

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-016-02-1-5-00248
Petitioners: Roger M. & Judith K. Grubb
Respondent: Department of Local Government Finance
Parcel #: 006-27-170155-0015
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 December 5, 2003 in Lake County, Indiana. The Department of Local Government Finance (DLGF) determined that the Petitioners' property tax assessment for the subject property was \$11,000 and notified the Petitioners on March 26, 2004.
2. The Petitioners filed a Form 139L on April 15, 2004.
3. The Board issued a notice of hearing to the parties dated October 15, 2004.
4. A hearing was held on November 17, 2004 in Crown Point, Indiana before Special Master Dalene McMillen.

Facts

5. The subject property is a vacant lot located at 906 East 6th Street, Hobart, Hobart Township in Lake County.
6. The Special Master did not conduct an on-site visit of the property.
7. The assessed value of the subject property

As determined by the DLGF:
Land: \$11,000 Improvements: -0- Total: \$11,000

As requested by the Petitioners:
Land: \$3,000 Improvements: -0- Total: \$3,000

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

For the Petitioners: Roger M. Grubb, Owner
 Judith K. Grubb, Owner

For the DLGF: Steven McKinney, Assessor/Auditor, DLGF

Issue

9. Summary of the Petitioners' contentions in support of alleged error in assessment:

- a. The subject property is an abandoned railroad property. The property has no frontage or street access. *R. Grubb testimony.* The subject property cannot be developed, because it is land locked by the surrounding properties. *R. & J. Grubb testimony.*
- b. The Petitioners purchased the subject property March 6, 1996 for \$3000. *Petitioner Ex. 3; R. Grubb testimony.*

10. Summary of the Respondent's contentions in support of assessment:

- a. The Petitioners' evidence is accurate; the subject parcel appears to be unbuildable. *McKinney testimony.*
- b. Lots located within Lake County that are deemed to be unbuildable receive a negative influence factor of ninety percent (90%). *McKinney testimony.* Application of such a negative influence factor to the subject property would reduce its assessed value to \$4,600. *Id.*

Record

11. 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. #604.
- c. Exhibits:

Petitioner Exhibit 1 – A copy of the Notice of Assessment, dated March 26, 2004.

Petitioners Exhibit 2 – A copy of the Form 139L petition.

Petitioners Exhibit 3 – A copy of the agreement to sell real estate between Gail Dayhoff and Roger and Judith Grubb, dated March 6, 1996.

Respondent Exhibit 1 – A copy of the Form 139L petition.

Respondent Exhibit 2 – A copy of Roger Grubb's 2002 property record card.

Board Exhibit A – Form 139L petition, dated April 15, 2004

Board Exhibit B – Notice of Hearing on Petition, dated October 15, 2004

Board Exhibit C – Hearing sign-in sheet.

d. These Findings and Conclusions.

Analysis

12. The most applicable 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 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 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 Insurance Company 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.

13. The Petitioners provided sufficient evidence to support the Petitioner’s contentions. This conclusion was arrived at because:

- a) The Petitioners testified that the subject property is an undeveloped lot with no street access. *R. Grubb testimony*.
- b) The Respondent did not dispute the Petitioners’ testimony. *McKinney testimony*. Instead, the Respondent recommended the application of a negative influence factor

of 90% to account for the fact that improvements cannot be constructed upon the subject property. *Id.* The Respondent testified that other unbuildable lots within Lake County also receive a 90% negative influence factor. *Id.* The application of the negative influence factor recommended by the Respondent would reduce the assessed value of the subject property to \$4,600. *Id.*

- c) The Respondent's recommendation of a negative influence factor would not reduce the assessment to the full extent requested by the Petitioners in their 139L petition. Nevertheless, the Petitioners did not present any probative evidence quantifying the effect of the lack of access on the market value-in-use of the subject property. The only evidence the Petitioners offered to support their requested value was a copy of the purchase agreement executed when they bought the subject property in 1996. *Petitioners Ex. 3.* However, the Petitioners did not explain how that 1996 sale price relates to the market value-in-use of the subject property as of January 1, 1999 – the relevant valuation date for the 2002 general reassessment. Consequently, the purchase agreement lacks probative value. *See Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471-72 (Ind. Tax Ct. 2002)(holding that an appraisal indicating a property's value as of December 10, 2003, lacked probative value in an appeal from a 2002 assessment). The Petitioners therefore have not presented a prima facie case for any further reduction in the assessed value of the subject property beyond the amount to which the Respondent conceded.
- d) Based on the foregoing, the evidence in the record supports a finding that the total assessment of the subject lot should be reduced to \$4600.

Conclusion

14. The evidence supports a finding that the assessment of the subject property should be reduced to \$4,600. The Board finds in favor of the Petitioners.

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 \$4,600.

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.