

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

Petitions: 03-009-20-1-4-00551-21
03-009-21-1-4-00018-22
Petitioners: Southeastern Indiana Medical Holdings, Inc. and
Columbus Regional Health System Services, LLC
Respondent: Bartholomew County Assessor
Parcel: 03-05-15-210-000.900-009
Assessment Years: 2020 and 2021

The Indiana Board of Tax Review (“Board”) issues this determination, finding and concluding as follows:

PROCEDURAL HISTORY

1. Southeastern Indiana Medical Holdings, Inc. (“Southeastern Medical”) and Columbus Regional Health System Services, LLC (“Columbus Health”) (collectively “Petitioners”) contested the 2020 and 2021 assessments of property located on Executive Drive in Edinburgh. The Bartholomew County Property Tax Assessment Board of Appeals (“PTABOA”) issued final determinations valuing the subject property at \$127,300 (\$127,300 for land and \$0 for improvements) for both years.
2. Petitioners timely filed Form 131 petitions¹ with the Board and elected to proceed under our small claims procedures. On April 21, 2022, our designated administrative law judge, David Smith (“ALJ”), held a telephonic hearing on the petitions. Neither he nor the Board inspected the subject property.
3. Attorney Melissa Michie appeared for the Petitioners. The Bartholomew County Assessor, Ginny Whipple, appeared pro se. Whipple and Dean Layman testified under oath for the Assessor. The Petitioners did not call any witnesses. However, Petitioners’ counsel, Melissa Michie, made statements about various facts that were not otherwise in evidence. Because Michie did not testify under oath, the Board cannot consider her testimony as factual evidence.

¹Southeastern Medical’s tax representative, Milo Smith, erroneously listed himself as the “Petitioner” on its Form 131 petition for 2020, and Columbus Health’s attorney, Melissa Michie, similarly erred on its Form 131 petition for 2021.

RECORD

4. The parties submitted the following exhibits:

Petitioner Exhibit 1:	Indiana Code § 6-1.1-4-12
Petitioner Exhibit 2:	Indiana Secretary of State business search result for Southeastern Medical
Petitioner Exhibit 3:	Indiana Secretary of State business result search for Columbus Health
Petitioner Exhibit 4:	2017 Property Record Card (“PRC”) for subject property
Petitioner Exhibit 5:	<i>Dwight Grooms v. Bartholomew County Assessor</i> , Pet. No. 03-005-16-1-4-00012-17, et al. (IBTR Feb. 6, 2019) ²
Respondent Exhibit A:	Whipple’s resume`
Respondent Exhibit B:	Statement of Professionalism
Respondent Exhibit C:	2019 PRC for subject property
Respondent Exhibit D:	2020 PRC for subject property
Respondent Exhibit E:	2021 PRC for subject property
Respondent Exhibit F:	Aerial photo of subject property
Respondent Exhibit G:	Southeastern Medical’s 2017 Form 130 Notice
Respondent Exhibit H:	Email from Pam Layton, dated July 3, 2017
Respondent Exhibit I:	2017 Form 115 Final Determination
Respondent Exhibit J:	2017 PRC for subject property
Respondent Exhibit K:	Southeastern Medical’s 2018 Form 130 Notice
Respondent Exhibit L:	Email from Ginny Whipple, dated Dec. 26, 2018
Respondent Exhibit M:	2018 Form 115 Final Determination
Respondent Exhibit N:	2018 Stipulation Agreement
Respondent Exhibit O:	Email correspondence between Ginny Whipple and Rick Sprague, dated Nov. 3, 2021
Respondent Exhibit P:	Email correspondence between Ginny Whipple and Rick Sprague, dated Nov. 3-4, 2021
Respondent Exhibit Q:	Map of development surrounding subject property
Respondent Exhibit R:	2021 PRC for 12210 Executive Drive
Respondent Exhibit S:	Indiana Code § 6-1.1-4-12
Respondent Exhibit T:	Photo of subject property sewer pipe
Respondent Exhibit U:	Photo of subject property water hook-up
Respondent Exhibit V:	Photo of subject property utility hook-ups
Respondent Exhibit W:	Photo of subject property telephone hook-up

²Although the Petitioners submitted separate exhibit packets for 2020 and 2021, both packets contain identical copies of the same five exhibits. We therefore list them only once. Additionally, the Petitioners mislabeled the PRCs listed as Petitioner Exhibit 4 on their witness and exhibit lists as Petitioner Exhibit 5 in both packets. For clarity, we have renumbered the PRCs as Petitioner Exhibit 4.

5. The official record for this matter also includes the following: (1) all pleadings, briefs, motions, and documents filed in this appeal; (2) all notices and orders issued by the Board or our ALJ; and (3) an audio recording of the hearing.

