

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-032-02-1-5-00023
Petitioner: Sylvester P. Schweitzer
Respondent: Department of Local Government Finance
Parcel #: 009-09-11-0166-0002
Assessment Year: 2002

The Indiana Board of Tax Review (the "Board") issues this determination in the above matter. It finds and concludes as follows:

Procedural History

1. The informal hearing as described in Ind. Code § 6-1.1-4-33 was held. The Department of Local Government Finance ("DLGF") determined that the assessment for the subject property was \$30,000 and notified the Petitioner on March 26, 2004.
2. The Petitioner filed a Form 139L on March 31, 2004.
3. The Board issued a notice of hearing to the parties dated July 7, 2004.
4. Special Master Michael R. Schultz held the hearing in Crown Point on September 10, 2004.

Facts

5. The subject property is located at 7971 Knickerbocker Place, Dyer, Indiana.
6. The subject property is a vacant, unimproved residential lot measuring 138 feet by 140 feet.
7. The Special Master did not conduct an on-site visit of the property.
8. The DLGF determined the assessed value of the land is \$21,000.
9. Petitioner requested an assessed value of \$0 for the land.
10. Persons sworn as witnesses at the hearing:
For Petitioner — Sylvester P. Schweitzer, Taxpayer,
For Respondent — Larry Vales, Staff Appraiser, Cole-Layer-Trumble.

Issue

11. Summary of Petitioner's contentions in support of alleged error in assessment:
 - a) The subject lot has no value because no one can build on it. The local planning and zoning department will not issue a building permit because the subject lot lacks water and sanitary sewer access. The local health department will not allow the construction of a septic system on the subject lot due to its soil type. *Schweitzer testimony; Petitioner Exhibit 7.*
 - b) The application of a negative 90 percent influence factor would result in an assessment of \$3,800 for the subject lot. An assessment of \$3,800 is acceptable. *Schweitzer testimony.*

12. Summary of Respondent's contentions in support of assessment:
 - a) The subject lot appears to be unbuildable. *Vales testimony.*
 - b) The lot should have a negative 90 percent influence factor applied to arrive at an assessed value of \$3,800. *Id.*

Record

13. The official record for this matter is made up of the following:
 - a) The Petition,
 - c) The tape recording of the hearing labeled Lake County 373,
 - c) Petitioner Exhibit 1: A copy of Notice of Final Assessment,
Petitioner Exhibit 2: A copy of paid tax bills,
Petitioner Exhibit 3: A copy of Reconciliation Tax Bill,
Petitioner Exhibit 4: A copy of Notice of Final Assessment,
Petitioner Exhibit 5: A copy of paid tax bill,
Petitioner Exhibit 6: A copy of the Reconciliation Tax Bill,
Petitioner Exhibit 7: A copy of a notice from the Lake County Health Department stating that the soil types for the subject property is not suitable for septic systems,
Petitioner Exhibit 8: A copy of the Notice of Assessment for the property located at 7945 Hawthorne Street,
Petitioner Exhibit 9: A copy of the Reconciliation Tax Bill for the property located at 7945 Hawthorne Street,

Respondent Exhibit 1: A copy of the Form 139L,
Respondent Exhibit 2: The subject property record card,
Respondent Exhibit 3: The property record cards for the properties located at 11700
79th Place, 11600 79th Place and 11610 79th Place,
Respondent Exhibit 4: A copy of a plat map showing a portion of Schweitzers'
Hillcrest Addition with Unit 5, No. 252 highlighted,
Board Exhibit A: Form 139L,
Board Exhibit B: Notice of Hearing,
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 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.

Analysis

15. The Petitioner provided sufficient evidence to support the Petitioner’s contentions. This conclusion was arrived at because:
- a) Undisputed evidence of the parties reveals that the subject property is unbuildable due to building restrictions or hindrances.
 - b) Undisputed testimony proves that the value of the subject property should reflect the application of a negative 90 percent influence factor resulting in an assessment of \$3,800.

Conclusion

- 16. The evidence established a prima facie case regarding the valuation of the subject lot. Respondent did not rebut the prima facie case. The Board finds in favor of Petitioner.

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.