

INDIANA BOARD OF TAX REVIEW
Small Claims
Final Determination
Findings and Conclusions

Petition #: 18-003-04-1-5-00001
Petitioner: Geraldine Stidham
Respondent: Center Township Assessor (Delaware County)
Parcel #: 1114128001000
Assessment Year: 2004

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 Petitioner initiated an assessment appeal with the Delaware County Property Tax Assessment Board of Appeals (“PTABOA”) by written document dated May 7, 2003.
2. The Petitioner received notice of the decision of the PTABOA on October 17, 2003.
3. The Petitioner filed an appeal to the Board by filing a Form 131 with the county assessor on April 13, 2004. The Petitioner elected to have this case heard in small claims.
4. The Board issued a notice of hearing to the parties dated February 16, 2006.
5. The Board held an administrative hearing on March 23, 2006, before the duly appointed Administrative Law Judge Alyson Kunack.
6. Persons present and sworn in at hearing:
 - a) For Petitioner: Geraldine Stidham, taxpayer
 - b) For Respondent: Charles F. Ward, Center Township and PTABOA representative

Facts

7. The subject property is located at 600 S. Ribble, Muncie. The property is classified as a single family residential dwelling, as is shown on the property record card for parcel #1114128001000.
8. The Administrative Law Judge (“ALJ”) did not conduct an inspection of the property.

9. Assessed Value of subject property as determined by the Delaware County PTABOA:
Land \$14,600 Improvements \$17,700 Total \$32,300.
10. Assessed Value requested by Petitioner on Form 131 petition:
The Petitioner did not complete this section of the petition.

Issues

11. Summary of Petitioner's contentions in support of alleged error in assessment:
- a) The assessed value of the subject property is simply too high. *Stidham testimony.*
 - b) The subject dwelling is old and in poor condition. The back area of the house is unlivable. The Petitioner presented fifteen photographs of the subject dwelling. The subject property is a rental property and is occupied. *Stidham testimony; Pet'r Ex. 1.*
 - c) The subject land consists of 4.49 acres and has multiple easements running through it. There are easements for a water main, natural gas, city sewer, and storm sewer. The land goes to the middle of the river. The Petitioner presented an aerial photograph with markings to show the easements. *Stidham testimony; Pet'r Ex. 2.*
12. Summary of Respondent's contentions in support of the assessment:
- a) The subject land is broken down into a 50' x 150' lot valued at \$120 per front foot with the remaining 4.32 acres valued as residual land at \$2,000 per acre. The total land value is \$14,600. *Ward testimony; Resp't Ex. 1.*
 - b) The Respondent presented land calculations by neighborhood based on sales occurring between 1997 and 2002. The range for vacant land was \$1,500 to \$4,200. Agricultural land was selling for \$1,800 to \$2,000. *Ward testimony; Resp't Ex. 4.*
 - c) Easements are not uncommon; a lot of properties have them. The Respondent understands that property owners cannot build over the easements, but the land subject to the easements can still be used. *Ward testimony.*
 - d) The subject dwelling is a "D" grade house with a "poor" condition rating. *Ward testimony; Resp't Ex. 1.*
 - e) Sales prices for properties from the subject neighborhood range from \$31,000 to \$65,000. The subject property's assessment of \$32,300 is at the low end of that range. *Ward testimony; Resp't Ex. 2.*
 - f) The neighborhood factor is based on sales in the neighborhood. *Ward testimony.*

Record

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

- a) The Petition.
- b) The recording of the hearing.
- c) Exhibits:

Petitioner Exhibit 1: Fifteen photographs of the subject property

Petitioner Exhibit 2: Aerial photograph of subject property

Respondent Exhibit 1: Subject Property Record Card (PRC)

Respondent Exhibit 2: Neighborhood sales

Respondent Exhibit 3: Aerial photograph

Respondent Exhibit 4: Land calculations

Respondent Exhibit 5: Two photographs of the subject property¹

Board exhibit A: Form 131 petition

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.*

¹ At the hearing, the Respondent presented two exterior photographs of the subject property, which are identified on the record as Respondent Exhibit 5. The Respondent, however, failed to provide the photographs to the ALJ at the close of the hearing.

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 her contentions. This conclusion was arrived at because:
- a) The Petitioner contends the assessed value of the subject property is too high due to the poor condition of the subject dwelling. *Stidham testimony*.
 - b) The Real Property Assessment Guidelines for 2002 – Version A (“Guidelines”) recognize that similar structures tend to depreciate at about the same rate over their economic lives. REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 – VERSION A, app. B at 6 (incorporated by reference at 50 IAC 2.3-1-2). The manner in which owners maintain structures, however, can influence the rate of depreciation of those structures. *Id*. Consequently, the Guidelines require assessing officials to assign a condition rating to each structure they assess. *Id*. at 6-7. The condition rating, in turn, affects the amount of depreciation applied to each structure. For example, a structure with a condition rating of “average” depreciates at a slower rate than does a structure with a condition rating of “fair.” *Id*. at 6-13.
 - c) The Guidelines provide descriptions to assist assessing officials in determining the proper condition rating to apply to a structure. The following two descriptions are relevant to this appeal:
 - Poor Definite deterioration is obvious in the structure. It is definitely undesirable or barely usable. Extensive repair and maintenance are needed on painted surfaces, the roof, and the plumbing and heating systems. There may be some functional inadequacies or substandard utilities. There is extensive deferred maintenance.
 - Very Poor Conditions in the structure render it unusable. It is extremely unfit for human habitation or use. There is extremely limited value in use and it is approaching abandonment. The structure needs major reconstruction to have any effective value.
 - d) The property record card for the subject property indicates that the Respondent assigned the subject dwelling a condition rating of “poor.” *Resp’t Ex. 1*. Thus, although the Petitioner submitted photographs showing substantial deterioration in the subject dwelling, that deterioration already is reflected in the current assessment. The Petitioner did not submit any evidence to show that the subject dwelling is “unusable” or that it is approaching abandonment as required for a condition rating of “very poor.” In fact, the Petitioner testified that the subject dwelling is occupied. *Stidham testimony*. The Petitioner therefore failed to establish a prima facie case for a reduction in the condition rating assigned to the subject dwelling.

- e) The Petitioner also contends that the assessment is too high due to the multiple easements running across the subject property. *Stidham testimony*.
- f) The Petitioner relies exclusively on her conclusory testimony that the easements render the property less valuable. *Stidham testimony*. The Petitioner neither explained how the easements affect the value of the subject property, nor attempted to quantify the effect of easements on its market value-in-use. Without more, the Petitioner's conclusory opinion is insufficient to establish an error in assessment. *See Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998) (holding that conclusory statements, unsupported by factual evidence, are insufficient to establish error).
- g) The Petitioner failed to establish that the current assessment is incorrect and what the correct assessment would be.

Conclusion

16. The Petitioner failed to make a prima facie case. 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>>.