

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petitions #: 45-026-02-1-4-01116
45-026-02-1-4-01117
Petitioner: Sharyn Rankin
Respondent: Department of Local Government Finance
Parcels #: 007243000710003
007243000690001
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. The Department of Local Government Finance (the "DLGF") determined that the Petitioner's property tax assessments for the subject properties were \$148,400 for Parcel 007243000710003 and \$607,100 for Parcel 007243000690001 and notified the Petitioner on March 31, 2004.
2. The Petitioner filed the Forms 139L on April 30, 2004.
3. The Board issued a notice of hearing to the parties dated May 26, 2005.
4. Special Master Joan Rennick held a hearing in Crown Point on June 28, 2005.

Facts

5. The subject properties are located at 1300 W. 145 Street and 4400 Homerlee Avenue in East Chicago.
6. The subject property identified as Parcel 007243000710003 is a 4.078 acre vacant industrial lot. The subject property identified as Parcel 007243000690001 is large industrial facility on 14.296 acres of land.
7. The Special Master did not conduct an on-site visit of the property
8. The assessed value of the subject properties as determined by the DLGF:
Parcel 007243000710003
Land \$148,400 Improvements \$-0- Total \$148,400,

Parcel 007243000690001
Land \$383,900 Improvements \$223,200 Total \$607,100.

9. The assessed value requested by Petitioner:

Parcel 007243000710003
Land \$49,000 Improvements \$-0- Total \$49,000,
Parcel 007243000690001
Land \$300,200 Improvements \$223,200 Total \$523,400.

10. Persons present and sworn in at hearing:

For Petitioner – Sharyn Rankin, property owner,
For Respondent – Steve McKinney, assessor/auditor.

Issues

11. Summary of Petitioner’s contentions in support of an alleged error in the assessment:

- a) Parcel 07343000710003 (the “Vacant Parcel”) was previously classified as Land Type 12 and was valued at \$48,490. Currently, this parcel is classified as Land Type 13 and is valued at \$148,400. *Rankin testimony; Petitioner Exhibit 6, 7.*
- b) The vacant parcel is a pie-shaped vacant parcel that cannot be used as a building site and cannot be readily used as yard storage because of restrictions imposed by the City of East Chicago and the local zoning board regarding the types of materials that may be stored. *Rankin testimony.*
- c) The zoning for the subject property is Heavy Industrial and has been for 20 years. The subject property is located within an area being developed for residential housing. Because the area is changing to residential use, the City of East Chicago amended the list of acceptable heavy industrial occupants in the area. This change resulted in the denial for occupancy permits for certain potential tenants and restricts the use of the subject property. *Rankin testimony.*
- d) The subject property had been listed for sale for over 2 years for an asking price of \$900,000 but was unable to generate interest in the subject property. *Rankin testimony.*
- e) The subject property is currently sold under a conditional contract for \$535,000 that is serving as an interim agreement until the buyer can obtain conventional financing. *Rankin testimony; Petitioner Exhibit 3, 4.* The bank financing the purchase valued the subject property at \$550,000. *Rankin testimony; Petitioner Exhibit 5.*
- f) The purchase price for the subject property reflected by the purchase agreement and the contract of \$535,000 establishes the subject property’s value. *Rankin*

testimony. Due to the change in zoning matters, the subject property has depreciated in value rather than appreciating in value. *Rankin testimony.*

12. Summary of Respondent's contentions in support of the assessment:

- a) Because the Respondent's representative does not have the authority to discuss stipulating to a value established through market evidence 2 years beyond the assessment date, the Respondent opts to leave the burden of determining the relevancy of the Petitioner's evidence to the Board. *McKinney testimony.*