OBJECTIONS

6. Our ALJ took an objection about the admission of several of the Assessor's exhibits under advisement. Specifically, the Petitioners objected to the admission of Respondent Exhibits T-W because the Assessor did not exchange them until the day prior to the hearing despite the ALJ's oral request that both parties exchange evidence and deliver a copy to the Board by 4:00 P.M. on April 14, 2022. The Assessor countered that the Board's rules contain no requirements regarding the exchange of evidence in small claims actions absent a request from the opposing party, and that the ALJ's request was merely guidance.
7. Under our small claims procedures, a party is not required to provide copies of documentary evidence or a witness list unless the opposing party requests it at least ten (10) business days prior to the hearing. 52 IAC 4-8-2(b). Because the Petitioners did not request the exhibits and neither the ALJ nor the Board issued an Order requiring the exchange of evidence, we overrule the objection. We note, however, that the challenged exhibits ultimately have no bearing on our final determination.

SUMMARY OF CONTENTIONS

8. **The Petitioners' case:**
 - a. The subject property is an unimproved lot with utilities that Southeastern Medical purchased in 2006. In 2017, the Assessor removed the developer's discount and the subject property's assessed value increased from \$2,300 to \$40,200. None of the three triggering events listed in I.C. § 6-1.1-4-12(i) that allow an assessor to remove the discount occurred: a land developer did not transfer the subject property to a non-land developer, construction did not begin on a structure, and no building permit was issued for the construction of a building or structure on the land. The Petitioners are developers within the meaning of the statute, and consistent with the statute, there should be no consideration of their business purposes. *Michie argument; Pet'r Exs. 1-4.*
 - b. The fact that the subject property has utilities does not constitute development or improvements that affects the Petitioners' right to the developer's discount. In *Grooms v. Bartholomew County Assessor*, the Board held that utilities are infrastructure included in the base rate—not improvements, and the addition of utilities did not meet any of the statutorily required events necessary to remove the discount. Further, the property in *Grooms* had been rezoned commercial many years

before the assessment year yet it still qualified for the discount. The subject property should still be classified as agricultural land and assessed at the agricultural rate set by statute. *Michie argument; Pet'r Exs. 1, 4, 5.*

9. **The Assessor's case:**

- a. The Petitioners are not entitled to a developer's discount. The subject property was already subdivided into lots and zoned as type 13 commercial land when the prior owner, Rick Sprague purchased it. Although Sprague is a hotel builder, he did not buy it as a developer. In 2006, Sprague traded it to Southeastern Medical for another nearby lot. Southeastern Medical appealed both the 2017 and 2018 assessed values, and it never mentioned the developer's discount during either appeal. *Whipple testimony; Resp't Exs. C-E, G, I, J, K, M-R.*
- b. The title of the developer's discount statute refers to undeveloped land. The subject property has been developed through the addition of utilities and should not be considered undeveloped. Regardless, the Petitioners have not proven that they are developers within the meaning of the statute. *Whipple testimony; Resp't Exs. O, S-W.*

ANALYSIS

10. The Board makes the following findings of fact based on the evidence before it. Counsel for the Petitioners did not testify under oath, and her remarks are argument and not evidence. The subject property has been subdivided and zoned commercial since at least 2006. The vacant land is located beside a fully developed hotel, and it has been improved with utilities. Southeastern Medical acquired the property in 2006 from Rick Sprague.³ No evidence was introduced regarding the trade, business operations, or uses of the property by Sprague or the Petitioners.
11. The Petitioners seek to challenge the subject property's land classification based on the statute commonly known as the developer's discount. The Petitioners cannot prevail for the following reasons:
 - a. The developer's discount is based on Ind. Code § 6-1.1-4-12, which provides in relevant part:
 - (a) As used in this section, "land developer" means a person that holds land for sale in the ordinary course of the person's trade or business...The determination of whether a person qualifies as a land developer shall be based upon whether such person satisfies the requirements contained in this

³Although the PRCs indicate that the subject property's prior owner was J Enterprises Inn of Edinburgh, LLC, we infer from the Assessor's testimony that Sprague is a member of the LLC. *Pet'r Ex. 4; Resp't Exs. C-E, J, R.* Because the parties referred to Sprague as the prior owner, we do as well.

subsection, and no consideration shall be given to either the person's industry classification, such as classification as a developer or builder, or any other activities undertaken by the person in addition to holding land for sale in the ordinary course of the person's trade or business.

(b) As used in this section, "land in inventory" means:

(1) a lot; or

(2) a tract that has not been subdivided into lots;

to which a land developer holds title in the ordinary course of the land developer's trade or business.

