

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-032-02-1-5-00575
Petitioner: June E. Ranich
Respondent: Department of Local Government Finance
Parcel #: 009-20-13-0621-0014
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 23, 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 \$221,600 and notified the Petitioner on March 26, 2004.
2. The Petitioner filed a Form 139L on April 23, 2004.
3. The Board issued a notice of hearing to the parties dated October 27, 2004.
4. A hearing was held on December 2, 2004, in Crown Point, Indiana before Special Master Barbara Wiggins.

Facts

5. The subject property is located at 510 Doral Drive, Schererville, in St. John Township.
6. The subject property is a single family townhome on a 60' x 140' lot.
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 \$48,400 for the land and \$173,200 for the improvements for a total assessed value of \$221,600.
9. The Petitioner requested an assessed value of \$29,100 for the land and \$173,200 for the improvements for a total assessed value of \$202,300.

10. David Ranich, the son of the property owner and the Petitioner's attorney in fact, and Everett Davis, representing the DLGF, appeared at the hearing and were sworn as witnesses.

Issues

11. Summary of Petitioner's contentions in support of an alleged error in the assessment:
 - a) The Petitioner contends the assessment of the land on the subject property is too high based on a purchase price of a similar land parcel. *Ranich testimony*. In support of this contention, the Petitioner submitted a June 4, 2001, Offer to Purchase Real Estate between Hecimovich Development Incorporated and the Greens of Scherwood Corporation for four lots (lot 4, 17, 19 and 20) comprising 16 addresses for \$480,000. *Petitioner Exhibit 2*. According to Petitioner, this establishes a market value of \$30,000 per townhome lot. *Ranich testimony*.
 - b) The subject property was purchased in June of 1999. In response to questioning, Petitioner's witness testified that he "believed" that the property was purchased for approximately \$200,000. *Ranich testimony*.
12. Summary of Respondent's contentions in support of the assessment:
 - a) The Respondent contends the parcel is valued fairly and no change in assessment is warranted. *Davis testimony*.
 - b) The Respondent also submitted twenty purportedly "comparable" properties in support of the assessment. *Respondent Exhibit 4*.

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 #899.
 - c) Exhibits:
 - Petitioner Exhibit 1: Property Record Card for 531 Pinehurst
 - Petitioner Exhibit 2: Purchase Agreement for 4 lots

 - Respondent Exhibit 1: Form 139L Petition
 - Respondent Exhibit 2: Subject Property Record Card
 - Respondent Exhibit 3: Subject photograph
 - Respondent Exhibit 4: Comparables summary

Respondent Exhibit 5: Comparable PRCs and photographs
Respondent Exhibit 6: Land Table

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 at 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. *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 did not provide sufficient evidence to support the Petitioner’s contentions. This conclusion was arrived at because:

Land Values

- a) The Petitioner submitted an “Offer to Purchase Real Estate” dated June 4, 2001 in support of his contention that the land on the subject property is over-valued. *Petitioner Exhibit 2*. The assessment of real property includes land, buildings and fixtures situated on the land and appurtenances to the land. THE REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 – VERSION A (incorporated by reference at 50 IAC 2.3-1-2) (the GUIDELINES), Chap. 1, p. 2. Property is assessed according to a base rate established for land by class in each neighborhood. GUIDELINES, Chap. 2, p. 9. The established value of land “represents the January 1, 1999 market value in use of improved land.” *Id.* at 7. Thus, although land is valued according to a base rate, it is based on market value principles.

- b) While evidence of the market value of comparable lots improved for development may be some evidence of the market value of the Petitioner's lot, we do not find that Petitioner met this burden here. Petitioner's market evidence was a single purchase of 4 parcels comprising 16 lots for \$480,000.¹ Petitioner alleges that this is the equivalent of \$30,000 per address. However, there is no evidence that the individual lots, purchased separately, would have sold for \$30,000. In fact, Petitioner's evidence does not even show that a single parcel would be valued at \$120,000. Petitioner's evidence only proves that 4 parcels, comprising 16 lots were valued at \$480,000. Petitioner's argument that the subject lot should be valued \$30,000 accordingly does not follow.²
- c) In addition, Petitioner's witness provided no evidence of the size, shape, or topography of the purportedly "comparable" properties. This falls short of the burden to prove that properties are comparable as established by the Indiana Supreme Court. *See Beyer v. State*, 280 N.E.2d 604, 607 (Ind. 1972) (whether properties are "comparable" depends on many factors including size, shape, topography, accessibility and use). Thus, Petitioner failed to raise a prima facie case that the land at the subject property is over-valued.

Purchase of the Property

- d) The subject property was purchased by the Petitioner on June 17, 1999. *Respondent Exhibit 2*. In response to questioning, the Petitioner's witnesses testified that he "believed" that the property was purchased for approximately \$200,000. *Ranich testimony*.
- e) The sale of a subject property is often the most compelling evidence of its market value. Further, for the 2002 general reassessment, real estate is to be valued as of January 1, 1999. *See 2002 REAL PROPERTY ASSESSMENT MANUAL 4* (incorporated by reference at 50 IAC 2.3-1-2). Thus, Petitioner's purchase price in 1999 would be compelling evidence of its market value for purposes of this assessment. However, Petitioner's witnesses' testimony that he "believed" the purchase price was \$200,000 is insufficient to establish this fact. Therefore, the Board finds that Petitioner has failed to raise a prima facie case that the property is over-valued.
- f) 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 Gov't Fin.*, 799 N.E.2d 1215, 1221-1222 (Ind. Tax Ct. 2003).

¹ Moreover, Petitioner's evidence is only an accepted offer to purchase and not a consummated sale.

² In fact, larger lots are expected to sell for less on a square foot or acreage basis. The Guidelines recognize this market principle in its adjusted land values. For example, in a neighborhood where the standard residential lot is 100' deep, a lot that is 50' deep has a depth factor of .74, but a 150' lot has a depth factor of only 1.14. *See GUIDELINES*, Chap. 2, p. 9. If size were unrelated to cost, a 50' lot would have a .5 depth factor and a 150' lot would have a depth factor of 1.5. Thus, the parties to a transaction involving 4 parcels, comprising 16 lots together would expect a lower purchase price than if those 16 lots were sold individually.

Conclusion

16. The Petitioner failed to raise 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: **October 7, 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>>.