

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petitions:	45-041-02-1-5-00151	45-041-02-1-5-00152
	45-041-02-1-5-00153	45-041-02-1-5-00154
	45-041-02-1-5-00155	45-041-02-1-5-00156
	45-041-02-1-5-00157	45-041-02-1-5-00158
	45-041-02-1-5-00159	45-041-02-1-5-00160
	45-041-02-1-5-00161	45-041-02-1-5-00162
	45-041-02-1-5-00163	45-041-02-1-5-00164
	45-041-02-1-5-00165	45-041-02-1-5-00166
	45-041-02-1-5-00167	45-041-02-1-5-00168
	45-041-02-1-5-00169	45-041-02-1-5-00170
	45-041-02-1-5-00171	45-041-02-1-5-00172
	45-041-02-1-5-00173	45-041-02-1-5-00174
	45-041-02-1-5-00175	45-041-02-1-5-00176
	45-041-02-1-5-00177	45-041-02-1-5-00178
	45-041-02-1-5-00179	45-041-02-1-5-00180
	45-041-02-1-5-00181	45-041-02-1-5-00182
Petitioner:	Real Estate Innovations, LLC	
Respondent:	Department of Local Government Finance	
Parcels:	003-23-09-0511-0060	003-23-09-0511-0021
	003-23-09-0511-0022	003-23-09-0511-0030
	003-23-09-0511-0033	003-23-09-0511-0034
	003-23-09-0511-0038	003-23-09-0511-0039
	003-23-09-0511-0040	003-23-09-0511-0046
	003-23-09-0511-0054	003-23-09-0511-0056
	003-23-09-0511-0057	003-23-09-0511-0058
	003-23-09-0511-0059	003-23-09-0511-0065
	003-23-09-0511-0066	003-23-09-0511-0068
	003-23-09-0511-0070	003-23-09-0511-0082
	003-23-09-0511-0083	003-23-09-0511-0084
	003-23-09-0511-0085	003-23-09-0511-0086
	003-23-09-0511-0087	003-23-09-0511-0088
	003-23-09-0511-0089	003-23-09-0511-0090
	003-23-09-0511-0061	003-23-09-0511-0062
	003-23-09-0511-0063	003-23-09-0511-0064
Assessment Year:	2002	

The Indiana Board of Tax Review (the Board) issues this determination in the above matter. The Board finds and concludes as follows:

Procedural History

1. The informal hearing as described in Ind. Code § 6-1.1-4-33 was held November 19, 2003. The Department of Local Government Finance (the DLGF) determined tax assessments for the subject properties and notified Petitioner on March 12, 2004.
2. Petitioner filed Form 139L petitions April 12, 2004.
3. The Board issued notices of hearing to the parties dated February 15, 2005.
4. Special Master Dalene McMillen held the hearing March 18, 2005, in Crown Point.

Facts

5. The subject properties are located at 802, 810, 811, 818, 819, 826, 834, 842, 850, 858, and 864 Kendall Ct., 1210, 1234, 1242, 1259, and 1264 Elliston Ct., 1200, 1247, 1255, 1262, and 1263 Mondavi Ct., 840, 857, and 873 Alderbrook Ct., and 1308, 1316, 1317, 1324, 1325, 1332, 1333 and 1340 Napa Ct. in Crown Point. They are in Center Township.
6. Subject properties are 32 vacant lots.
7. The Special Master did not conduct an on-site inspection of the property.
8. The assessed values of the subject properties as determined by the DLGF are:

Petition 45-041-02-1-5-00151	Land \$60,600	Improvements -0-
Petition 45-041-02-1-5-00152	Land \$60,000	Improvements -0-
Petition 45-041-02-1-5-00153	Land \$48,000	Improvements -0-
Petition 45-041-02-1-5-00154	Land \$54,200	Improvements -0-
Petition 45-041-02-1-5-00155	Land \$48,000	Improvements -0-
Petition 45-041-02-1-5-00156	Land \$48,000	Improvements -0-
Petition 45-041-02-1-5-00157	Land \$60,000	Improvements -0-
Petition 45-041-02-1-5-00158	Land \$48,000	Improvements -0-
Petition 45-041-02-1-5-00159	Land \$48,000	Improvements -0-

