

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-041-02-1-1-00185
Petitioner: Dominic Pitzel
Respondent: Department of Local Government Finance
Parcel #: 003-23-09-0518-0008
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 on January 11, 2004, in Lake County, Indiana. The Department of Local Government Finance (DLGF) determined that the Petitioner's property tax assessment for the subject property was \$543,500. The DLGF's Notice of Final Assessment was sent to the Petitioner on March 12, 2004.
2. The Petitioner filed a Form 139L on April 12, 2004.
3. The Board issued a notice of hearing to the parties dated October 14, 2004.
4. A hearing was held on November 18, 2004, in Crown Point, Indiana before Special Master Barbara Wiggins.

Facts

5. The subject property is located at 2209 East 113th Street, Crown Point, Center Township, Lake County.
6. The subject parcel consists of 143.023 acres of land.
7. The Special Master did not conduct an on-site visit of the property.
8. Assessed Values of the subject property as determined by the DLGF are:
Land \$543,500 Improvements \$0 Total \$543,500
9. Assessed Values requested by the Petitioner during the hearing are:
Land \$150,200 Improvements \$0 Total \$150,200

10. The persons indicated on the sign-in sheet (Board Exhibit C) were present at the hearing.
11. Persons sworn in at hearing:

For Petitioner: Rex Hume of Uzelac & Associates, representing the Petitioner

For Respondent: Anthony Garrison, DLGF representative

Issue

12. Summary of Petitioner's contentions in support of alleged error in assessment:
 - a) The land under review is tillable farmland rather than excess agricultural land. *Hume testimony.*
 - b) The subject parcel has been farmed since the mid 1990s except for the summer of 2001. *Hume testimony.*
 - c) The Petitioner has a verbal agreement with the farmer immediately south of him to farm this land primarily for corn. *Hume testimony; Petitioner Exhibit 2.*
 - d) The property should be valued at \$1,050 per acre. *Hume testimony.*
13. Summary of Respondent's contentions in support of assessment:
 - a) After hearing the Petitioner's testimony, the Respondent agreed that the subject land should be valued as farmland and not as excess agricultural land. The Respondent proposed that the land be valued at \$147,200. *Garrison testimony.*

Record

14. 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. #826.
 - c. Exhibits:

Petitioner Exhibit 1: Subject property record card (PRC)

Petitioner Exhibit 2: Owner's Statement of Use as Farmland

Respondent Exhibit 1: Form 139L Petition

Respondent Exhibit 2: Subject PRC

Board Exhibit a – Form 139L petition
Board Exhibit B – Notice of Hearing on Petition
Board Exhibit C - Sign-in Sheet

d. These Findings and Conclusions.

Analysis

15. The most applicable laws are:
- a) A petitioner seeking review of a determination of the DLGF 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.
16. The preponderance of the evidence supports a reduction in the assessed value of the subject land. This conclusion was arrived at because:
- a) The Petitioner testified, by affidavit, that he leases the subject property to a person that farms the land. *Petitioner Exhibit 2*. The Petitioner therefore argues that the subject land should be valued as farmland at \$1,050 per acre rather than as excess agricultural land associated with a homesite. *Hume argument; Petitioner Exhibit 2*.
 - b) After reviewing the Petitioner’s evidence, the Respondent agreed that the subject property was assessed incorrectly. The Respondent testified the land should be valued as farmland, Type AL, with a 98% productivity factor. The Respondent proposed a value of \$147,200. *Garrison testimony*. The Petitioner’s representative agreed to that value.

Conclusion

17. The Petitioner made a prima facie case for a reduction in the assessed value of the land. The Respondent agreed with the Petitioner’s contentions. 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 on the land (143.023 acres) should be changed to a base rate of \$1,050 per acre with a productivity factor of 98% for a total assessed value of \$147,200.

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>>.