

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petitions #: 45-016-02-1-5-00250
45-016-02-1-5-00251
Petitioner: Dorothy Forbes
Respondent: Department of Local Government Finance
Parcels #: 006271702400014
006271702400015
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 hearings as described in Ind. Code § 6-1.1-4-33 were held in Lake County, Indiana. The Department of Local Government Finance (DLGF) determined that the Petitioner's, property tax assessment for the subject properties were \$34,800 (45-016-02-1-5-00250) and \$117,600 (45-016-02-1-5-00251) and notified the Petitioner on March 26, 2004.
2. The Petitioner filed a Form 139L petitions on April 15, 2004.
3. The Board issued notices of hearing to the parties dated October 15, 2004.
4. A hearing was held on November 17, 2004, at 2:44 p.m. in Crown Point, Indiana before Special Master Dalene McMillen.

Facts

5. The subject properties are located at 4413 and 4421 West 15th Street, Hobart, Indiana (Hobart Township, Lake County).
6. The subject properties are a swimming pool located on a 60' x 180' lot (45-016-02-1-5-00250) and a two-story single-family dwelling located on a 66'7" x 180' lot.
7. The Special Master did not conduct an on-site visit of the property.

8. The assessed value of the subject property as determined by the DLGF:

Petition #45-016-02-1-5-00250	Parcel #006271702400014	
Land: \$25,000	Improvements: \$9800	Total: \$34,800
Petition #45-016-02-1-5-00251	Parcel #006271702400015	
Land: \$27,800	Improvements: \$89,800	Total: \$117,600.

9. The assessed value of the subject property as requested by the Petitioner:

Total for both parcels: \$ 132,000.

10. The following persons were present and sworn in at the hearing:

For the Petitioner:	Dorothy Forbes, Owner
For the DLGF:	Steven McKinney, Assessor/Auditor, DLGF

Issues

11. Summary of Petitioner's contentions in support of alleged error in assessment:
 - a. The Petitioner contends the two parcels are contiguous with all improvements being located on parcel #006271702400015 (45-016-02-1-5-00251). *Forbes testimony.*
 - b. The Petitioner contends the assessed value of the land on both parcels is overstated. *Forbes testimony.*

12. Summary of Respondent's contentions in support of assessment:
 - a. The Respondent testified the DLGF's records show that the two parcels are contiguous and due to the location of the improvements could not be sold separately from each other, therefore the two parcels should each receive a negative influence factor of 20% for excess frontage on each parcel. *McKinney testimony.*
 - b. The Respondent testified the DLGF is in agreement with the Petitioner that the swimming pool currently assessed on parcel #006271702400014 (45-016-02-1-5-00250) should be assessed on parcel #006271702400015 (45-016-02-1-5-00251) with an assessed value of \$9800. *McKinney testimony.*

Record

13. 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. #602.
 - c. The following exhibits were presented:

For the Petitioner:

None

For the DLGF:

Respondent Exhibit 1 – A copy of the Form 139L petitions, dated April 15, 2004.

Respondent Exhibit 2 – Property record cards for parcel #006271702400014 and parcel #006271702400015.

Respondent Exhibit 3 – A photograph of the subject property (45-016-02-1-5-00251 – only).

Respondent Exhibit 4 – A top 3 comparables sheet (45-016-02-1-5-00251 – only).

Respondent Exhibit 5 – Property record cards and photographs for the following comparables; Peter Julovich, Barbara Collins, and William Hardlannert (45-016-02-1-5-00251 – only).

Respondent Exhibit 6 – A copy of the “modern height designs” Version A-*Real Property Assessment Guideline*, Glossary at 36 (45-016-02-1-5-00251).

For the Board:

Board Exhibit A – Form 139L petitions, dated April 15, 2004.

Board Exhibit B – Notices of Hearing on Petitions, dated October 15, 2004.

Board Exhibit C – Hearing sign-in sheet.

- d. These Findings and Conclusions.

Analysis

14. The most applicable governing cases 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 Board of Tax Commissioners*, 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 Insurance Company 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 and Respondent provided sufficient evidence to support the Petitioner's contentions. This conclusion was arrived at because:
- a. The Petitioner testified the two parcels are contiguous with all the improvements being located on parcel #006271702400015 (45-016-02-1-5-00251). *Forbes testimony.*
 - b. The Respondent testified the DLGF's records indicate the two parcels are contiguous and due to the location of the improvements could not be sold separately, therefore due to the size of the frontage of the two parcels combined the parcels should receive a negative 20% influence factor for excessive frontage for each parcel. *McKinney testimony.*
 - c. The Respondent testified the DLGF is in agreement with the Petitioner that the swimming pool currently located on parcel #006271702400014 (45-016-02-1-5-00250) should be removed and assessed on parcel #006271702400015 (45-016-02-1-5-00251) for an assessed value of \$9800. *McKinney testimony.*
 - d. The Board finds the Petitioner and Respondent have sufficiently established that the land assessment for parcel #006271702400014 (45-016-02-1-5-00250) and parcel #006271702400015 (45-016-02-1-5-00251) should each receive a negative 20% influence factor for excessive frontage.
 - e. The Board also finds that the Petitioner and Respondent have sufficiently established that the swimming pool currently located on parcel #00627170400014 (45-016-02-1-5-00250) should be removed and transferred to parcel #00627170400015 (45-016-02-1-5-00251) with an assessed value of \$9800.

Conclusion

16. Based on the undisputed testimony of both the Respondent and the Petitioner, both parcels should receive a 20% negative influence factor on the land for excessive frontage. The Board further finds that the swimming pool should be removed from the assessment of parcel #006271702400014 (45-016-02-1-5-00250) and added to the assessment of parcel #00627170400015 (45-016-02-1-5-00251) with an assessed value of \$9800.

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: _____

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.