sale Agreement for White Hawk Country Club, dated March 27, 2000,
Petitioner Exhibit 6 - Comparison sheet of the DLGF assessed values and Real Estate Innovations, LLC proposed assessed values,
Respondent Exhibit 1 - Form 139L petitions,
Respondent Exhibit 2 - 2002 property record cards,
Respondent Exhibit 3 - Residential Neighborhood Valuation Form for neighborhood number 03312,
Board Exhibit A - Form 139L petitions,
Board Exhibit B - Notices of Hearing on Petition,
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 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 Petitioner did not provide sufficient evidence to support its contentions. This conclusion was arrived at because:
 - a. Petitioner argues that the assessing officials made an identical error in the assessment of each of the 23 parcels, resulting in an over assessment of each of the 23 parcels of an identical amount, \$4,200.
 - b. Petitioner’s claim for a uniform value on each of the parcels for accounting purposes does not establish the market value of the lots or identify any error in the assessment. Petitioner presents no legal or assessing authority in support of a methodology based on an average value of 103 lots of different size and location, situated in two different townships. Petitioner’s conclusory assumption on this matter does not constitute probative evidence. *Deer Creek Developers, Ltd. v. Dep’t of Local Gov’t Fin.*, 769 N.E.2d 259 (Ind. Tax Ct. 2002); *See also Bulkmatic Transport Co. v. Dep’t of State Rev.*, 691 N.E.2d 1371, 1375 (Ind. Tax Ct. 1998) (rejecting a taxpayer’s argument where it was unsupported by any authority).
 - c. Petitioner assumes that all of the lots were initially valued equally at \$38,900. The record, however, clearly indicates the individual parcels have differing market values. For example, the current assessed values of the parcels under appeal range from \$39,200 to \$53,100. The proposed uniform reduction of \$4,200 to these parcels would continue to result in varying assessed values. Additionally, Petitioner acknowledged that the values could vary among the individual parcels, depending on the size and location of the lot and the preference of the consumer.

- d. The 103 lots are in two different townships. They are not in the same neighborhood. It is incumbent on Petitioner to show how land sales in Center Township are comparable to those in Ross Township. *Blackbird Farms Apt. LP v. Dep't of Local Gov't Fin.*, 765 N.E.2d 711 (Ind. Tax Ct. 2002). There is no evidence in the record to establish land values in the two townships are comparable.
- e. The property record cards indicate the parcels vary in several areas such as size, actual frontage, effective frontage, and depth factors ranges. The parcels have negative influence factors ranging from twenty to forty percent.
- f. Petitioner included all 36 parcels when determining the average price per lot, but used only 23 lots to determine the claimed uniform adjustment of \$4,200. Several of the parcels contained in the original purchase price were assessed below the proposed average value, but they are not included in the appeal.
- g. Petitioner failed to establish that a uniform reduction of \$4,200 in the assessment of each of the 23 parcels would reflect the market value of any of the parcels. Under Petitioner's methodology, the appropriate amount of adjustment would vary depending on the number of parcels Petitioner elected to appeal, rather than any market data regarding value. For example, appealing only one parcel would apparently have resulted in the entire proposed \$97,000 reduction being applied to a single parcel, whereas appealing all 36 parcels would have resulted in a proposed reduction of approximately \$2,700 per parcel.
- h. Petitioner failed to establish the proposed average value is indicative of the market value of the individual parcels, or that a uniform reduction in the assessment of each of the 23 parcels would result in the market value of those parcels.

Conclusion

16. The Petitioner failed to make a prima facie case regarding any change in the assessments. The Board finds in favor of the Respondent.

Final 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,
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. You must name in the petition and in the petition's caption the persons who were parties to any proceeding that led to the agency action under Indiana Tax Court Rule 4(B)(2), Indiana Trial Rule 10(A), and Indiana Code §§ 4-21.5-5-7(b)(4), 6-1.1-15-5(b). The Tax Court Rules provide a sample petition for judicial review. The Indiana Tax Court Rules are available on the Internet at <<http://www.in.gov/judiciary/rules/tax/index.html>>. The Indiana Trial Rules are available on the Internet at <http://www.in.gov/judiciary/rules/trial_proc/index.html>. The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>.