

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition: 45-032-02-1-5-00607
Petitioner: Sophia Panagakis
Respondent: Department of Local Government Finance
Parcel: 009-12-14-0210-0013
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. The informal hearing as described in Ind. Code § 6-1.1-4-33 was held in January 2004. The Department of Local Government Finance (the DLGF) determined that the tax assessment for the subject property is \$96,000 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 1116 Perthshire Lane in Dyer.
6. The subject property is 0.459 acres of vacant land.
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 \$96,000.
9. The assessed value requested by Petitioner is \$70,000.

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

Issues

11. Summary of Petitioner's contentions in support of an alleged error in the assessment:
- a) The assessment is incorrect because the subject property does not have frontage on the golf course, but is valued as much as some properties on the golf course. The Petitioner provided a map of the neighborhood where the subject property is located. *Panagakis testimony; Board Ex. A, attachment.*
 - b) The subject property was purchased for \$60,000 in October of 1991. The Petitioner submitted a copy of the purchase agreement. *Panagakis testimony; Pet'r Ex. 1.*
12. The Respondent contends the land value is supported by vacant land sales. The Respondent presented four parcels in the same neighborhood as the subject property that were sold as unimproved residential parcels. *Toumey testimony; Resp't Ex. 5.*

Record

13. The official record for this matter is made up of the following:
- a) The Petition,
 - b) The tape recording of the hearing labeled Lake Co. 1179,
 - c) Petitioner Exhibit 1 – Purchase agreement,²
Respondent Exhibit 1 – Form 139L,
Respondent Exhibit 2 – Subject property record card,
Respondent Exhibit 3 – Plat map,
Respondent Exhibit 4 – Arial map,
Respondent Exhibit 5 – List of property sold in subject property's subdivision,
Respondent Exhibit 6 – Property record cards for 4 properties in subdivision,
Board Exhibit A – Form 139L,
Board Exhibit B – Notice of Hearing,
Board Exhibit C – Sign-In Sheet,
 - d) These Findings and Conclusions.

¹ The record does not establish that Petitioner is 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. See 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 purchase agreement. The purchase agreement 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) Indiana’s assessment regulations state that for the 2002 general reassessment, a property’s assessment is to reflect its value as of January 1, 1999. 2002 REAL PROPERTY ASSESSMENT MANUAL at 4 (incorporated by reference at 50 IAC 2.3-1-2 (2002 Supp.)).
 - b) The Petitioner established that the subject property was purchased for \$60,000 on October 17, 1991. Consequently, the Petitioner was required to provide some explanation as to how this value demonstrates, or is relevant to, the subject property’s value as of January 1, 1999. *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005).
 - c) Because the Petitioner provided no such explanation, the 1991 purchase agreement does not have any probative value. *Id.*
 - d) The Petitioner proved that the subject property is not located on the golf course. The Petitioner argued the subject property should be valued less than properties adjacent to the golf course. The Petitioner failed to present probative evidence that there is a difference in value between golf course and non-golf course lots, or what any difference might be. The Petitioner’s statement that the property is less valuable than golf course lots is only a conclusion. Such conclusory statements do not constitute

probative evidence. *Whitley Prods., Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).

- e) The Petitioner must provide the Board with probative evidence indicating an error in the current assessment, and what the correct assessment should be. The Petitioner did neither.

Conclusion

16. The Petitioner failed to make a prima facie case. The Board finds in favor of Respondent.

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>.