

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-026-02-1-5-01069
Petitioners: Robert & Mildred Becich
Respondent: Department of Local Government Finance
Parcel #: 007-26-35-0220-0063
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 November 2003 in Lake County, Indiana. The Department of Local Government Finance (DLGF) determined that the Petitioners' property tax assessment for the subject property was \$10,300 and notified the Petitioner on March 31, 2004.
2. The Petitioners filed a Form 139L on April 30, 2004.
3. The Board issued a notice of hearing to the parties dated September 13, 2004.
4. A hearing was held on October 13, 2004, in Crown Point, Indiana before Special Master Barbara Wiggins.

Facts

5. The subject property is a vacant parcel of land located at 1446 Calumet Avenue, Whiting, North Township.
6. The Special Master did not conduct an on-site visit of the property.
7. Assessed Value of subject property as determined by the DLGF:
Land \$10,300 Improvements \$0 Total \$10,300
8. Assessed Value requested by Petitioners:
Land \$2,000 Improvements \$0 Total \$2,000
9. The persons indicated on the sign-in sheet (Board Exhibit C) were present at the hearing.

10. Persons sworn in at hearing:
For Petitioners: Robert Becich, Owner
For Respondent: David Depp, Representing the DLGF

Issues

11. Summary of Petitioners' contentions in support of an alleged error in the assessment:
- a. The Petitioners contend that the subject property is over-assessed in light of its lack of street access. *Becich testimony.*
 - b. The property is a gravel lot used for tenant parking and access is from the alley. A construction company offered \$2,000 because it wants to block the front of the lots when it works on Calumet Avenue. *Becich testimony.*

12. Summary of Respondent's contentions:

After listening to the Petitioner's testimony, the Respondent agreed the lot should be valued as landlocked and that the assessment should be lowered to \$2,500. *Depp testimony.*

Record

13. The official record for this matter is made up of the following:
- a. The Petition, and all subsequent submissions by either party.
 - b. The tape recording of the hearing labeled Lake Co. #406.
 - c. Exhibits:

Petitioner Exhibits: None Provided

Respondent Exhibits: None Provided

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 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 at 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. Wash. 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 provided sufficient evidence to support their contentions. This conclusion was arrived at because:
- a. The Petitioners contend that the subject property is over-assessed in light of its lack of street access. *Becich testimony*.
 - b. The Petitioners did not present any evidence to quantify the effect of such lack of access on the market value-in-use of the subject property. However, the Respondent agreed that the lot should be deemed landlocked and that it should be valued at \$2,500. *Depp Testimony*.

Conclusion

16. The Petitioner and the Respondent agreed the property assessment was in error and that the correct assessment is in the amount of \$2,500. The Board finds in favor of the Petitioner.

Final Determination

In accordance with the above findings and conclusions, the Indiana Board of Tax Review now determines that the assessment should be changed to \$2,500.

ISSUED: _____

Commissioner,

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.