

REPRESENTATIVE FOR PETITIONER:
Timothy J. Vrana, SHARPNACK BIGLEY LLP

REPRESENTATIVES FOR RESPONDENT:
Chad T. Lewis, ECKERT ALCORN GOERING & SAGE LLP
Wilmer E. Goering, ECKERT ALCORN GOERING & SAGE LLP

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

TKC PROPERTIES LLC.,)	Petition Nos.: 39-011-99-1-4-00005R
)	
Petitioner,)	County: Jefferson
)	
v.)	Township: Madison
)	
MADISON TOWNSHIP ASSESSOR,)	Parcel No.: 0110116200
)	
Respondent.)	Assessment Years: 1999
)	

On Remand from the Indiana Tax Court
Cause No. 49T10-0211-TA-131

**REFERAL TO THE MADISON TOWNSHIP ASSESSOR
JEFFERSON COUNTY, INDIANA**

The Indiana Board of Tax Review (the “Board”) having reviewed the decision of the Tax Court in the above matter dated May 28, 2004 (attached and incorporated by reference), and pursuant to Ind. Code § 6-1.1-15-8, refers this matter to the Madison Township Assessor, Jefferson County, Indiana (the “Assessor”) to make another assessment consistent with the Tax Court decision, for the reasons contained herein.

Facts and Procedural History

1. TKC Properties LLC (TKC) owns a platted lot in Jefferson County Indiana. TKC purchased this lot from K.P. Oil prior to the 1999 assessment date. The Jefferson County Land Order provides that parcels that are not platted should be priced no higher than \$24,750 per acre while commercial/industrial platted lots should be priced no higher than \$900 per front foot. For the 1995 general reassessment, the Madison Township Assessor (Assessor) assessed K.P. Oil's property at \$30,230, using the \$900 per front foot rate.
2. K.P. Oil appealed the assessment to the Jefferson County Board of Review which affirmed the assessment. K.P. Oil then appealed to the State Board of Tax Commissioners (State Board). K.P. Oil contended the land should be assessed at \$24,750 per acre. The State Board issued its final determination on December 2, 1998 reversing the Jefferson County Board of Review holding that the lot was not platted and should therefore be priced no higher than \$24,750 per acre.
3. The Assessor requested a rehearing, which was denied by the State Board. The Assessor requested the State Board reconsider its denial of the request for rehearing, this request was also denied.
4. On September 8, 1999, the Jefferson County Property Tax Assessment Board of Appeals (PTABOA) reassessed TKC's property at \$900 per front foot. This interim assessment was issued on the basis that the parcel was actually platted, not unplatted as the State Board had found.
5. TKC filed a Form 131 on October 5, 1999, challenging the reassessment. On October 9, 2002, the Indiana Board (one of two successor agencies to the former State Board) issued a final determination affirming the PTABOA's interim assessment and holding the State Board's final determination had been in error. TKC initiated an original tax appeal on November 15, 2002. The Tax Court heard oral arguments on October 6, 2003.

Discussion of Remanded Issue

6. TKC contended there were no changes in the subject property since the 1995 general reassessment and therefore the Assessor had no ability to issue an interim assessment. The Assessor argued that there was a change, namely that the property “changed” from an unplatted lot to a platted lot.
7. The Tax Court held that the Jefferson County plat records show the subject lot has been platted since 1958. As such, it was platted at the time of the 1995 general reassessment and has remained unchanged in that respect. The Tax Court also found that the Assessor has not pointed to any other changes in the property that would warrant the issuance of an interim reassessment. Therefore, the Tax Court held the Indiana Board erred in affirming the PTABOA’s interim reassessment.
8. The Tax Court REVERSED the Indiana Board’s 2002 final determination. The Court ORDERED the Board, on remand, to instruct the local assessing officials to reassess the property using the rate of \$24,750 per acre.

Therefore, pursuant to Ind. Code § 6-1.1-15-8, the Board refers this matter to the Madison Township Assessor to make another assessment consistent with the Tax Court decision, this _____ day of _____, 200__.

Commissioner, Indiana Board of Tax Review

IMPORTANT NOTICE

- APPEAL RIGHTS ON REMANDED CASE -

You may petition for judicial review of this final determination of corrected assessment pursuant to the provisions of Indiana Code § 6-1.1-15-9. 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.