

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petitions: 45-002-02-1-5-00489
45-001-02-1-5-00490
45-001-02-1-5-00491
Parcels: 001-25-47-0325-0020
001-25-47-0325-0019
001-25-47-0325-0021
Petitioners: Robert L. & Loretta K. Collins
Respondent: Department of Local Government Finance
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 assessment for the subject properties is \$2,200 for each parcel and notified the Petitioners on March 31, 2004.
2. The Petitioners filed Form 139L petitions on April 20, 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 30, 2004.

Facts

5. The subject properties are vacant residential lots located at 4176-84 Carolina Street, Gary. The location is in Calumet Township.
6. The Special Master did not conduct an on-site visit of the property.
7. Assessed value of each of the subject properties as determined by the DLGF:
Land \$2,200 Improvements \$0 Total \$2,200.
8. Assessed value of each of the properties as requested by Petitioners:
Land \$500 Improvements \$0 Total \$500.

9. Persons sworn in as witnesses at the hearing:
For Petitioners — Robert L. Collins, Owner,
For Respondent — Joseph Lukomski, Jr., Assessor/Auditor.

Issue

10. Summary of Petitioners' contentions in support of an alleged error in the assessment:
- a. The properties are over assessed. The lots have no street or alley access or frontage. According to the codes for the City of Gary, the lots cannot be built on with anything more than an out-building. *Petitioner Exhibit 2A; Collins testimony.*
 - b. The properties were purchased from the City of Gary for \$125 per lot, plus payment of the 1998 taxes due in 1999. Payment of \$375 made on August 24, 1998. Deed for the properties is dated February 1, 1999. The properties were not bought at tax sale. *Petitioner Exhibits 3, 4; Collins testimony.*
 - c. These three parcels are, in effect, an extension of Petitioner's back yard. Petitioners bought them in order to have control over what happened to them. *Collins testimony.*
11. Summary of Respondent's contentions in support of the assessment:
- a. Respondent questioned why the properties are unbuildable. Respondent asked if the properties were unbuildable due to having no access, due to trees, or due to the city code. *Lukomski testimony.*
 - b. The property record cards show that the parcels were valued at \$176 per front foot, which is the base rate used in the area. *Respondent Exhibit 2; Lukomski testimony.*

Record

12. 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. 807,
 - c. Petitioner Exhibit 1: Form 139L,
Petitioner Exhibit 2: Summary of Petitioners' arguments,
Petitioner Exhibit 2A: Map,
Petitioner Exhibits 2B-2E: Photographs,
Petitioner Exhibit 3: Receipt of purchase,
Petitioner Exhibit 4: Quitclaim deed,
For 45-002-1-5-00489 Respondent Exhibit 1: Subject property record card,
For 45-001-02-1-5-00490 Respondent Exhibit 1: Form 139L,
For 45-001-02-1-5-00490 Respondent Exhibit 2: Subject property record card,

- For 45-001-02-1-5-00490 Respondent Exhibit 3: Maps,
For 45-001-02-1-5-00491 Respondent Exhibit 1: 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

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. 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. Petitioners did not provide sufficient evidence to support their contentions. This conclusion was arrived at because:
- a. Petitioners said that the properties were unbuildable because there is no street access. The road shown on the map was platted, but not built. This fact was recognized in the current assessment because each of the subject parcels was reduced by 50 percent for being on a “paper street.” This reduction is noted on the property record cards.
 - b. Petitioners said that the properties were unbuildable according to the city building codes, but failed to provide probative evidence to support their allegation. Their unsubstantiated conclusions do not constitute probative evidence. *Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).
 - c. Petitioners provided a quitclaim deed and a receipt from the City for Gary Controller’s Office. The receipt indicates that Petitioners paid a total of \$375 for the three lots. The deed shows that Petitioners were also obligated to pay the 1998 taxes payable in 1999. *Petitioners Exhibits 3, 4*. The record does not establish the full amount that Petitioners actually paid for the properties. Similarly, the record does not

establish the circumstances whereby the three properties sold. The record does not establish that the amount paid for these properties actually represents market value as of January 1, 1999.

- d. Petitioners failed to establish a link between the purchase price of \$125 per lot and the requested value of \$500 per lot. Petitioners contend that the correct value of the properties should be \$500 per parcel, but they offered no explanation for the requested value. That conclusory opinion has no evidentiary weight. *Whitley Products*, 704 N.E.2d at 1119.
- e. Where the Petitioner has not supported the claim with probative evidence, the Respondent's duty to support the assessment with substantial evidence is not triggered. *Lacy Diversified Indus. V. Dep't of Gov't Fin.*, 799 N.E.2d 1215, 1221-1222 (Ind. Tax Ct. 2003).

Conclusion

- 15. Petitioners failed to make a prima facie case. 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

- 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>.