

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition: 45-032-02-1-5-00617
Petitioner: Shannon Bridge LLC
Respondent: Department of Local Government Finance
Parcel: 009-12-14-0173-0095
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. An informal hearing as described in Ind. Code § 6-1.1-4-33 was held in January 2004. The Department of Local Government Finance (the DLGF) determined that the assessment for the subject property is \$15,000 and notified the Petitioner on March 26, 2004.
2. The Petitioner filed a Form 139L on April 29, 2004.
3. The Board issued a notice of hearing to the parties on October 27, 2004.
4. Special Master Peter Salveson held the hearing on December 1, 2004, in Crown Point.

Facts

5. The subject property is located at 2461 Kelly Place in Dyer.
6. The subject property is vacant residential lot.
7. The Special Master did not conduct an on-site visit of the property.
8. The assessed value of the subject property as determined by the DLGF is land \$15,000.
9. The assessed value requested by Petitioner during hearing is land \$10,000.
10. Persons sworn as witnesses at the hearing:
Thomas Rueth, Managing Member
Joseph Lukomski, Jr., Assessor/Auditor.

Issue

11. Summary of Petitioner's contentions in support of alleged error in assessment:
 - a. The assessed value of the subject property is excessive because the condition of the soil requires costly improvement in order to build on the lot. *Rueth Testimony; Petitioner Exhibit D.*
 - b. The purchase price of \$500 paid by the Petitioner in 1997 should be considered in determining the assessment. *Rueth Testimony.*
 - c. The 2003 sale price of \$10,000 for a similar vacant residential lot with bad soil proves the fair market value of the subject property. *Rueth Testimony; Petitioner Exhibit E.*

12. Summary of Respondent's testimony:
 - a. The value of the vacant parcel was based on data in the neighborhood. *Lukomski Testimony.*
 - b. The value of the subject property was reduced through the informal hearing process. *Lukomski Testimony.*
 - c. Petitioner supported a value and Respondent does not contest it. *Lukomski 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. 896,
 - c. Petitioner Exhibit A: Form 139L,
Petitioner Exhibit B: Original Notice of Assessment,
Petitioner Exhibit C: Notice of Final Assessment,
Petitioner Exhibit D: Letter from K&S Engineering,
Petitioner Exhibit E: Contract of Purchase for 2417 Kings Ct.,
Petitioner Exhibit F: Verification of Participation in Informal Hearing,
Respondent Exhibit 1: Form 139L,
Respondent Exhibit 2: Subject property record card,
Board Exhibit A: Form 139L,
Board Exhibit B: Notice of Hearing,
Board Exhibit C: Sign in Sheet,
 - d. These Findings and Conclusions.

Analysis

14. 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.
15. Petitioner provided sufficient evidence to support its contention for a reduction in assessed value. This conclusion was arrived at because:
 - a. The evidence proves that the soil is not suitable for development as a residential site. Petitioner submitted a letter from an engineering firm proving that there would be substantial costs involved to remedy the soil condition in order for the lot to be developed. *Rueth Testimony; Petitioner Exhibit D.*
 - b. Petitioner presented the purchase agreement for a neighboring property that has the same soil condition problem as the subject. That property sold for \$10,000. The sale occurred in 2003 and was an arm's length transaction. *Rueth Testimony; Petitioner Exhibit E.*
 - c. Respondent did not rebut, impeach, or otherwise contest Petitioner's evidence. Respondent agreed that Petitioner had supported a value of \$10,000 and that there was no problem with the reduction because the sale was an arm's length transaction. *Lukomski Testimony.*

Conclusion

16. Petitioner made a prima facie case for a reduction in the assessed value of the property. The Board finds in favor of the Petitioner.

Final Determination

In accordance with the above findings and conclusions, the Board determines that the assessment should be changed to \$10,000.

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>.