(c) As used in this section, "title" refers to legal or equitable title, including the interest of a contract purchaser.

...

(e) Except as provided in subsections (i), (j), and (k), if:

(1) land assessed on an acreage basis is subdivided into lots; or

(2) land is rezoned for, or put to, a different use;

the land shall be reassessed on the basis of its new classification.

(f) If improvements are added to real property, the improvements shall be assessed.

(g) An assessment or reassessment made under this section is effective on the next assessment date.

...

(i) Except as provided in subsection (k) and subject to subsection (j), land in inventory may not be reassessed until the next assessment date following the earliest of:

(1) the date on which title to the land is transferred by:

(A) the land developer; or

(B) a successor land developer that acquires title to the land; to a person that is not a land developer;

(2) the date on which construction of a structure begins on the land; or

(3) the date on which a building permit is issued for construction of a building or structure on the land.

(j) Subsection (i) applies regardless of whether the land in inventory is rezoned while a land developer holds title to the land.

I.C. § 6-1.1-4-12.

- b. The developer's discount statute "promotes commercial development by allowing a developer's land to be assessed on the basis of its original (i.e., its pre-purchase) classification until an objective event signaling the commencement of development occurs." *Hamilton Cnty. Ass'r v. Allisonville Rd. Dev., LLC*, 988 N.E.2d 820, 823 (Ind. Tax Ct. 2013). The general rule is that, where acreage is divided into lots or land is rezoned for, or put to, a different use, an assessor must reclassify and reassess the land based on its new classification. But the developer's discount, as codified in subsections (i) and (j), creates an exception to that rule. Under the developer's

discount, an assessor may not reassess “land in inventory” held by a “land developer” unless one of three triggering events occurs: (1) the developer transfers title to the land to someone who is not a developer, (2) the developer begins construction of a structure on the land, or (3) a building permit is issued for the construction of a building or structure on the land. Generally speaking, the benefit from the developer’s discount is found in maintaining an agricultural classification with its typically lower assessed value by delaying reclassification.


- c. The burden is on the Petitioners to establish that the assessment violated the developer’s discount statute. The record does not establish that the property was previously classified as agricultural. The Petitioners merely point to a substantial increase between 2016 and 2017 and argue that such increase resulted from a change in classification. A petitioner must walk the Board through every element of its analysis. *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005) (quoting *Clark v. Dep’t of Local Gov’t Fin.*, 779 N.E.2d 1277, 1282 n. 4 (Ind. Tax Ct. 2002)). Without direct testimony as to the prior classification of the property and the change in classification, the Petitioners have failed to prove a claim under the developer’s discount statute. Petitioners also argue that because the property has remained unimproved over the years, it should be classified as agricultural. This argument is unavailing because the statute merely prohibits reclassification in some circumstances, it does not grant agricultural classification to unimproved properties.
- d. Even were the Board to conclude that the property was reclassified from agricultural to commercial in 2016, as reflected in the 2017 assessment, the Petitioners still cannot prevail. Property that has been subdivided and rezoned “shall be reassessed on the basis of its new classification” unless an exception applies. I.C. § 6-1.1-4-12(e). The most pertinent exception is that reassessment must be delayed if the subject property has been transferred from a land developer to a land developer. I.C. § 6-1.1-4-12(i)(1). Accordingly, the Petitioners were required to factually establish that Rick Sprague was the original “land developer” or he was a “successor land developer.” The record is bereft of evidence relating to him or his business. *Id.* Likewise, the Petitioners were required to establish that the transferees, Southeastern Medical and Columbus Health, were land developers (or, as stated in the statute in the negative, that neither is “a person that is not a land developer.”) *Id.* Those facts are simply not in the record. The Petitioners have failed to introduce any evidence that might factually establish that the transfer in 2006 was from a land developer to a land developer.
- e. Even if the Petitioners established that they were land developers, the reassessment would still be triggered if building permits were issued for the construction of a building. I.C. § 6-1.1-4-12(i)(1). The Petitioners failed to present testimony establishing that no party (the Petitioners, Sprague, or a prior owner) had been issued a building permit. Thus, the Petitioners failed to present evidence as to each element

necessary to prove the developer's discount statute should have prevented a commercial assessment.


FINAL DETERMINATION

In accordance with the above findings of fact and conclusions of law, we find for the Assessor and order no change to the 2020 or 2021 assessments.

ISSUED: 8/18/2022



Chairman, Indiana Board of Tax Review



Commissioner, Indiana Board of Tax Review



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 and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required not later than forty-five (45) days after the date of this notice. The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code>. The Indiana Tax Court's rules are available at <http://www.in.gov/judiciary/rules/tax/index.html>.