

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-013-02-1-5-00044
Petitioners: Raymond & Margaret Hasse
Respondent: Department of Local Government Finance
Parcel #: 005-30-24-0002-0061
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 in Lake County, Indiana. The Department of Local Government Finance (the DLGF) determined that the Petitioners' property tax assessment for the subject property was \$13,000 and notified the Petitioners on March 23, 2004.
2. The Petitioners filed a Form 139L on April 12, 2004.
3. The Board issued a notice of hearing to the parties dated October 29, 2004.
4. Special Master S. Sue Mayes held the hearing in Crown Point on December 2, 2004.

Facts

5. The subject property is located at 11217 W 131st Place, Cedar Lake. The location is in Hanover Township.
6. The subject property is a vacant 63 by 150 foot parcel.
7. The Special Master did not conduct an on-site visit of the property.
8. Assessed value of the subject property as determined by the DLGF:
Land \$13,000.
9. Assessed value requested by Petitioners:
Land \$8,000 to \$9,000.

10. Persons sworn in as witnesses at the hearing:
Margaret Hasse, Owner
Tommy P. Bennington, Assessor/Auditor, DLGF

Issue

11. Summary of Petitioners' contentions in support of an alleged error in the assessment:
 - a. The current assessment of \$13,000 is not a fair assessment. Due to a utility pole and guy line, one-third of the frontage is not usable. Therefore, It would not be possible to build on this lot as it stands. *Petitioner Exhibit 1; Hasse testimony; Board Exhibit A.*
 - b. When the property was assessed four years ago, it was valued at \$8,000. *Hasse testimony.*
12. Summary of Respondent's contentions in support of the assessment:
 - a. The Petitioners own the adjacent lot with a dwelling. The subject land does have value, as it can be sold along with the adjacent lot and house. *Bennington testimony.*
 - b. The land value was based on the land order. The land order was set by Cole-Layer-Tumble and then was approved by the Department of Local Government Finance. *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. 911,
 - c. Exhibits:
 - Petitioner Exhibit 1: Photographs (3),
 - Respondent Exhibit 1: Form 139L,
 - Respondent Exhibit 2: Subject property record card,
 - 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 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 Petitioners did not provide sufficient evidence to support the Petitioners’ contentions. This conclusion was arrived at because:
- a. The Petitioners stated that the current assessment of \$13,000 is not a fair assessment and requested a value of \$8,000 to \$9,000. Petitioners submitted three photographs showing a utility pole and guy wire. Petitioners said one-third of the property was unusable due to the pole and guy wire. *Petitioner Exhibit 1; Hasse testimony*.
 - b. Petitioners provided no market value data to support their contention that the property is worth \$8,000 to \$9,000. Conclusory statements do not constitute probative evidence. *Whitley Products, Inc. v. State Bd. of Tax Comm’rs*, 704 N.E.2d 113, 1119 (Ind. Tax Ct. 1998).
 - c. On the Petition 139L, Petitioners stated that it would not be possible to build on the lot as it stands.
 - d. The Respondent testified that because the lot was contiguous to another lot with a dwelling, owned by the Petitioners, the lot did have value.
 - e. Petitioners said the property was valued at \$8,000 when it was assessed four years ago. Indiana’s assessment regulations state that a property’s assessment was to reflect the value as of January 1, 1999. If documentation is submitted that establishes a value for a date other than the statutory valuation date, an explanation as to how these values demonstrate, or are relevant to, the subject value as of January 1, 1999, is required if those documents are to have probative value. *William & Dorothy Long v. Wayne Twp Assessor*, 821 N.E.2d 466 (Ind. Tax Ct. 2005)
 - f. Furthermore, each tax year stands alone. *Glass Wholesalers, Inc. v. State Board of Tax Comm’rs*, 568 N.E.2d 1116, 1124 (Ind. Tax Ct. 1991). Consequently, property is to be assessed separately and distinctly each year (i.e., a 1995 assessment will not be considered probative evidence of the proper tax assessment for a later year).

Conclusion

16. The Petitioners 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/inde.html. The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code>.