

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

Petition #: 24-006-03-1-5-00005
Petitioners: David & Brenda Noelker
Respondent: Fairfield Township Assessor (Franklin County)
Parcel #: 006-001-0023-03
Assessment Year: 2003

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

Procedural History

1. The Petitioners initiated an assessment appeal with the Franklin County Property Tax Assessment Board of Appeals (PTABOA) by written document dated November 12, 2003.
2. The Petitioners received notice of the decision of the PTABOA on October 5, 2004.
3. The Petitioners filed an appeal to the Board by filing a Form 131 with the county assessor on November, 5 2004. Petitioners elected to have this case heard in small claims.
4. The Board issued a notice of hearing to the parties dated June 30, 2005.
5. The Board held an administrative hearing on August 23, 2005, before the duly appointed Administrative Law Judge Brian McKinney.
6. Persons present and sworn in at hearing:
 - a) For Petitioner: David Noelker, taxpayer
 - b) For Respondent: Sharon Halcomb, Franklin County Assessor¹

Facts

7. The property is classified as Residential Mobile/Manufactured home platted lot, as is shown on the property record card for parcel # 006-001-0023-03

¹ On behalf of the Fairfield Township Assessor.

8. The Administrative Law Judge (ALJ) did not conduct an inspection of the property.
9. Assessed Value of subject property as determined by the Franklin County PTABOA is \$7,000 for the land and \$59,200 for the improvements for a total assessed value of \$66,200.
10. Assessed Value requested by Petitioners is \$9,000 for the land and \$35,000² for the improvements for a total assessed value of \$44,000.

Issues

11. Summary of Petitioners' contentions in support of alleged error in assessment:
 - a) The Petitioners purchased the mobile home on for \$35,144.18, on March 22, 2001, from Tom Raper Homes, Inc. *Noelker testimony; Pet'r Ex. 2*. The assessed value of the mobile home should not exceed the price paid. *Noelker argument*.
 - b) The quality of the mobile home was overstated by the Respondent when it was assigned a "B" grade. *Id.*
12. Summary of Respondent's contentions in support of the assessment:
 - a) The price paid was for a "demo" unit, and therefore not an arms length transaction. *Halcomb argument*.
 - b) The grade was lowered to "C-1" as a result of the PTABOA hearing. *Halcomb testimony*. A detached garage was added to the assessment as the result of the PTABOA hearing. *Id.*

Record

13. The official record for this matter is made up of the following:
 - a) The Petition, and all subsequent pre-hearing, and post-hearing submissions by either party.
 - b) The digital recording of the hearing.
 - c) Exhibits:
 - Petitioner Exhibit 1: Layout and size of home;
 - Petitioner Exhibit 2: Purchase price of home;
 - Petitioner Exhibit 3: Purchase price of lots;
 - Petitioner Exhibit 4: Taxes paid in October 2004;

² At the hearing, Mr. Noelker stated that he was not contesting the value of the land, but contends the value of the mobile home should be \$35,000, because that is what he paid for the home.

Petitioner Exhibit 5: Pictures of other homes in the area;
Petitioner Exhibit 6: Form 11 R/A-C/I, Notice of Assessment;
Petitioner Exhibit 7: Copy of pp 16-17 from *Fortune Magazine*, August 8, 2005.
Petitioner Exhibit 8: Six (6) photographs of subject property;
Petitioner Exhibit 9: Four (4) photographs of subject property; and
Petitioner Exhibit 10: Lots for sale in neighborhood.

The Respondent did not offer any documentary evidence.

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. Wash. 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 Petitioners did provide sufficient evidence to support the Petitioners' contentions. This conclusion was arrived at because:

- a) The Petitioners presented the receipt for the purchase of the home from Tom Raper Homes, Inc. The purchase price was \$35,144.18. *Noelker testimony; Pet'r Ex. 2*. The Petitioners contend the assessed value cannot be more than the purchase price. *Noelker testimony*. Also, the Petitioners contend that the grade should be lower than “B.”
- b) The Respondent contends that the purchase price was not an arms length transaction because the home purchased was a “demo” model that was used by

Tom Raper Homes, Inc.³ *Halcomb testimony*. In addition, the Respondent stated that the grade was lowered from “B” to “C-1” as a result of the PTABOA hearing.

- c) A review of the property record card indicates that the current grade is “B”, and not “C-1”, as claimed by the Respondent. *Board Ex. A, attachment*. The Respondent is hereby ordered to change the grade to “C-1.”
- d) Regarding the overall market value of the mobile home, the actual sale of a subject property is often the most compelling evidence of its market value. Here, the purchase price of \$35,144 paid by the Petitioners is persuasive evidence of the market value of the mobile home. The price was paid to a merchant, Tom Raper Homes, Inc. and appears to be an arms length transaction.
- e) The Respondent contends the sale is not reliable because the home was a “demo” model. The Respondent, however, failed to explain how the home’s status as a “demo” affects whether the transaction was at arms length, or how it affects the reliability of the sale. The Respondent did not offer any evidence indicating similar homes sold for a higher price. The Respondent has merely concluded, without evidence to support her conclusion, that the sale is not reliable.
- f) Regardless of the home’s status as a “demo” model, the purchase appears to be an arms length transaction.
- g) As a result, the Petitioners made a prima facie case which the Respondent did not rebut. The value of the mobile home should be changed to \$35,100.

Conclusion

16. The Petitioners made a prima facie case. The Respondent did not rebut petitioner’s evidence. The Board finds in favor of Petitioners. The PRC should show a grade of C-1. The value of the mobile home should be change to \$35,100.

³ By “demo” model it is assumed the Respondent contends the home was used by Tom Raper Homes, Inc. to allow potential customers to walk through an actual home and view an example of its product.

Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should be changed. The value of the mobile home should be lowered to \$35,100, and its grade should be lowered to “C-1.”

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>.