

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition: 45-013-02-1-5-00151, et. al¹
Petitioners: Jack R. & Judy Burandt
Respondent: Department of Local Government Finance
Parcel: 005302401000001, et. al.
Assessment Year: 2002

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

Procedural History

1. The informal hearing as described in Ind. Code § 6-1.1-4-33 was held on November 24, 2003. The Department of Local Government Finance (the "DLGF") determined the assessment for the subject properties and notified the Petitioners on March 25, 2004.
2. The Petitioners filed the Forms 139L on April 19, 2004.
3. The Board issued a notice of hearing to the parties dated October 22, 2004.
4. Special Master Patti Kindler held a hearing in Crown Point on November 30, 2004.

Facts

5. The subject property is located at 12714 Maple Street, Cedar Lake.
6. The subject properties are 14 contiguous, residential lots with each lot measuring 25 feet by 95 feet. A residence and a other improvements are located on a few of the lots, but only the land values are disputed.
7. The Special Master did not conduct an on-site visit of the property.
8. The assessed value of subject properties as determined by the DLGF:
See Attachment 1.
9. The assessed value requested by the Petitioners:
See Attachment 1.

¹ A complete listing of the petition numbers, parcel numbers, current assessment and requested assessment is attached and identified as Attachment 1.

10. Persons present and sworn as witnesses at the hearing:
For Petitioner – Jack R. and Judy Burandt, taxpayers,
For Respondent – Tommy P Bennington, Assessor/Auditor.

Issue

11. Summary of Petitioners' contentions in support of an alleged error in the assessment:
- a) A total value of \$86,800 for the 14 lots is excessive. *Judy Burandt testimony; Petitioner Exhibit 1.* Each of the 14 lots measures 25 feet by 95 feet. Together they make up a home site measuring 175 feet by 190. *Judy Burandt testimony; Petitioner Exhibit 1, 2.* A fair value for the 14 lots combined would be \$40,000. *Judy Burandt testimony.*
 - b) In Cedar Lake, the platted lots are only 25 feet wide. *Judy Burandt testimony.*
 - c) A property located in the same neighborhood as the subject property with 4 combined lots has a land assessment of only \$17,600. *Judy Burandt testimony; Petitioner Exhibit 3.*
 - d) In a subdivision located to the north of the subject properties, lots measuring 75 feet by 150 feet are valued at \$16,600 each. *Petitioner Exhibit 4, 5.* A property adjoining the subject properties and measuring 290 feet by 150 feet is valued at \$46,200. *Judy Burandt testimony; Petitioner Exhibit 6.*
 - e) The property located at 12724 Maple Street, which is next door to the subject property, is made up of 3 lots with each lot measuring 25 feet by 90 feet, and is valued at \$16,400. *Judy Burandt testimony; Petitioner Exhibit 7.* The lot located at 12726 Maple Street, also made up of 3 lots, has a total value of \$25,300 with a land value of \$6,900. *Judy Burandt testimony; Petitioner Exhibit 8.* The lots located across the street and shown in the photographs are also valued at \$6,900 each. *Judy Burandt testimony; Petitioner Exhibit 9, 10.*
 - f) The lots located to the rear of the subject property do not have access to roadways or utilities. *Judy Burandt testimony.* These lots are subject to flooding problems that diminish their value. *Judy Burandt testimony; Petitioner Exhibit 2.* These lots cannot be sold for development in the current state without constructing roadways and putting in the utilities. *Judy Burandt testimony.*
 - g) A market analysis prepared by a local realtor indicated that the market value of the entire property would be approximately \$62,000. *Judy Burandt testimony.*
 - h) A total land value of \$40,000 for all 14 lots would be a fair value. *Judy Burandt testimony.*

12. Respondent's contention in support of the assessment was that the land values shown on the property record cards were established by Cole-Layer- Trumble and approved by the Department of Local Government Finance. *Bennington testimony*.

Record

13. The official record for this matter is made up of the following:
- a) The Petition,
 - b) The tape recording of the hearing labeled Lake County 772,
 - c) Petitioner Exhibit 1 – A cover letter of summarizing the Petitioners' contentions,
Petitioner Exhibit 2 – A copy of the plat map of The Shades Addition, Block 3, Lots 1-15 and 38-52,
Petitioner Exhibit 3 – The assessment information for the property located at 12737 Maple Street,
Petitioner Exhibit 4 – The assessment information for the property located at 8201 W. 127th Avenue,
Petitioner Exhibit 5 – The assessment information for the property located at 8211 W. 127th Avenue,
Petitioner Exhibit 6 – The assessment information for the property located at 8141 W. 127th Avenue,
Petitioner Exhibit 7 – The assessment information for the property located at 12724 Maple Street,
Petitioner Exhibit 8 – The assessment information for the property located at 12726 Maple Street,
Petitioner Exhibit 9 – Photographs of the properties across the street from the subject properties,
Petitioner Exhibit 10 – The assessment information for the properties depicted in the photographs submitted,
Respondent Exhibit 1 – A copy of the Form 139L,
Respondent Exhibit 2 – The subject property record card,
Respondent Exhibit 3 – A photograph of the dwelling located on the subject properties,
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 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. Petitioners provided sufficient evidence to support their contentions. This conclusion was arrived at because:
- a) Petitioners presented the assessment information for several properties located in close proximity of the subject properties to show that the total value established for the subject properties is overstated. Petitioners also presented evidence that only 7 of the 14 lots were useable lots because the lots located at the rear of the property lack roadway and utilities and they suffer from flooding problems. The rear lots are not useable lots for development.
 - b) The assessment information for the properties located in the subdivision to the north of the subject properties shows that the properties measure 75 feet by 150 feet and the land value for each lot is \$16,600. While these properties are located in another subdivision, this evidence tends to show that the land value of \$86,600 may be excessive for the subject property when compared to similarly sized properties.
 - c) The assessment information for the property located at 12737 Maple Street shows that a property consisting of 4 lots, each measuring 25 feet by 95 feet in the Shades Addition has a land value of \$17,600. Although this property is smaller than the total measurement of the subject properties, it is in the same subdivision. This evidence tends to show that the total value of \$86,600 is excessive when compared to property made up of like sized lots. The average lot value for the subject is \$6,190 per lot while the average lot value for the comparable is \$4,400 per lot.