Petition 45-041-02-1-5-00160	Land \$54,200	Improvements -0-
Petition 45-041-02-1-5-00161	Land \$60,000	Improvements -0-
Petition 45-041-02-1-5-00162	Land \$60,600	Improvements -0-
Petition 45-041-02-1-5-00163	Land \$54,200	Improvements -0-
Petition 45-041-02-1-5-00164	Land \$54,200	Improvements -0-
Petition 45-041-02-1-5-00165	Land \$54,200	Improvements -0-
Petition 45-041-02-1-5-00166	Land \$60,000	Improvements -0-
Petition 45-041-02-1-5-00167	Land \$60,000	Improvements -0-
Petition 45-041-02-1-5-00168	Land \$60,000	Improvements -0-
Petition 45-041-02-1-5-00169	Land \$60,000	Improvements -0-
Petition 45-041-02-1-5-00170	Land \$60,000	Improvements -0-
Petition 45-041-02-1-5-00171	Land \$60,000	Improvements -0-
Petition 45-041-02-1-5-00172	Land \$60,000	Improvements -0-
Petition 45-041-02-1-5-00173	Land \$60,600	Improvements -0-
Petition 45-041-02-1-5-00174	Land \$54,200	Improvements -0-
Petition 45-041-02-1-5-00175	Land \$54,200	Improvements -0-
Petition 45-041-02-1-5-00176	Land \$54,200	Improvements -0-
Petition 45-041-02-1-5-00177	Land \$60,600	Improvements -0-
Petition 45-041-02-1-5-00178	Land \$60,000	Improvements -0-
Petition 45-041-02-1-5-00179	Land \$60,000	Improvements -0-
Petition 45-041-02-1-5-00180	Land \$60,000	Improvements -0-
Petition 45-041-02-1-5-00181	Land \$60,000	Improvements -0-
Petition 45-041-02-1-5-00182	Land \$60,000	Improvements -0-

9. Petitioner contends on the Form 139L petitions that the 32 vacant lots should be assessed at \$38,900 each.
10. The following persons were sworn as witnesses and presented testimony at the hearing:
For Petitioner - Gerold L. Stout, Attorney,
For Respondent - Stephen H. Yohler, Assessor/Auditor.

Issue

11. Summary of Petitioner's contentions in support of alleged error in assessments:
 - a. The current assessments for each of the 32 vacant lots should be reduced by \$17,831. *Stout testimony.*
 - b. Petitioner purchased 103 vacant lots located in Ross and Center Townships for \$4 million on March 27, 2000. For accounting purposes, Petitioner determines the average price paid per lot is \$38,900 (\$4 million divided by 103 lots). *Stout testimony; Petitioner Exhibits 2,3,5, 6.*
 - c. To account for the differences in the size and location of each lot, Petitioner computed the current aggregate assessed value of the 32 lots in Center Township, \$1,815,400, and subtracted the total average price paid for the 32 lots, \$1,244,800 (32 lots x \$38,900 per lot), a difference of \$570,600. The difference of \$570,600, divided by 32 (number of lots on appeal), equals a net adjustment to each lot on appeal of approximately \$17,831. *Id.*
 - d. Approximately 40 percent of the lots remain unsold. The market values of the various lots may not be identical. Individual lots are currently selling in a range of \$45,000 to \$70,000. The selling prices of the lots during 1999 is unknown. *Stout testimony.*
12. Summary of Respondent's contentions in support of assessment:
 - a. Subject properties are valued with the same base rate as adjoining lots in the area at \$750 per front foot. The 32 lots were then given a negative 20 percent influence factor for being undeveloped. *Respondent Exhibit 2; Yohler testimony.*
 - b. The base rate of \$750 per front foot was developed from sales within the area at the time of the reassessment. *Respondent Exhibit 3; Yohler testimony.*
 - c. The methodology used by Petitioner in determining an average price per lot of \$38,900 (obtained by dividing the \$4 million purchase price by the 103 lots purchased) is flawed, as it does not address the market value of each individual lot. *Yohler testimony.*

