

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-016-02-1-5-00035
Petitioners: Stephen & Madelyn Camacho
Respondent: Department of Local Government Finance
Parcel #: 006271802030010
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 February 04, 2004, at Crown Point, IN. The Department of Local Government Finance (the "DLGF") determined that the Petitioners' property tax assessment for the subject properties were a total of \$171,400 and notified the Petitioner's on March 26, 2004.
2. The Petitioners filed Form 139Ls on April 13, 2004.
3. The Board issued a notice of hearing to the parties dated June 24, 2004.
4. A hearing was held on August 31, 2004, in Crown Point, Indiana before Special Master Joan L. Rennick.¹

Facts

5. The subject property is located at 13 N. Illinois St., Hobart, Indiana.
6. The subject property is one of four related parcels comprising the Petitioners' residence. The subject property contains the Petitioners' dwelling.
7. The Special Master did not conduct an on-site visit of the property.

¹ The Board normally tape records hearings regarding property tax appeals. In this case, the Special Master inadvertently failed to record a significant portion of the hearing. The Special Master subsequently prepared a document entitled "Preliminary Statement – REVISED" ("Statement"). The Special Master's Statement contains a recitation of the testimony presented at the hearing. The Board provided the parties with a copy of the Statement and asked them to respond in writing if the Statement did not reflect their understanding and recollection of what transpired at the hearing. The parties did not indicate that the statement prepared by the Special Master was inaccurate.

a) Assessed Value of subject property as determined by the DLGF:

Land \$ 29,100, Improvements \$ 99,000.

b) Assessed Value requested by Petitioners:

The Petitioners did not request a specific value for this parcel.

8. The persons indicated on the attached sign-in sheet (Attachment A) were present at the hearing.

9. Persons sworn in at hearing:

For Petitioners: Stephen Camacho, Property Owner.

For Respondent: Cathi Gould, Staff Appraiser.

Issues

10. Summary of Petitioners' contentions in support of alleged error in assessment:

a) The subject lot is situated in a flood zone. *Camacho testimony.*

11. Summary of Respondent's contentions in support of assessment:

a) The subject lot should be valued at market value with the application of a negative influence factor. *Gould testimony.*

b) The negative influence factor should be changed from 16% to 25% for excess frontage. Valuing the subject lot at market value with the application of a negative 25% influence factor, the value of the subject lot is \$26,000. *Gould testimony; Respondent Exhibit 4.*

Record

12. The official record for this matter is made up of the following:

a) The tape recording of the hearing labeled BTR #742

b) Exhibits:

Respondent Exhibit 1: 139L for each parcel, Notice of Final Assessment.

Respondent Exhibit 2: Present property record card (PRC) for each parcel and proposed changes for the PRC.

Respondent Exhibit 3: Map of each lot.

Respondent Exhibit 4: Proposed PRC for each parcel.

Respondent Exhibit 5: PRC's and photographs of comparable properties.

- c) The Statement of the Special Master.
 - d) These Findings and Conclusions
13. The most applicable laws and regulations are:
- a) A Petitioners 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 Petitioners establishes a prima facie case, the burden shifts to the assessing official to rebut the Petitioners’ 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 Petitioners’ evidence. *Id.*; *Meridian Towers*, 805 N.E.2d at 479.
 - d) Pursuant to the REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 – VERSION A (incorporated by reference at 50 IAC 2.3-1-2) (“Guidelines”), the township assessor establishes a base rate for the standard lot within each neighborhood. The calculated value of such base entity forms the standard to which all other lots in the neighborhood are compared. Guidelines, at Book 1, Ch. 2 p. 56.
 - e) However, specific lots within a neighborhood often have conditions peculiar to them that influence their value and must be analyzed on an individual basis. *Id.* These conditions require an adjustment to the value of the lot in the form of an “influence factor.” *Id.* “An influence factor represents the composite effect that influences the value of certain lots within the boundaries of an entire neighborhood. It is expressed as a percentage.” *Id.*
14. The evidence in the record supports a reduction in the assessment of the subject land. This conclusion was arrived at because:
- a) The Respondent conceded that the negative influence factor applied to the subject property should be changed from 16% to 25% for excess frontage. Valuing the

subject lot at market value with the application of a negative 25% influence factor, the value of the subject lot is \$26,000. *Gould testimony; Respondent Exhibit 4.*

- b) While the Petitioners did not specifically agree that this was the fair market value-in-use of the subject land, Stephen Comacho offered to state at the conclusion of the hearing on the subject land and the other parcels under appeal that “Everyone is satisfied.”
15. Given the Respondent’s concession and Stephen Comacho’s statements, the Board finds that the record supports a change in assessment in the manner conceded by the Respondent. The Petitioners did not present any evidence regarding the fair market value-in-use of the subject land or any other evidence to support a further reduction

Conclusion

16. The evidence supports a finding that that the negative influence factor applied to the subject land should be changed from 16% to 25% and that the assessed value of the subject land should be changed to \$26,000.

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: _____ [date] _____

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.