

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-016-02-1-5-00011
Petitioner: John Edward Schultz
Respondent: Department of Local Government Finance
Parcel #: 008-43-53-0030-0006
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 December 1, 2003, in Lake County, Indiana. The Department of Local Government Finance (DLGF) determined that the Petitioner's property tax assessment for the subject property was \$7,800 and notified the Petitioner on March 31, 2004.
2. The Petitioner filed a Form 139L on April 5, 2004.
3. The Board issued a notice of hearing to the parties dated June 24, 2004.
4. A hearing was held on September 1, 2004, in Crown Point, Indiana, before Special Master S. Sue Mayes.

Facts

5. The subject property is located at 7149 State Place, Hobart, in Hobart Township.
6. The subject property is a vacant 50 by 305 foot parcel of land.
7. The Special Master did not conduct an on-site inspection of the property.
8. Assessed Value of the subject property as determined by the DLGF:
Land: \$7,800 Improvements: \$ -0- Total: \$7,800.
9. Assessed Value requested by the Petitioner:
Land: \$1,000 Improvements: \$ -0- Total: \$1,000.

10. Persons sworn as witnesses at the hearing:
For Petitioner: John Edward Schultz, property owner
For Respondent: Cathi Gould, Staff Appraiser, Cole-Layer-Trumble.

Issue

11. Summary of Petitioner's contentions in support of an alleged error in the assessment:
- a. The Petitioner owns one-half of a vacant lot located between his house and the neighbor's house. The neighbor's parcel, parcel # 008-43-53-0030-0010, has been valued at \$1,000 while the Petitioner's parcel has been valued at \$7,800. *Petitioner Exhibits 2A, 2B.*
 - b. A photograph shows that there are no differences between the two parcels of land. *Petitioner Exhibit 1; Schultz testimony.*
12. Summary of Respondent's contentions in support of the assessment:
- a. To build upon a lot, zoning regulations for the City of Hobart require a minimum lot width of seventy feet. The Petitioner's parcel has a width of only fifty feet. *Respondent Exhibits 2, 3.*
 - b. The Respondent proposed to assess the subject property as an unbuildable lot with a 90 percent negative influence factor (Code 4, Shape or Size), thereby revaluing the land to \$1,000. *Respondent Exhibit 3; Gould testimony.*
 - c. The Respondent submitted a revised property record card (PRC) for the subject property reflecting this adjustment. *Respondent Exhibit 3.*

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. — 183,
 - c. Exhibits:
 - Petitioner Exhibit 1: Photograph of subject property
 - Petitioner Exhibit 2A: PRC for subject property.
 - Petitioner Exhibit 2B: PRC of neighboring parcel #008-43-53-0030-0010
 - Petitioner Exhibit 3: Notice of Final Assessment
 - Respondent Exhibit 1: None
 - Respondent Exhibit 2: PRC for subject property
 - Respondent Exhibit 3: PRC with proposed changes and zoning regulations
 - Board Exhibit A: Form 139L
 - Board Exhibit B: Notice 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 Twp. 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 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 provided sufficient evidence to support the Petitioner’s contentions. This conclusion was arrived at because:
- a. The Petitioner submitted the PRCs for the subject parcel and the neighboring parcel to show that the neighboring parcel was assessed differently than his own. A photograph showed that there are no apparent differences in the two properties. *Petitioner Exhibits 1-3; Schultz testimony.*
 - b. The Respondent submitted the City of Hobart zoning regulations that indicate a minimum lot width of seventy feet is required for building. The Respondent contended the subject property should be assessed as an unbuildable lot with a 90 percent negative influence factor for shape or size, resulting in an assessed value of \$1,000. *Respondent Exhibit 2; Gould testimony.*

Conclusion

16. The Petitioner made a prima facie case. Undisputed testimony indicated the assessed value of the parcel should be \$1,000. The Board finds in favor of the Petitioner. There is a change in the assessment as a result of this issue.

Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should be changed to \$1,000.

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.