

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition: 45-032-02-1-5-00606
Petitioner: Sophia Panagakis
Respondent: Department of Local Government Finance
Parcel: 009-09-11-0016-0013
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. An informal hearing as described in Ind. Code § 6-1.1-4-33 was held in January 2004. The Department of Local Government Finance the (the DLGF) determined that the tax assessment for the subject property is \$39,400 and notified the Petitioner on March 26, 2004.
2. The Petitioner filed a Form 139L on April 23, 2004.
3. The Board issued a notice of hearing to the parties dated November 15, 2004.
4. Special Master Peter Salveson held the hearing in Crown Point on December 15, 2004.

Facts

5. The subject property is located at 7110 West 193rd in St. John.
6. The subject property is a vacant land parcel consisting of 15.763 acres of land. The land is classified as residential.
7. The Special Master did not conduct an on-site inspection of the property.
8. The assessed value of subject property as determined by the DLGF is \$39,400.
9. The assessed value requested by Petitioner is \$10,000.

10. Sophia Panagakis¹ and John Toumey, assessor/auditor were sworn as witnesses at the hearing.

Issues

11. The Petitioner contends that the subject property is incorrectly assessed as residential acreage. The Petitioner stated that the subject property is currently used as, and should be assessed as agricultural land. The Petitioner provided a lease agreement for farming the property in 2004. The Petitioner stated two neighboring parcels are assessed as agricultural land. *Panagakis Testimony; Pet'r Ex. 1.*
12. The Respondent agreed that if the property was used as farmland on March 1, 2002, then the property should be assessed as agricultural land. The Respondent also stated that if the Petitioner did not prove the property was used as farmland on March 1, 2002, then the land was properly assessed as excess residential acreage. *Toumey testimony.*

Record

13. The official record for this matter is made up of the following:
- a) The Petition and attachments,
 - b) The tape recording of the hearing labeled Lake Co 1180,
 - c) Petitioner Exhibit 1 – Farm lease,²
Respondent Exhibit 1 – Form 139L,
Respondent Exhibit 2 – Subject property record card,
Respondent Exhibit 3 – Plat map,
Board Exhibit A – Form 139L,
Board Exhibit B – Notice of Hearing,
Board Exhibit C – Sign-In Sheet,
 - d) These Findings and Conclusions.

¹ The Petitioner is not the owner of the property. According to the property record card, the owner is Calumet National Bank Tr P-3204. The Petitioner attached a Deed in Trust to the Form 139L. The deed does not identify the beneficiary of the trust. Sophia Panagakis signed the Form 139L as a tax representative. She did not offer a power of attorney, nor did she establish she is a certified tax representative as required by the Board's rules. IND. ADMIN. CODE tit. 52, r. 1. Nevertheless, the parties have not raised this issue. Absent objection in this case, the Board will consider the merits of the case that was presented.

² The Special Master gave the Petitioner 5 days after the hearing to present a copy of the farm lease. The farm lease was received and labeled Petitioner Exhibit 1.

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 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 Petitioner did not provide sufficient evidence to support her contentions. This conclusion was arrived at because:
- a) “In assessing or reassessing land, the land shall be assessed as agricultural land only when it is devoted to agricultural use.” Ind. Code § 6-1.1-4-13(a). The Petitioner failed to present probative evidence that the property was devoted to agricultural use for the 2002 assessment year. No evidence of the property’s actual use for the 2002 assessment year was provided.
 - b) The lease agreement covers the period from January 1, 2004, through January 1, 2005. Nothing in the lease agreement indicates it is a renewal or extension of a previous lease. It does not show the use of the subject property for the 2002 assessment year.
 - c) The Petitioner testified that other properties contiguous with the subject are assessed as agricultural land. The Petitioner did not provide probative evidence indicating how these other properties were used.
 - d) Furthermore, the Petitioner failed to establish the relevance of the classification of those properties. Even if those other parcels were assessed as agricultural land, the Petitioner is still required to provide probative evidence showing the subject property was actually used as agricultural land on March 1, 2002.

Conclusion

16. The Petitioner failed to make a prima facie case. The burden never shifted to the Respondent to rebut.

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