Record

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

- a) The Petition,
- b) The tape recording of the hearings labeled Lake County 1797,
- c) Exhibits¹:
 - Petitioner Exhibit 1 – A copy of the Form 139L petition with the notice of final assessment, the notice of assessment, the front page of the subject property record card, a copy of the plat map showing the subject property, and the subject property sale listing attached,
 - Petitioner Exhibit 3 – A copy of the 2004 purchase agreement for the subject property,
 - Petitioner Exhibit 4 – A copy of the contract for conditional sale of the subject property,
 - Petitioner Exhibit 5 – A copy of a letter stating the appraised value of the subject property,
 - Petitioner Exhibit 6 – A copy of the subject property record prior to the 2002 reassessment,
 - Petitioner Exhibit 7 – The current subject property record card,
 - Respondent Exhibit 1 – The subject property record card,
 - Respondent Exhibit 2 – A photograph of the subject property,
 - Respondent Exhibit 3 – The Incremental/Decremental Land Pricing, the recommended land calculation and the neighborhood summary sheet applicable to the subject property,
 - Respondent Exhibit 4 – A copy of a plat map,
 - Board Exhibit A – Form 139L,
 - Board Exhibit B – Notice of Hearing,
 - Board Exhibit C – Sign in Sheet,

¹ The record regarding the Petitioner's exhibits does not include an exhibit labeled Petitioner Exhibit 2 because, while the Petitioner set aside the label Petitioner Exhibit 2 on the exhibit log, the Petitioner did not submit an exhibit labeled Petitioner Exhibit 2.

- 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 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.

15. The Petitioner did not provide sufficient evidence to support the Petitioner's contentions. This conclusion was arrived at because:

- a) The 2002 Real Property Assessment Manual (“Manual”) defines the “true tax value” of real estate as “the market value-in-use of a property for its current use, as reflected by the utility received by the owner or similar user, from the property.” 2002 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.3-1-2). A taxpayer may use evidence consistent with the Manual's definition of true tax value, such as appraisals that are relevant to a property's market value-in-use, to establish the actual true tax value of a property. *See MANUAL* at 5. The purchase price of a property may also constitute evidence of a property's market value-in-use under the proper conditions of a valid arm's length transaction, without any special conditions, because it could reasonably represent the value of the utility of that property for both the buyer and the seller.
- b) Although the evidence presented tends to show that, due to changes in zoning matters, the subject property cannot be used for the purposes originally intended and that, in 2004, the value of the subject property was between \$535,000 and \$550,000, the evidence demonstrates the subject property's value in 2004. *Rankin testimony; Petitioner Exhibit 3, 4, 5*. For evidence of value for a year other than January 1, 1999, the year of valuation, to be viewed as probative evidence, that

evidence must be shown to relate to the January 1, 1999, valuation date. *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466 (Ind. Tax Ct. 2005). The Petitioner did not present any evidence showing how or why the 2004 purchase price or bank valuation is related or relevant to the January 1, 1999, valuation date and, as such, has no probative value.

- c) The Petitioner also presented evidence that a change in zoning matters restricted the use of the subject property which adversely affected the subject property's value because the occupation of the subject property was limited by the local zoning board's rulings. *Rankin testimony*.
- i) However, the Petitioner did not present any evidence to establish how these restrictions affected the value of the subject property. While the Petitioner pointed to the asking price of \$900,000, the purchase price of \$535,000, and the restrictions imposed by the local zoning board, the Petitioner did not explain the connection between these factors or how these factors demonstrate a loss in value. As such, the Petitioner's evidence is merely conclusory and does not constitute probative evidence.

Conclusion

16. The Petitioner failed to make a prima facie. The Board finds in favor of Respondent.

Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should not 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. You must name in the petition and in the petition's caption the persons who were parties to any proceeding that led to the agency action under Indiana Tax Court Rule 4(B)(2), Indiana Trial Rule 10(A), and Indiana Code §§ 4-21.5-5-7(b)(4), 6-1.1-15-5(b). The Tax Court Rules provide a sample petition for judicial review. The Indiana Tax Court Rules are available on the Internet at <<http://www.in.gov/judiciary/rules/tax/index.html>>. The Indiana Trial Rules are available on the Internet at <http://www.in.gov/judiciary/rules/trial_proc/index.html>. The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>.