

REPRESENTATIVE FOR PETITIONER:

Laverne Rollison, President, SouthWestern Acceptance Corporation

REPRESENTATIVE FOR RESPONDENT:

Nancy Snellenberger, Greene County Assessor

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

SOUTHWESTERN ACCEPTANCE CORPORATION,)	Petition No.: 28-019-02-1-5-00001
)	
Petitioner,)	Parcel: 019-00615-00
)	
v.)	County: Greene
)	
TAYLOR TOWNSHIP ASSESSOR,)	Township: Taylor
)	
Respondent.)	Assessment Year: 2002

Appeal from the Final Determination of the
Greene County Property Tax Assessment Board of Appeals

August 23, 2006

FINAL DETERMINATION

The Indiana Board of Tax Review (Board) having reviewed the facts and evidence, and having considered the issue, now finds and concludes the following:

ISSUE

Is the parcel's assessed value greater than its market value-in-use?

FINDINGS OF FACT AND CONCLUSIONS OF LAW

PROCEDURAL HISTORY

1. The Greene County Property Tax Assessment Board of Appeals (PTABOA) issued an assessment determination on June 21, 2004. Pursuant to Ind. Code § 6-1.1-15-3, Laverne Rollison, President of SouthWestern Acceptance Corporation, filed a Form 131 Petition for Review of Assessment petitioning the Board to conduct an administrative review of the above petition. The Form 131 was filed on July 19, 2004.

HEARING FACTS AND OTHER MATTERS OF RECORD

2. Pursuant to Ind. Code § 6-1.1-15-4 and § 6-1.5-4-1, a hearing was held on March 1, 2006, in Bloomfield, Indiana. Brian McKinney, the duly designated Administrative Law Judge authorized by the Board under Ind. Code § 6-1.5-3-3, presided at the hearing.
3. The following persons were sworn as witnesses and presented testimony at the hearing:
Laverne Rollison, President, SouthWestern Acceptance Corporation,
Nancy Snellenberger, Greene County Assessor.
4. The following exhibits were admitted at the hearing:
Petitioner Exhibit 1 – Mordoh Appraisal,
Petitioner Exhibit 2 – Morin Appraisal,
Respondent Exhibit 1 – Property record card for the subject property,
Respondent Exhibit 2 – Three photographs, including one of the subject
property,¹
Respondent Exhibit 3 – Notice of County Assessor Representation from the
Taylor Township Assessor.

¹ The photograph with the circled number 1 is of the structure under appeal.

5. The following additional items are officially recognized as part of the record of proceedings:
 - Board Exhibit A – Form 131 Petition,
 - Board Exhibit B – Notice of Hearing.
6. The subject parcel is a farm with 154 acres of land and three dwellings near Bloomfield.
7. The Administrative Law Judge did not conduct an on-site inspection of the property.
8. The Petitioner is challenging only the assessment of the main dwelling. For 2002, the PTABOA determined the assessed value of that dwelling is \$1,073,700.²
9. The Petitioner contended the assessed value should be \$600,000.³

JURISDICTION

10. The Indiana Board is charged with conducting an impartial review of all appeals concerning the assessed valuation of tangible property, property tax deductions, and property tax exemptions that are made from a determination by an assessing official or a county property tax assessment board of appeals to the Indiana Board under any law. Ind. Code § 6-1.5-4-1(a). All such appeals are conducted under Ind. Code § 6-1.1-15.

ADMINISTRATIVE REVIEW AND THE PETITIONER'S BURDEN

11. 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).

² The total assessed value for the entire parcel is \$1,408,800 (\$90,100 for land and \$1,318,700 for improvements).

³ The Petitioner requested a value of \$500,000 on its Form 131 Petition. At the hearing, the Petitioner asserted the property could not be sold for more than \$600,000.

12. 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”).
13. 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.

