

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-012-02-1-5-00010
Petitioners: Wayne E. & Virgadell D. Bateman
Respondent: Department of Local Government Finance
Parcel #: 004-04-05-0024-0003
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 in February 2004 in Lake County, Indiana. The Department of Local Government Finance (DLGF) determined that the Petitioners' property tax assessment for the subject property was \$175,700 and notified the Petitioners on March 23, 2004.
2. The Petitioners filed a Form 139L on April 19, 2004.
3. The Board issued a notice of hearing to the parties dated July 20, 2004.
4. A hearing was held on August 25, 2004, in Crown Point, Indiana, before Special Master S. Sue Mayes.

Facts

5. The subject property is located at 15021 Hancock Street, Hebron, in Eagle Creek Township.
6. The subject property is a 35.617-acre parcel of agricultural land improved with six pole barns, a flat barn, two detached garages, a utility shed, and a silo.
7. The Special Master did not conduct an on-site inspection of the property.
8. Assessed Value of the subject property as determined by the DLGF:
Land: \$56,900 Improvements: \$118,800 Total: \$175,700.
9. Assessed Value requested by Petitioners:
Land: \$56,900 Improvements: \$80,000 Total: \$136,900.

10. Persons sworn as witnesses at hearing:
For Petitioners — Wayne E. Bateman, Sr., Property Owner
Virgadell D. Bateman, Property Owner
For Respondent — David M. Depp, Senior Appraiser for Cole-Layer-Trumble.

Issues

11. Summary of Petitioners' contentions in support of an alleged error in the assessment:
- a. In January 1999, a .53-acre parcel was split off the subject parcel. *Petitioners Exhibit 1; V. Bateman testimony.* The .53-acre parcel, improved with a dwelling, became parcel #004-04-05-0024-0032. The subject property still has the dwelling included in its valuation. The Petitioners paid taxes in August 2003 for the subject property and for parcel #004-04-05-0024-0032. *Petitioners Exhibit 2; V. Bateman testimony.* The Petitioners request that the assessed value of the dwelling be removed from the subject property and placed on the correct parcel, parcel #004-04-05-0024-0032. *W. and V. Bateman testimony.*
 - b. The Petitioners are being assessed for a 4-car open garage that does not exist. *V. Bateman testimony.*
12. Summary of Respondent's contentions in support of the assessment:
- a. The Respondent agreed to remove the dwelling from the subject property, but testified he could not remove it until he was able to place the dwelling on parcel 004-04-05-0024-0032. The Respondent stated that he had checked the Lake County records less than a half-hour prior to the hearing and the County does not have any record of parcel 004-04-05-0024-0032. *Depp testimony.*
 - b. The 4-car open garage was removed from the assessment as a result of the informal hearing. *Depp testimony.*

Record

13. 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. 144.
 - c. Exhibits:
 - Petitioners Exhibit 1 - Plat Survey.
 - Petitioners Exhibit 2 - Receipts for tax payments for parcels 004-04-05-0024-0003 and 004-04-05-0024-00032.
 - Respondent Exhibit 1 - Form 139L.
 - Respondent Exhibit 2 - Subject property record card and photograph of the dwelling.
 - Respondent Exhibit 3 - Maps.
 - Board Exhibit A - Form 139 L.
 - 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 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 a 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.

Issue 1 – Dwelling

15. The Petitioners provided sufficient evidence to support their contention. This conclusion was arrived at because:
 - a. The Petitioners provided a survey showing that a parcel had been split off from the subject parcel. *Petitioners Exhibit 1*. The Petitioners explained that they wanted to build another house and that the .53-acre parcel and the dwelling were split off in order to comply with the zoning requirements. *V. Bateman testimony*.
 - b. The Respondent stated that the new parcel did not exist on the county records. *Depp testimony*.
 - c. The Petitioners, however, provided receipts for tax payments as proof that both parcels had been on the county records and taxes paid for taxes payable in 2003. *Petitioners Exhibit 2*.
 - d. The land description on the current property record card for the subject parcel excludes the parcel that was split off in 1999. *Respondent Exhibit 2*.
 - e. The weight of the evidence indicates that the county does have parcel 004-04-05-0024-0032 on its records.

Issue 2 – Garage

16. The Respondent testified the garage was removed from the assessment at the informal hearing, resulting in the reduction in the assessed value indicated on the Notice of Final Assessment. *Depp testimony*; *Board Exhibit A, attachment to the Form 139L petition*. This issue is no longer in dispute.

Conclusion

- 17. The Petitioners made a prima facie case concerning the removal of the dwelling from this parcel. The Respondent did not rebut Petitioners' evidence. Accordingly, the Board finds in favor of the Petitioners.

Final Determination

In accordance with the above findings and conclusions the Board determines that the assessment should be changed to deduct the value of the dwelling from the subject parcel.

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.