

INDIANA BOARD OF TAX REVIEW
Small Claims
Final Determination
Findings and Conclusions

Petition: 72-004-06-1-5-00001
Petitioner: Roger L. Pedigo
Respondent: Johnson Township Trustee Assessor (Scott County)
Parcel: 72-06-18-200-008.001-004
Assessment Year: 2006

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

Procedural History

1. The Petitioner initiated an assessment appeal with the Scott County Property Tax Assessment Board of Appeals (PTABOA) by written document dated November 2, 2006.
2. The PTABOA mailed the notice of its decision to the Petitioner on December 6, 2006.
3. The Petitioner filed an appeal to the Board by filing a Form 131 with the county assessor on December 19, 2006. The Petitioner elected to have this case heard according to small claims procedures.
4. The Board issued a notice of hearing to the parties dated March 9, 2007.
5. Administrative Law Judge Paul Stultz held the hearing on June 5, 2007.
6. The following persons were sworn as witnesses at the hearing:
For the Petitioner - Roger Pedigo,
For the Respondent - Teresa Rigsby,
Richard Schultz.

Facts

7. The vacant parcel is classified as residential excess acreage located at 915 N. Shea Road, Scottsburg, Indiana.
8. The Administrative Law Judge did not conduct an inspection of the property.

9. The PTABOA determined the assessed value is \$11,900.
10. The assessed value requested by the Petitioner is \$6,000.

Contentions

11. Summary of the Petitioner's contentions in support of an alleged error:
 - a. The Petitioner owns two contiguous parcels. The front parcel (not under appeal) has road frontage. The parcel under appeal is located behind the front parcel and has no road frontage. There is no ingress or egress except through the front parcel. Because the rear parcel lacks road frontage, local officials would not issue a building permit if the Petitioner sold this lot. *Pedigo testimony*.
 - b. The Petitioner purchased this rear parcel for \$2,100 because it adjoined property he already owned. The Petitioner subsequently offered to sell the lot for \$7,000 to two neighbors and neither was interested in acquiring it. The land cannot be sold for the assessed amount. *Pedigo testimony*.
 - c. The land is "three acres of bushes and briars" and should be assessed as agricultural land rather than residential excess acreage. *Pedigo testimony*. Because no potential buyer can build on the parcel, "the only possible thing it could be used for is farm and it's not farm ground." *Id*.
12. Summary of the Respondent's contentions in support of the assessment:
 - a. The current base rate of \$6,000 per acre was based on land sales and the accuracy of this amount was verified through the use of ratio studies. *Schultz testimony; Resp't Exs. C, D, E*.
 - b. Evidence of sales of three comparable properties supports the current assessment. *Schultz testimony; Resp't Exs. I, J, K*.
 - c. The property record card shows the Petitioner purchased the parcel in 1992. *Schultz testimony; Resp't Ex. F*. At the PTABOA hearing, the parcel was granted a negative influence factor of 35% for topography. *Id*.

Record

13. The official record for this matter is made up of the following:
 - a. The Petition,
 - b. A digital recording of the hearing,
 - c. Petitioner Exhibits – None,

Respondent Exhibit A – Letter of authorization for Richard Schultz,
Respondent Exhibit B – Letter of authorization for Teresa Rigsby,
Respondent Exhibit C – Land order,
Respondent Exhibit D – Johnson Township Ratio Study (unimproved lots),
Respondent Exhibit E – Johnson Township Ratio Study (improved lots),
Respondent Exhibit F – Property record card (PRC) of the subject property,
Respondent Exhibit G – PRC of adjoining property, parcel 72-06-18-200-
006.000-004,
Respondent Exhibit H – Geographic information system (GIS) map of the subject
property,
Respondent Exhibit I – Sales disclosure form, PRC, and GIS map for parcel
–72-02-02-300-007.005-004,
Respondent Exhibit J – Sales disclosure form, PRC, and GIS map for parcel 72-
05-15-100-001.011-004,
Respondent Exhibit K – Sales disclosure form, PRC, and GIS map for parcel 72-
06-06-500-005.020-004,
Board Exhibit A – Form 131 Petition for Review of Assessment,
Board Exhibit B – Notice of Hearing on Petition,
Board Exhibit C – Hearing 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. The Petitioner did not provide sufficient evidence to support his contentions. This conclusion was arrived at because:
- a. Real property is assessed based on its "true tax value," which does not mean fair market value. It means "the market value-in-use of a property for its current use, as reflected by the utility received by the owner or a similar user, from the property." Ind. Code § 6-1.1-31-6(c); 2002 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.3-1-2). A taxpayer may offer evidence relevant to market value-in-use to rebut the presumption the assessment is correct. Such evidence may include actual construction costs, sales information regarding the subject or comparable properties, appraisals, and any other information compiled in accordance with generally accepted appraisal principles. MANUAL at 5.
 - b. The Petitioner testified he purchased the lot for \$2,100 in 1992. A 2006 assessment is required to reflect the value of the property as of January 1, 2005. Ind. Code § 6-1.1-4-4.5; 50 IAC 21-3-3. Any evidence of value relating to a different date must also have an explanation about how it demonstrates, or is relevant to, the value as of that required valuation date. *See Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). The Petitioner provided no such explanation to relate his 1992 purchase price to January 1, 2005. Therefore, the purchase price has no probative value.
 - c. The Petitioner also testified that he offered the lot for \$7,000 to two neighbors, but they both declined to purchase it. Conditions for determining market value include that a "reasonable time is allowed for exposure in the open market." MANUAL at 10. The Petitioner failed to identify any authority to support the contention that offering the property to two neighbors constitutes exposure of the parcel for a reasonable time in the open market. Consequently, this evidence also is not probative.
 - d. The Petitioner further contended his parcel should be assessed as agricultural land. Agricultural property is land and improvements devoted to or best adaptable for the production of crops, fruits, timber, and the raising of livestock. REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 – VERSION A, Glossary at 1 (incorporated by reference at 50 IAC 2.3-1-2). Ind. Code § 6-1.1-4-13(a) provides that land shall be assessed as agricultural "only when it is devoted to agricultural use."
 - e. The Petitioner identified no agricultural use of the property, instead describing the parcel as "three acres of bushes and briars" that are "not farm ground." The Petitioner failed to make a prima facie case the parcel should be assessed as agricultural land.

- f. Conclusory statements that the property would not sell for as much as the current assessed value are not probative evidence. *Whitley Products v. State Bd. of Tax Comm'rs*, 704 N.E. 2d 1113, 1119 (Ind. Tax Ct. 1998).
- g. When a taxpayer fails to provide probative evidence supporting a claim that an assessment should be changed, the Respondent's duty to support the assessment with substantial evidence is not triggered. *See Lacy Diversified Indus. v. Dep't of Local Gov't Fin.*, 799 N.E.2d 1215, 1221-1222 (Ind. Tax Ct. 2003); *Whitley Products, Inc.*, 704 N.E.2d at 1119.

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

- Appeal Rights -

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5, as amended effective July 1, 2007, by P.L. 219-2007, and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice. The Indiana Tax Court Rules are available on the Internet at <http://www.in.gov/judiciary/rules/tax/index.html>. The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code>. P.L. 219-2007 (SEA 287) is available on the Internet at <http://www.in.gov/legislative/bills/2007/SE/SE0287.1.html>