

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: **45-016-02-1-4-00141**
Petitioner: **Isakson Realty**
Respondent: **Department of Local Government Finance**
Parcel #: **006-42-18-0342-0005**
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 January 27, 2004, in Lake County, Indiana. The Department of Local Government Finance (the DLGF) determined that the Petitioner's property tax assessment for the subject property is \$44,300 and notified the Petitioner on March 26, 2004.
2. The Petitioner filed a Form 139L on April 30, 2004.
3. The Board issued a notice of hearing to the parties dated March 11, 2005.
4. A hearing was held on April 13, 2005, in Crown Point, Indiana before Special Master Joseph Stanford.

Facts

5. The subject property is located at 3530 North Hobart Road, Hobart, in Hobart Township.
6. The subject property is a .331-acre parcel with an access road to a car dealership. The actual dealership is on another parcel.
7. The Special Master did not conduct an on-site visit of the property.
8. The DLGF determined the assessed value of the subject property to be \$30,300 for the land and \$14,000 for the improvements for a total assessed value of \$44,300.
9. The Petitioner argued that the property had no value.

10. William Isakson and Robert Isakson, officers of the Petitioner, and Robert Heikema, accountant for the Petitioner, appeared at the hearing and were sworn as witnesses. Tommy Bennington, representing the DLGF, also appeared and was sworn.

Issues

11. Summary of Petitioner's contentions in support of an alleged error in the assessment:
 - a) The Petitioner argues that the subject property is being double assessed because the Petitioner was told by a CLT representative that this parcel would be combined with an adjacent parcel that contains the Petitioner's car dealership. *Heikema testimony.*
12. Summary of Respondent's contentions in support of the assessment:
 - a) A Petitioner must make a specific request to the County Auditor for parcels to be combined. *Bennington 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 Co -1531.
 - c) Exhibits:

Petitioner Exhibit 1: Form 139L Petition.
Petitioner Exhibit 2: Letter of Authorization.
Petitioner Exhibit 3: Notice of Final Assessment.
Petitioner Exhibit 4: Notice of Original Assessment.

Respondent Exhibit 1: Subject Property Record Card.
Respondent Exhibit 2: Photograph of Subject Property.
Respondent Exhibit 3: Plat Map.
Respondent Exhibit 4: Neighborhood Land Summary Sheet.

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 a review of a determination of the Department of Local Government Finance 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 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 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 Insurance Company 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 failed to provide sufficient evidence to support the Petitioner’s contentions. This conclusion was arrived at because:
- a) The Petitioner contends that the subject property may be double assessed based on a conversation with a CLT representative. *Heikema testimony*. According to the Petitioner, a CLT representative told the Petitioner that the subject parcel could be combined with another parcel. *Id*. The Petitioner submitted no evidence that the parcel was ever combined with another parcel, or that the parcel is actually double assessed. Thus, the Petitioner’s assertions in that regard 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 1119, 1120 (Ind. Tax Ct. 1998). As a result, the Petitioner failed to make a *prima facie* case that the assessment is incorrect.
 - b) In addition, Robert Heikema attended the hearing and purported to speak on behalf of the Petitioner. No evidence was submitted evidencing Mr. Heikema’s status as a certified “Tax Representative” as contemplated by Title 52 of the Indiana Administrative Code. 52 IAC 1 *et seq.* Further, no written appearance is on file to support such representation. Such appearance or representation is contrary to the generally applicable rules for tax representatives to practice before the Board. *See* 52 IAC 1-1-4; 52 IAC 1-1-6; 52 IAC 1-2-1; 52 IAC 2-2-16; 52 IAC 2-3-2. The Petitioner’s tax representative failed to comply with any of the Board’s rules and, therefore, had no status to represent the Petitioner. Accordingly, the effect of this failure is that the Petitioner presented no argument or evidence in support of his petition. For this reason alone, the petition is denied and there should be no change in the assessment.

- c) Where the Petitioner has not supported his claim with probative evidence, the Respondent's duty to support the assessment with substantial evidence is not triggered. *Lacy Diversified Indus. v. Dep't of Local Gov't Fin.*, 799 N.E.2d 1215, 1221-1222 (Ind. Tax Ct. 2003).

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: _____

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>.