

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petitions #: 45-041-02-1-5-00139, 45-041-02-1-5-00140, 45-041-02-1-5-00142
Petitioners: Robert & Betty Hardy
Respondent: Department of Local Government Finance
Parcels #: 003-31-25-0096-0010, 003-31-25-0096-0004, 003-31-25-0096-0006
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. An informal hearing as described in Ind. Code § 6-1.1-4-33 was held between the Petitioners and the Respondent. The Department of Local Government Finance (DLGF) determined that the Petitioners' property tax assessments for the subject properties were \$9,400 for each parcel and notified the Petitioner on March 12, 2004.
2. The Petitioners filed Form 139L petitions on April 12, 2004.
3. The Board issued notices of hearing to the parties on July 29, 2004.
4. A hearing was held on September 15, 2004, in Crown Point, Indiana before Special Master Barbara Wiggins.

Facts

5. The subject properties are 50' wide vacant parcel of land located at: 7305 W. 141st Place, 7223 W. 141st Place, and 7309 W. 141st Place, in Cedar Lake, Center Township.
6. The Special Master did not conduct an on-site visit of the properties.
7. Assessed Value of each subject property as determined by the DLGF:
Land \$9,400 Improvements \$0 Total \$9,400.
8. Assessed Value requested by the Petitioners during hearing:
Lower value based on non-buildable land.

9. The following persons were present and sworn in at the hearing:

For Petitioners: Robert Hardy, Co-Owner

For Respondent: David Depp, Staff Appraiser, Cole-Layer-Trumble

Issue

10. Summary of Petitioners' contentions in support of alleged error in assessment:
The Petitioners' contention on the Forms 139L was the subject parcels are too small to build on and should be valued accordingly.

11. Summary of Respondent's contentions in support of assessment:
The Respondent contends the land is buildable and no change in assessment is warranted.

Record

12. The official record for this matter is made up of the following:

a. The Petition and all subsequent pre-hearing submissions by either party.

b. The tape recording of the hearing labeled Lake Co. #370.

c. Exhibits:

Petitioners' Exhibit 1: Cedar Lake Planning & Zoning Regulations.¹

Respondent's Exhibit 1: Form 139L Petition

Respondent's Exhibit 2: Subject property record card for 7223 W. 141st

Respondent's Exhibit 3: Parcel Map

Respondent's Exhibit 4: Cedar Lake Buildable Lot Restrictions

d. These Findings and Conclusions.

Analysis

13. 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.*

¹ This exhibit was submitted after the hearing with the permission of the Special Master.

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.
14. The Petitioners did not provide evidence to support their contention for a reduction in assessed value. This conclusion was arrived at because:
- a. The Petitioners contend the lots are unbuildable and should be valued lower. *Hardy testimony*.
 - b. Respondent contends a 50’ wide lot is buildable in Cedar Lake and no change in assessment is warranted since the parcel is valued similar to other buildable lots in the area. *Depp testimony*.
 - c. With permission from the Board, subsequent to the hearing, the Petitioners submitted a copy of the Cedar Lake Planning & Zoning Department’s land use restrictions and believed it proved by virtue of the second page of the exhibit (page 59) that land must be at least 80’x100’ to build on. *Petitioners’ Exhibit 1*.
 - d. Petitioner’s Exhibit 1, p. 59 § 4 (A) explains that lots which have less than minimum requirements in prerecorded subdivisions should refer to p. 122 § 23A (2). On that page, it is written that lots recorded prior to the latest ordinance still have the original 50’ requirement and 5,000 square feet in total to be built upon. *Petitioners’ Exhibit 1*. This reading is supported by Respondent Exhibit 4. *Depp testimony*.
 - e. Upon review of Petitioners’ Exhibit 1, the Board finds that the zoning ordinance does not support Petitioner’s claim that the lots are unbuildable.

Conclusion

15. The Petitioner did not present sufficient evidence to make a prima facie case that the lots are unbuildable. The Board finds in favor of the Respondent and upholds the assessment of each lot at \$ 9,400.

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.