- d) The assessment information for the property located at 8141 W. 127th Avenue shows that a property measuring 150 feet by 290 feet has a land value of \$46,200. While this property is larger than the subject properties, this comparison tends to show that the land value of the subject property is excessive compared to a similar, but larger, adjoining property. The subject's total land value is \$86,600 for a total area of 175 feet by 190 feet while the adjoining property land value is only \$46,200 for an area measuring 150 feet by 290 feet.
- e) The assessment information for the property located at 12724 Maple Street, which is next door to the subject properties, shows that the land value for these 3 lots is \$16,400. Although this property is smaller than the subject, the assessment information for this property tends to show that the total land value for the subject is overstated because the comparable property is made up of 3 lots that measure 25 feet by 95 feet in the same subdivision. The average lot value for the comparable property is \$5,670 per lot while the average lot value for the subject properties is \$6,190.
- f) The assessment information for the property located at 12726 Maple Street, which is located 2 houses south of the subject properties, shows that the land value for 3 lots is \$6,900. Again, while the comparable property is smaller than the subject, this evidence tends to support the contention that the total land value of \$86,600 for the subject properties is excessive because the comparable property is made up of 3 lots in the same subdivision that are 25 feet by 95 feet.
- g) Petitioners presented sufficient evidence to show that the total assessment of the 14 lots is excessive in comparison to comparable properties. Nevertheless, the range of value established by Petitioners' evidence is very broad. Petitioners provided no significant analysis or explanation to support the exact land value they sought. The conclusory testimony that a total land value should be \$40,000 for this property is not probative evidence. *Whitley Products v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).
- h) Similarly, Petitioners failed to provide meaningful analysis of the similarities and differences between their property and their comparables. In this case, the neighboring properties at 12724 and 12737 Maple Street provide evidence of value that is most comparable. *Blackbird Farms Apts. v. Dep't of Local Gov't Fin.*, 765 N.E.2d 711, 715 (Ind. Tax Ct. 2002). The evidence establishes that one property is valued at \$4,400 per lot and the other at \$5,500 per lot. Half of the subject lots were already valued at \$5,500 per lot, but the other half were valued at \$6,900.
- i) The burden shifted to Respondent to present evidence to rebut or impeach Petitioners' evidence. *American United*, 803 N.E.2d 276; *Meridian Towers*, 805 N.E.2d at 479.
- j) Respondent's attempt to rebut the evidence consisted of presenting a copy of the Form 139L petition, the subject property record card, and a photograph of the dwelling located on the subject properties and stating that the land values were established by CLT and approved by the DLGF. Although this evidence provides

information regarding the current assessment of the 14 lots, this evidence does nothing to rebut any of the evidence presented by Petitioners. The evidence does not indicate any reason to value the others for more than \$5,500.

- k) While Petitioners failed to prove the land value they sought, the evidence in this case establishes that the value of each lot should not be more than \$5,500. Respondent failed to present any evidence to impeach the Petitioners' prima facie case regarding the total land value.

Conclusion

- 16. The Petitioners made a prima facie case that was not rebutted. The assessed land value for each of the parcels should be \$5,500.

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

- 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>.

**Burandt Findings & Conclusions
Attachment 1**

Petition	Parcel	Address	DLGF Assessed Value (Land)	Requested Assessed Value² (Land)
45-013-02-1-5-00151	005302401000001	12714 Maple Street	\$6,900	\$2,860
45-013-02-1-5-00152	005302401000002	12714 Maple Street	\$6,900	\$2,860
45-013-02-1-5-00153	005302401000003	12714 Maple Street	\$6,900	\$2,860
45-013-02-1-5-00154	005302401000004	12714 Maple Street	\$6,900	\$2,860
45-013-02-1-5-00155	005302401000005	12714 Maple Street	\$6,900	\$2,860
45-013-02-1-5-00156	005302401000006	12714 Maple Street	\$6,900	\$2,860
45-013-02-1-5-00157	005302401000007	12714 Maple Street	\$6,900	\$2,860
45-013-02-1-5-00158	005302401000042	12714 Maple Street	\$5,500	\$2,860
45-013-02-1-5-00159	005302401000041	12714 Maple Street	\$5,500	\$2,860
45-013-02-1-5-00160	005302401000043	12714 Maple Street	\$5,500	\$2,860
45-013-02-1-5-00161	005302401000044	12714 Maple Street	\$5,500	\$2,860
45-013-02-1-5-00162	005302401000045	12714 Maple Street	\$5,500	\$2,860
45-013-02-1-5-00163	005302401000046	12714 Maple Street	\$5,500	\$2,860
45-013-02-1-5-00164	005302401000047	12714 Maple Street	\$5,500	\$2,860

² The Petitioners requested a total land assessment of \$40,000 for the 14 lots under appeal. \$40,000 divided by the 14 lots arrives at an assessed value of \$2,860 per lot or parcel.