

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition Nos.: 45-001-02-1-4-01110
45-001-02-1-4-01111
45-001-02-1-4-01112
Petitioner: Playground Partners
Respondent: Department of Local Government Finance
Parcel Nos.: 001254100810001
001254000120017
001254000120016
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 on February 4, 2004 in Lake County, Indiana. The Department of Local Government Finance ("DLGF") determined the Petitioner's property tax assessment for the subject properties and notified the Petitioner on March 31, 2004.
2. The Petitioner filed the Form 139L petitions on April 30, 2004.
3. The Board issued the notices of hearing to the parties dated May 25, 2005.
4. A hearing was held on June 27, 2005, in Crown Point, Indiana before Special Master Peter Salvesson.

Facts

5. The subject properties are three contiguous commercial parcels located at 5400 Miller Avenue in Gary, Calumet Township.
6. The Special Master did not conduct an on-site visit of the property.
7. The Assessed Value of the subject properties as determined by the DLGF:

Petition No.	Parcel No.	Land	Improvements
45-001-02-1-4-01110	001254100810001	\$28,600	\$236,700
45-001-02-1-4-01111	001254000120017	\$28,600	\$ 3,300
45-001-02-1-4-01112	001254000120016	\$ 400	\$ -0-

8. The Assessed Value requested by the Petitioner at the hearing was a total of \$225,000 for all three parcels.
9. The persons indicated on the sign-in sheet (Board Exhibit C) were present at the hearing.
10. Persons sworn in at hearing:
 - For Petitioner: George McGuan, Partner
 - For Respondent: Diane Spenos, DLGF

Issues

11. Summary of Petitioner's contentions in support of an alleged error in the assessment:
 - a) The Petitioner requested a total value of \$225,000 based on the purchase price of the three parcels plus cost of a building added after the parcels were purchased. *McGuan testimony.*
 - b) The Petitioner stated the subject parcels were purchased for \$165,548 in 2001. The Petitioner presented an Addendum to Settlement Statement dated June 16, 2001, to support his contention. *McGuan testimony; Board Ex. A – attachment to Form 139L Petition.*
 - c) The Petitioner added a building in 2001. The Petitioner estimated the cost of the building to be \$60,000. The Petitioner presented invoices and a bid to support the \$60,000 cost. *McGuan testimony; Pet'r Exs. 1 -5.*
12. Summary of Respondent's contentions in support of the assessment:
 - a) The Respondent presented a copy of the Petitioner's actual contract for sale from the purchase of the subject parcels. The contract for sale shows the subject parcels were actually purchased for \$180,000 in 1998. The Addendum presented by the Petitioner was just the payoff. *Spenos testimony; Resp't Ex. 5.*
 - b) The Respondent recommended the total assessed value of all three parcels be changed to \$239,360. The Respondent arrived at the recommended assessed value by trending the purchase price and building cost to the January 1, 1999, valuation date. *Spenos testimony.*

Record

13. The official record for this matter is made up of the following:
 - a) The Petitions

b) The tape recording of the hearing labeled BTR #1263

c) Exhibits:

For all petitions:

Petitioner Exhibit 1: Form CF-1

Petitioner Exhibit 2: Check payment for New Building Materials

Petitioner Exhibit 3: Plumbing Invoice for New Building

Petitioner Exhibit 4: Electrical Invoice for New Building

Petitioner Exhibit 5: Bid for Floor for New Building

For Petition No. 45-001-02-1-4-01110:

Respondent Exhibit 1: Subject Property Record Card

Respondent Exhibit 2: Subject Photograph

Respondent Exhibit 3: Plat Map Page

Respondent Exhibit 4: Land Calculations/NBHD Summary Sheet

Respondent Exhibit 5: Purchase Agreement

For Petition No. 45-001-02-1-4-01111:

Respondent Exhibit 1: Subject Property Record Card

Respondent Exhibit 2: Land Calculations/NBHD Land Sheet

For Petition No. 45-001-02-1-4-01112:

Respondent Exhibit 1: Subject Property Record Card

Respondent Exhibit 2: Land Summary Sheet indicating rate for undeveloped unusable

For all petitions:

Board Exhibit A: Forms 139L petitions

Board Exhibit B: Notices of Hearing

Board Exhibit C: Sign in Sheet

d) These Findings and Conclusions.

Analysis

14. 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 Township 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*

Township 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 provide sufficient evidence to support his contentions. This conclusion was arrived at because:
- a) The Petitioner contends the assessed value is greater than the purchase price of the subject parcels.
 - b) The Respondent recommended a total assessed value for all three parcels of \$239,360. The Respondent's recommendation was based on the actual purchase price of the subject parcels and the cost of the building trended to the January 1, 1999, valuation date.
 - c) The Petitioner agreed with the recommendation of the Respondent.

Conclusion

16. The parties agreed the total assessed value for all three parcels shall be \$239,360.

Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should be changed.

ISSUED: December 12, 2005

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>>.