

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-001-02-1-5-00007
Petitioner: Roland Wilson
Respondent: Department of Local Government Finance
Parcel #: 001-25-46-0594-0027
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 Petitioner and the Respondent. The Department of Local Government Finance (DLGF) determined that the Petitioner's property tax assessment for the subject property was \$8,900 and notified the Petitioner.
2. The Petitioner filed a Form 139L on April 14, 2004.
3. The Board issued a notice of hearing to the parties dated June 22, 2004.
4. A hearing was held on August 10, 2004, in Crown Point, Indiana before Special Master Barbara Wiggins.

Facts

5. The subject property is located at: 1118 Pyramid Drive, Gary, in Calumet Township.
6. The subject property is a vacant parcel of land with .138 acres.
7. The Special Master did not conduct an on-site visit of the property.
8. Assessed Value of subject property as determined by the DLGF:
Land \$8,900
9. Assessed Value requested by Petitioner during hearing:
Land \$1,000 to \$1,500

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

For Petitioner: Roland & Sandra Wilson, Taxpayers
For Respondent: David Depp, Cole-Layer-Trumble Appraiser

Issue

11. Summary of Petitioner's contentions in support of alleged error in assessment:

- a) The lot was purchased in February 2003 for \$550 at a tax sale. The reason he paid so much was that it was a great location. *R. Wilson testimony.*
- b) The subject land parcel has a lower value due to being behind an abandoned pavilion and it is too small to build on. *R. Wilson testimony.*

12. Summary of Respondent's contentions in support of assessment:

- a) Land sales are difficult to obtain in this area. Due to the limited sales, they used a residual method with all values and influence factors approved by the State. *Depp testimony.*
- b) The lot is large enough to build on, 50 x 118, and was assessed similar to other parcels of this size and location. An influence factor was applied to the value. *Depp testimony.*

Record

13. 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. #254 and #258.
- c) Exhibits:
Petitioner Exhibit 1: Property record card (PRC) and photograph of subject property
- 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 the Petitioner’s contentions. This conclusion was arrived at because:
- a) The Petitioner testified that he purchased the property for \$550 at a tax sale because he thought it was a great site. *R. Wilson testimony*. Tax sales are not reliable indicators of true market value. *See* 2002 REAL PROPERTY ASSESSMENT MANUAL at 10 (defining Market Value as a price in a competitive and open market that is unaffected by undue stimulus). Tax sales are by their very nature not indicative of a competitive and open market.
 - b) The Petitioner stated the lot is too small to build on according to the city’s requirements. *R. Wilson testimony*. No zoning requirement documentation, nor similar sales data, was presented as evidence to support a lower value. As Petitioner has failed to offer the zoning ordinance into evidence, the Board cannot grant relief on any restrictions said ordinance might impose. *See Whitley Products*, 704 N.E.2d 1113, 1119 (Ind. Tax. Ct. 1998) (stating that mere allegations, unsupported by factual evidence, will not be considered sufficient to establish an alleged error).

Conclusion

16. The Petitioner did not make a prima facie case in support of a lower value. 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.