

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-026-02-1-4-00577
Petitioner: Sherry L. Goodwin
Respondent: Department of Local Government Finance
Parcel #: 007263602380040
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 on December 17, 2003 in Lake County, Indiana. The Department of Local Government Finance (DLGF) determined that the Petitioner's property tax assessment for the subject property was \$11,300 and notified the Petitioner on March 31, 2004.
2. The Petitioner filed a Form 139L on April 19, 2004.
3. The Board issued a notice of hearing to the parties dated January 24, 2005.
4. A hearing was held on March 2, 2005, in Crown Point, Indiana before Special Master Barbara Wiggins.

Facts

5. The subject property is vacant commercial land located at 5123 Bulletin Court, Hammond, Indiana.
6. The Special Master did not conduct an on-site visit of the property.
7. Assessed Value of subject property as determined by the DLGF:
Land \$11,300
8. Assessed Value requested by Petitioner on the Form 139L petition:
Land \$6,000
9. The persons indicated on the sign-in sheet (Board Exhibit C) were present at the hearing.

10. Persons sworn in at hearing:

For Petitioner: Richard Goodwin, husband of Petitioner

For Respondent: John Toumey, DLGF

Issues

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

- a) The subject property is over value based on appraisals of other land in the area. *Goodwin testimony.*
- b) The Petitioner purchased the subject property in 1984 for \$3,262.50 from the Board of County Commissioners at a public sale. The Petitioner stated the subject property is in a blighted area and values have not gone up. The value of the subject property has gone down or stayed the same. *Goodwin testimony; Pet'r Ex. 2.*
- c) The Petitioner presented two appraisal reports on a property located at 146 State Street. The Petitioner stated the reports show that land in the area was worth 75¢ or 80¢ per square foot in 1997. The reports show the building was worth \$8.00 per square foot. The appraised property was sold to the city in 1997 for \$50,000. One of the aerial photographs shows the hole where the appraised property was located. *Goodwin testimony; Pet'r Ex. 1 at section 15-2; Pet'r Ex. 3; Pet'r Ex. 4 at p. 10.*
- d) The Petitioner presented aerial photographs to show the location of the subject property and the appraised property. *Goodwin testimony; Pet'r Ex. 3.*
- e) Mr. Goodwin owns properties in the neighborhood. The properties are located on Willow Court, just across the alley from the subject property. The properties have different street addresses, but are in the same neighborhood. The Petitioner presented a hand drawn map of the subject area. *Goodwin testimony; Pet'r Ex. 3.*
- f) The area is not a viable area since the bridge was built. The bridge split the town in half. Properties on Hohman are in the better part of town near the hospital. The subject property is segregated by the bridge. *Goodwin testimony.*
- g) The subject property is used as a parking lot. The Petitioner's calculations show the subject property to be approximately 8,700 square foot. *Goodwin testimony; Pet'r Ex. 3.*
- h) The Petitioner requests the subject property be valued using 80¢ per square foot. *Goodwin testimony.*

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

- a) The Respondent presented the property record card for the subject property. The Respondent noted the property record card shows the subject property to be 6,447 square feet. *Toumey testimony; Resp't Ex. 2.*
- b) The subject property is receiving a negative influence factor of 50%. The subject property is located in neighborhood 02697. The base rate for the subject neighborhood is \$3.51. The base rate is based on an analysis of sales in the city of Hammond and specifically neighborhood 02697. *Toumey testimony; Resp't Ex. 2.*
- c) It is the position of the DLGF that the value of \$11,320 accurately reflects the market value of the subject property as of the January 1, 1999, valuation date. *Toumey testimony.*
- d) The Respondent noted the appraisals presented by the Petitioner were not for the subject property. *Toumey testimony.*

Record

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

- a) The Petition.
- b) The tape recording of the hearing labeled Lake County #1247.
- c) Exhibits:
 - Petitioner Exhibit 1: Valuation Report for 146 State Street.
 - Petitioner Exhibit 2: Commissioners Deed and hand drawn map of area.
 - Petitioner Exhibit 3: Aerial Photographs (2).
 - Petitioner Exhibit 4: Appraisal for 146 State Street.