Record

9. The official record consists of the following:
 - a. The Petition,
 - b. The tape recording of the hearing labeled Lake Co. 1282,
 - c. Petitioner Exhibit 1 - Form 139L petitions and Notices of Hearing,
Petitioner Exhibit 2 - Closing statement between Hawk Development Corporation and Real Estate Innovations, LLC, dated April 14, 2000,
Petitioner Exhibit 3 - Copy of the Ticor Title Insurance Company's owner policy,
Petitioner Exhibit 4 - Notice of Final Assessment and Notice of Assessment of Land and Structures – Form 11,
Petitioner Exhibit 5 - Purchase and Sale Agreement for White Hawk Country Club, dated March 27, 2000,
Petitioner Exhibit 6 - Comparison sheet of the DLGF assessed values and Real Estate Innovations, LLC proposed values,
Respondent Exhibit 1 - Form 139L petitions,
Respondent Exhibit 2 - 2002 property record cards,
Respondent Exhibit 3 - Residential Neighborhood Valuation Form for neighborhood number 02341,
Board Exhibit A - Form 139L petitions,
Board Exhibit B - Notices of Hearing on Petition,
Board Exhibit C - Hearing sign-in sheet,
 - d. These Findings and Conclusions.

Analysis

13. The most applicable governing cases 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 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 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.

14. Petitioner did not provide sufficient evidence to support its contentions. This conclusion was arrived at because:
 - a. Petitioner's argument is that the assessing officials made an identical error in the assessment of each of the 32 parcels, resulting in an over assessment of each parcel of an identical amount.
 - b. Petitioner's decision to apply a uniform value of \$38,900 to each of the parcels for accounting purposes does not establish the market value of the lots or identify any error in the assessment. Petitioner presents no legal or assessing authority in support of a methodology based on an average value of 103 lots of different size and location, situated in two different townships. Petitioner's conclusory assumption on this matter does not constitute probative evidence. *Deer Creek Developers, Ltd. v. Dep't of Local Gov't Fin.*, 769 N.E.2d 259 (Ind. Tax Ct. 2002); *See also Bulkmatic Transport Co. v. Dep't of State Rev.*, 691 N.E.2d 1371, 1375 (Ind. Tax Ct. 1998) (rejecting a taxpayer's argument where it was unsupported by any authority).
 - c. The purchase price represents the amount paid for lots in two different townships and therefore not subject to the same Neighborhood Valuation Form. It is incumbent on Petitioner to show how land sales in Center Township are comparable to those in Ross Township. *Blackbird Farms Apt. LP v. Dep't of Local Gov't Fin.*, 765 N.E.2d 711 (Ind. Tax Ct. 2002). There is no evidence in the record to establish land values in the two townships are comparable.
 - d. The property record cards indicate the parcels vary in several areas. The parcels range in size from .367 acre to .459 acres. The actual frontage varies from 47 to 100 feet. The effective frontage varies from 79 to 100 feet and the depth factors range from .93 to 1.00. Petitioner acknowledges that values could vary among the individual parcels.
 - e. Petitioner's argument is premised on the assumption that all of the lots were initially valued equally at \$38,900. The record indicates individual parcels have differing market values. For example, the current assessed values of the parcels under appeal range from \$48,000 to \$60,600. Applying the proposed uniform reduction of \$17,800 to these parcels would continue to result in varying assessed values.
 - f. Further, Petitioner presented no probative evidence to establish the application of the claimed uniform adjustment of \$17,800 to each parcel would result in the parcels' market values-in-use.
 - g. Petitioner failed to establish the proposed average initial value is indicative of the market value of the parcels, or that a uniform reduction in the assessment of each of the 32 parcels would reflect the market value of any of the parcels.

Conclusion

- 15. Petitioner failed to make a prima facie case regarding any change in the assessments. The Board finds in favor of 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

- 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>>.