FACTS AND CONTENTIONS

14. The Petitioner presented the following testimony and other evidence:
 - A. The subject parcel is a farm consisting of 154 acres of land and three dwellings. The Petitioner is not contesting the values assigned to the land or two of the dwellings. The Petitioner is challenging only the assessment of the main dwelling. This dwelling, which cost almost \$1 million to build in 1987, is a two-story home with a basement, three-car garage, indoor tennis court, indoor swimming pool, and other amenities. *Rollison testimony; Respondent Exhibit 1.*
 - B. The home would not sell in the current market for more than \$600,000 because of its size and maintenance expense. The construction materials and the interior features of the house are average. *Rollison testimony.*
 - C. The Petitioner presented two appraisals in support of its contentions. The first appraisal (the Mordoh appraisal) compared the subject dwelling to three properties in Bloomington. It estimated the value of the Petitioner’s property at \$1,100,000 as of February 27, 2004. *Pet’r Ex. 1.* The Petitioner contended this estimate of value is too high because dwellings in the Bloomington area have greater market value than homes in Greene County. *Rollison testimony.* The Petitioner then had a second

appraisal prepared (the Morin appraisal). It compared the Petitioner's property to a single property that had sold in adjoining Sullivan County and estimated the value of the property at \$720,000 as of July 16, 2004. *Pet'r Ex. 2*. The Petitioner did not review the values of other homes of similar size located in Bloomfield. *Rollison testimony*.

15. The Respondent contended the home was assessed according to the 2002 REAL PROPERTY ASSESSMENT MANUAL (hereafter MANUAL) (incorporated by reference at 50 IAC 2.3-1-2). The assessment of the house under appeal is detailed on the back of page one of the property record card. Pages two and three of the property record card contain the assessment calculations of the other two houses not under appeal. The PTABOA made the changes to the land assessment requested by the Petitioner. *Snellenberger testimony; Resp't Ex. 1*.

ANALYSIS

16. Real property is assessed on the basis of its "true tax value," which does not mean fair market value. It means "the market value-in-use of a property for its current use, as reflected by the utility received by the owner or a similar user, from the property." Ind. Code § 6-1.1-31-6(c); MANUAL at 2. There are three generally accepted techniques to calculate market value-in-use: the cost approach, the sales comparison approach, and the income approach. The primary method for assessing officials to determine market value-in-use is the cost approach. *Id.* at 3. To that end, Indiana promulgated a series of guidelines that explain the application of the cost approach. *See* REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 - VERSION A (hereafter GUIDELINES) (incorporated by reference at 50 IAC 2.3-1-2). The value established by use of the GUIDELINES, while presumed to be accurate, is merely a starting point. A taxpayer is permitted to offer evidence relevant to market value-in-use to rebut that presumption. Such evidence may include actual construction costs, sales information regarding the subject or comparable properties, appraisals, and any other information compiled in accordance with generally accepted appraisal principles. MANUAL at 5.

17. For the 2002 reassessment, an assessment is to reflect the value of the property as of January 1, 1999. MANUAL at 4. Should a Petitioner present any evidence of values relating to a different time, the Petitioner is required to provide some explanation of how those values demonstrate, or are relevant to, the subject property's value as of January 1, 1999. *See Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005).
18. The Mordoh appraisal estimated the value at \$1,100,000. This figure is very similar to the current assessed value on this dwelling. The Petitioner questioned the credibility of this appraisal and sought the opinion of a second appraiser. The Morin appraisal, based on a single sale in an adjoining county, estimated the value of the property at \$720,000. Both appraisals establish values as of 2004. The Petitioner, however, did not offer any evidence showing how either of these appraisals demonstrates, or is relevant to, the value as of January 1, 1999. Accordingly, the values contained in these appraisals are not probative evidence. *See Long*, 821 N.E.2d at 471.
19. The dwelling was constructed in 1987 for almost \$1 million. The Petitioner contended that now the home would not sell for more than \$600,000. The Petitioner provided no probative evidence to support the contention that the dwelling has depreciated in value.⁴ The conclusory testimony regarding value does not constitute probative evidence. *Whitley Products v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).
20. When a taxpayer fails to provide probative evidence supporting its position that an assessment should be changed, the Respondent's duty to support the assessment with substantial evidence is not triggered. *See Lacy Diversified Indus. v. Dep't of Local Gov't Fin.*, 799 N.E.2d 1215, 1221-1222 (Ind. Tax Ct. 2003); *Whitley Products*, 704 N.E.2d at 1119.

⁴ The Mordoh appraisal described the home as "arguably, the best house in the entire county" and concluded "[o]verall, values have shown increases." *Pet'r Ex. 1, page 1 of 2*. Similarly, the Morin appraisal determined the "subject property has market appeal" and "current market conditions are favorable." *Pet'r Ex. 2, page 1 of 2*.

SUMMARY OF FINAL DETERMINATION

21. The Petitioner failed to present a prima facie case showing there is an error in the assessment. The Board finds for the Respondent.

This Final Determination of the above captioned matter is issued by the Indiana Board of Tax Review on the date first written above.

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 Trail 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>.