 - Respondent Exhibit 1: Form 139L.
 - Respondent Exhibit 2: Subject Property Record Card (PRC).

 - Board Exhibit A: Form 139L.
 - Board Exhibit B: Notice of Hearing.
 - Board Exhibit C: Sign in Sheet.
- d) These Findings and Conclusions.

Analysis

14. The most applicable laws 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 Township 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 Township 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 contends the assessment is too high based on two appraisal reports prepared for another property.
 - b) The appraisal reports presented by the Petitioner are for a property located at 146 State Street. Mr. Goodwin indicated that he was one of the owners of the property at 146 State Street which was sold to the City of Hammond for \$50,000. The appraisal reports were prepared for the Hammond Department of Planning. The appraisal reports value the 146 State Street property as of October 23, 1996, and December 6, 1996. The property valued is a 2 story brick commercial building and 3,475 square feet of land. One appraisal report indicates a land value 75¢ per square foot. The other appraisal report indicates a land value of 80¢ per square foot. *Pet'r Ex. 1 at section 15-2; Pet'r Ex. 4 at p. 10.*
 - c) Based on the appraisal reports, the Petitioner contends the subject property should be valued at 80¢ per square foot.
 - d) In making this argument, the Petitioner essentially relies on a sales comparison approach to establish the market value in use of the subject property. *See* 2002 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.3-1-2)(stating that the sales comparison approach “estimates the total value of the property directly by comparing it to similar, or comparable, properties that have sold in the market.”); *See also*, *Long v. Wayne Township Assessor*, 821 N.E.2d 466, 469 (Ind. Tax Ct. 2005).
 - e) In order to effectively use the sales comparison approach as evidence in a property assessment appeal, the proponent must establish the comparability of the properties being examined. Conclusory statements that a property is “similar” or “comparable” to another property do not constitute probative evidence of the comparability of the two properties. *Long*, 821 N.E.2d at 470. Instead, the proponent must identify the

- characteristics of the subject property and explain how those characteristics compare to the characteristics of the purportedly comparable properties. *Id.* at 471. Similarly, the proponent must explain how any differences between the properties affect their relative market values-in-use. *Id.*
- f) The Petitioner did not explain how the property at 146 State Street was comparable to the subject property, except to say the properties are located in the same area. The Petitioner did not discuss or compare the characteristics (for example, lot size or zoning) of the properties. Consequently, the appraisal reports presented by the Petitioner lack probative value.
 - g) The 2002 Real Property Assessment Manual provides that for the 2002 general reassessment, a property's assessment must reflect its value as of January 1, 1999. 2002 REAL PROPERTY ASSESSMENT MANUAL at 4 (incorporated by reference at 50 IAC 2.3-1-2). Consequently, a party relying on an appraisal to establish the market value-in-use of a property must provide some explanation as to how the appraised value demonstrates or is relevant to the property's value as of January 1, 1999. *See Long*, 821 N.E.2d at 471.
 - h) Even if the Petitioner had shown the properties were comparable, the appraisal reports value 146 State Street as of October and December of 1996, approximately two years prior to the valuation date. The Petitioner did not explain how values from 1996 were relevant to the value of the subject property as of the January 1, 1999 valuation date.
 - i) The Petitioner purchased the subject property in 1984, approximately 15 years prior to the valuation date. The Petitioner did not explain how the 1984 purchase price was relevant to the value of the subject property as of January 1, 1999. The purchase price lacks probative value.
 - j) The Petitioner made several statements regarding the area and the bridge, concluding that property values have gone down or stayed the same. However, the Petitioner neither explained nor attempted to quantify the effect of the area and the bridge on the market value-in-use of the land. The Petitioner's assertions amount to little more than conclusory statements. Such statements, unsupported by factual evidence, are not sufficient to establish an error in assessment. *Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1120 (Ind. Tax Ct. 1998).
 - k) At the hearing, the Petitioner estimated the subject property to be approximately 8,700 square feet. The Respondent noted the property record card for the subject property shows the square footage to be 6,447. There was no further discussion on the square footage of the subject property. Because the difference in square footage was not pursued by either party, the Board will not address the square footage of the subject property.

Conclusion

16. The Petitioner 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: **10-03-2005**

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. 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>>.