

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-001-02-1-5-00008
Petitioner: Roland Wilson
Respondent: Department of Local Government Finance
Parcel #: 001-25-46-0594-0032
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 \$5,000 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: 1161 Pyramid Drive, Gary, in Calumet Township.
6. The subject property is a 28' by 118' unimproved parcel of land.
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 \$5,000 Improvements \$0 Total \$5,000
9. Assessed Value requested by Petitioner:
Land \$250 Improvements \$0 Total \$250

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

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

Issue

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

- a) A 50' frontage is required for a buildable lot; the subject property has a 28' frontage. He was told by the city that a lot with less than a 50' frontage could only be used for a garage or a driveway. *R. Wilson testimony.*
- b) The lot was purchased at a tax sale for approximately \$150 in June 2003. It is overgrown with trees and should be valued at \$250. *R. Wilson testimony.*

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

Minimum values were established and any lot deemed unbuildable would have a 90% influence factor applied. *Depp testimony.* The subject lot value would be \$600 after the application of the influence factor. *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 and photograph of subject property
- d) These Findings and Conclusions.

Analysis

14. The most applicable governing cases/laws/regulations 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 and the Respondent agreed during the hearing that the lot did not meet the requirements for construction. *R. Wilson testimony; Depp testimony*. The subject property should have been assessed as an unbuildable lot, which receives a negative ninety percent influence factor. *Depp testimony*.

Conclusion

16. The Petitioner and Respondent agreed that the value of the subject property should be \$600 after the 90% negative influence factor is applied. *Depp testimony; R. Wilson testimony*. The Board makes no findings regarding the merits of this case, and instead accepts the parties’ agreement.

Final Determination

In accordance with the parties agreement, the Indiana Board of Tax Review now determines that the assessment should 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.