

STATE OF INDIANA
Board of Tax Review

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| JOSEPH & LYN HEIN, |) | On Appeal from the Lake County Property |
| |) | Tax Assessment Board of Appeals |
| |) | |
| Petitioners |) | |
| |) | Petition for Correction of Error, Form 133 |
| |) | |
| v. |) | |
| |) | Petition No. 45-042-01-3-5-10009 |
| |) | Parcel No. 7-10-20 |
| |) | |
| LAKE COUNTY PROPERTY TAX |) | |
| ASSESSMENT BOARD OF APPEALS |) | |
| And CENTER TOWNSHIP |) | |
| ASSESSOR |) | |
| |) | |
| Respondents. |) | |

ORDER

On April 8, 2002, Petitioners filed a Motion to Correct Error on Form 133 with the Indiana Board of Tax Review (the Indiana Board)¹, following the denial of this motion by the Lake County Property Tax Assessment Board of Appeals (the PTABOA). The Form 133 Motion arises out of the de-annexation of Petitioners' property from the city of Crown Point.

Factual and Procedural History

Petitioners allege that an error was made in their 2001 taxes arising out of the annexation and subsequent de-annexation of their property by the City of Crown Point. Petitioners'

¹ As of January 1, 2002, the appeal functions of the State Board of Tax Commissioners (SBTC) were transferred to the Indiana Board of Tax Review (IBTR) and the remainder of SBTC functions were transferred to the Department of Local Government Finance (DLGF).

factual allegations, which we assume are accurate for purposes of this order, are summarized as follows:

In 1998, the City of Crown Point annexed a 6.5 square mile area that included property owned by Petitioners.² A lawsuit filed by certain property owners in the affected area resulted in an agreement that the area would be de-annexed from the City of Crown Point. The Petitioners' application for de-annexation was filed on February 19, 2001 and was granted on March 19, 2001. Because the assessment date for purposes of calculating and attributing property taxes was March 1, 2001, a date prior to the de-annexation order, Petitioners and the other property owners in the de-annexed area were subject to taxation at the higher tax rates applicable to landowners located within the Crown Point city limits.

Petitioners, in their Motion to Correct Error, seek to pay their property taxes at the tax rate applicable to their de-annexed status rather than the higher rate applicable to property within the Crown Point city limits.

Issue

Does the Indiana Board have jurisdiction to decide the issues addressed in Petitioners Motion to Correct Errors?

Discussion and Analysis

Pursuant to IC 6-1.5-4-1,³ the Indiana Board has jurisdiction to hear appeals concerning the following:

- (1) The assessed valuation of tangible property;
- (2) Property tax deductions;
- (3) Property tax exemptions; or
- (4) Property tax credits

² Several other property owners affected by this annexation have also filed Forms 133 and companion decisions have been issued on those Petitions.

³ Prior to the creation of the Indiana Board, the statute relevant to the jurisdiction of the predecessor agency was IC 6-1.1-30-11(c).

that are made from a determination by an assessing official or a county property tax assessment board of appeals to the Indiana Board under any law.

Petitioner does not complain of any error, mathematical or otherwise, in the assessed value of their property or claim a deduction, exemption, or credit with respect to the value of the subject property. Their complaint is with the tax rate, a rate dependent upon their status as one who resides either within or beyond the Crown Point city limits.

The Indiana Board is granted the authority to review only those appeals outlined by IC 6-1.5-4-1. See Whetzel v. Department of Local Government Finance , 761 N.E..2d 904 (Ind. Tax 2002). Petitioners' Motion, on its face, would require the Indiana Board to go beyond its statutory authority. The Indiana Board lacks the subject matter jurisdiction to afford the Petitioners the relief sought.

THEREFORE, this Order shall constitute a final determination of this matter.

SO ORDERED this ___ day of April, 2002.

Annette Biesecker, Chairman
Indiana Board of Tax Review