

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-032-02-1-5-00382
Petitioner: Walter J. Slamkowski
Respondent: Department of Local Government Finance
Parcel #: 009-09-11-0009-0093
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 (DLGF) determined that the Petitioner's property tax assessment for the subject property was \$122,100, and notified the Petitioner on March 31, 2004.
2. The Petitioner filed a Form 139L on April 30, 2004.
3. The Board issued a notice of hearing to the parties dated November 5, 2004.
4. A hearing was held on December 8, 2004, in Crown Point, Indiana before Special Master Barbara Wiggins.

Facts

5. The subject property is located at: 8274 Columbia in Dyer, Indiana, St. John Township, Lake County.
6. The subject property is a single family residence.
7. The Special Master did not conduct an on-site visit of the property

Assessed Value of subject property as determined by the DLGF: \$122,100

Assessed Value requested by Petitioner: \$99,700
8. The persons indicated on the sign-in sheet (Board Exhibit C) were present at the hearing.

9. Persons sworn in at hearing:

For Petitioners: Walter Slamkowski, Owner
For Respondent: Sharon Elliott, DLGF

Issues

10. Summary of Petitioner's contentions in support of an alleged error in the assessment:

The assessment is too high because the pipeline running across the property has not been considered. *Slamkowski testimony and argument*. A 25% negative influence factor should be applied to the land assessment. *Slamkowski argument; Pet'r Ex. 2*.

11. Summary of Respondent's contentions in support of the assessment:

The Respondent, after reviewing the testimony and evidence, agrees that a change is warranted. *Elliott testimony*.

Record

12. 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 1023.
- c) Exhibits:
 - Petitioner Exhibit 1: Subject Property Record Card
 - Petitioner Exhibit 2: Neighbor's Property Record Card

 - Respondent Exhibit 1: Form 139L
 - Respondent Exhibit 2: Subject Property Record Card
 - Respondent Exhibit 3: Subject Photograph

 - Board Exhibit A: Form 139 L
 - Board Exhibit B: Notice of Hearing
 - Board Exhibit C: Sign in Sheet
- d) These Findings and Conclusions.

Analysis

13. The most applicable laws 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. 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”).
 - a) 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.
14. The Petitioner provided sufficient evidence to support the Petitioner’s contentions. The Respondent agreed with the Petitioner. This conclusion was arrived at because:
- a) The Petitioner contends that a 25% negative influence factor should be applied to the subject’s land assessment to account for a pipeline that runs across the property.
 - b) The Petitioner submitted the property record card for the neighboring property with the same square footage and which received a negative 25% adjustment for the pipeline.
 - c) The Respondent agreed that the assessment of the subject property is in error, and that a 25% negative influence factor should be applied.
 - d) As a result, the Board hereby concludes that a 25% negative influence factor should be applied to the subject’s land assessment.

Conclusion

15. The Petitioner made a prima facie case. The Respondent agreed with the Petitioner. 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 reflect that a 25% negative influence factor be applied to the land assessment.

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