

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

Petition: 48-001-04-1-5-00003
Petitioners: Stephen & Sharon Barker
Respondent: Adams Township Assessor (Madison County)
Parcel: 01-01-0013-9-039
Assessment Year: 2004

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

Procedural History

1. The Petitioners initiated an assessment appeal with the Madison County Property Tax Assessment Board of Appeals (PTABOA) by filing Form 130 dated May 4, 2004.
2. The Petitioners received notice of the decision of the PTABOA on April 7, 2005.
3. The Petitioners filed an appeal to the Board by filing a Form 131 on May 5, 2005. Petitioners elected to have this case heard according to small claims procedures.
4. The Board issued a notice of hearing to the parties dated October 24, 2005.
5. The Board held an administrative hearing on December 6, 2005, before Paul Stultz, its duly appointed Administrative Law Judge (ALJ).
6. Persons present and sworn as witnesses at hearing:
Stephen Barker, owner,
Sharon Barker, owner,
Cheryl Heath, Chief Deputy County Assessor,
Lloyd Brumback, Deputy County Assessor.

Facts

7. The property is a single-family dwelling on approximately .9 acre, located 2188 E. US 36, Markleville, Indiana.
8. The ALJ did not conduct an on-site inspection of the property.

9. The assessed value as determined by the PTABOA is \$17,600 for land and \$58,100 for improvements.¹
10. The Petitioners requested \$4,500 for land and \$35,500 for improvements.

Issue

11. Summary of Petitioners' contentions in support of alleged error in assessment:
 - a. Petitioners presented an appraisal for \$40,000 dated March 14, 2003, and a loan closing statement to support their claim that the subject property is overvalued. *Stephen Barker testimony; Pet'r Ex. 4-5.*
 - b. The property is unfinished inside and outside. The property was designed to have brick exterior, but the brick never was installed. The property has an acoustical ceiling, no dry wall, no gutters. The property record card states the property has public water, but the property has its own well. The property shares a driveway with a neighboring property. *Stephen and Sharon Barker testimony.*
12. Respondent established that the property is insured for \$80,000 and the pole barn is insured for \$8,000. Respondent claims the property is assessed using the REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 - VERSION 'A' (incorporated by reference in 50 IAC 2.3-1-2). *Brumback testimony.*

Record

13. The official record for this matter is made up of the following:
 - a. The Petition,
 - b. Digital recording of the Board's hearing,
 - c. Petitioner Exhibit 1 – Statement on negative effects of property value,
Petitioner Exhibit 2 – Form 130,
Petitioner Exhibit 3 – Form 115,
Petitioner Exhibit 4 – Appraisal of subject property,
Petitioner Exhibit 5 – Loan closing statement for subject property,
Petitioner Exhibit 6 – Executor's Deed for subject property,
Petitioner Exhibit 7 – Declaration of Insurance for subject property,
Petitioner Exhibit 8 – Form 131,
Petitioner Exhibit 9 – Subject property record card,
Petitioner Exhibit 10 – Summary of position,
Respondent Exhibits – None,

¹ The PTABOA decision has \$20,300 for land and \$55,400 for improvements, but apparently \$2,700 was included with land value when it should have been in improvements value. At the hearing, the parties agreed the current assessed values are \$17,600 land and \$58,100 for improvements.

Board Exhibit A – Form 131 with following attachments,

1. Appraisal,
2. Settlement Sheet from sale,
3. Executor’s Deed,

Board Exhibit B – Notice of Hearing,

Board Exhibit C – Subject property record card (included in Form 131 filing),

Board Exhibit D – Sign in sheet from hearing,

- 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. 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 not provide sufficient evidence to support their contentions. This conclusion was arrived at because:

- a. The Petitioners presented an appraisal with a valuation \$40,000 as of March 14, 2003. They also proved that they purchased the property for \$40,000 on or about May 29, 2003. *Stephen Barker testimony; Pet’r Exs. 4-5.*
- b. The most effective method to show the value assigned by an assessor is incorrect is through the presentation of a market value-in-use appraisal, completed in conformance with the Uniform Standards of Professional Appraisal Practice (USPAP). *Kooshtard Property VI, LLC v. White River Twp. Assessor*, 836 N.E.2d 501, 506 n.6 (Ind. Tax Ct. 2005).

- c. Indiana's assessment regulations, however, state that for the 2002 general reassessment, a property's assessment must reflect its value as of January 1, 1999. 2002 REAL PROPERTY ASSESSMENT MANUAL at 4 (incorporated by reference at 50 IAC 2.3-1-2). In the present case, the Petitioners presented an appraisal, but it establishes a value for 2003, over four years after the required valuation date. Therefore, the record also must establish how the appraisal is relevant to the value as of January 1, 1999. *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). Because the Petitioners provided no such explanation, the appraisal has no probative value. *Id.*
- d. The \$40,000 purchase price carries no probative value for the same reason as the appraisal. *Id.*
- e. Although Petitioners established that their property has a well and that the property shares a driveway with a neighbor, there is no probative evidence that these facts decrease the market value-in-use of the property. Furthermore, even if there were some decrease, the evidence does not establish what the amount might be. Therefore, no assessment change can be made based on the well or the shared driveway. *See Indianapolis Racquet Club*, 802 N.E.2d at 1022.
- f. Petitioners testified that the house does not have a finished exterior or interior. The exterior is concrete block that should be finished with brick veneer. The interior lacks dry wall on ceilings and walls. The Board will assume the Petitioners are making an argument that the condition of the property is incorrect. The property currently is assessed as being in average condition.
- g. The assessment guidelines define average and fair condition as:
Average — Normal wear and tear is apparent in the building. It has average attractiveness and desirability. There are typically minor repairs that are needed along with some refinishing. In this condition, most of the major components are still viable and are contributing to the overall utility and value of the property.
Fair — Marked deterioration is evident in the structure. It is rather unattractive or undesirable but still quite useful. This condition indicates that there are a substantial number of repairs that are needed. Many items need to be refurbished, overhauled, or improved. There is deferred maintenance that is obvious.
- REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 - VERSION A, ch. 3 at 60 (incorporated by reference in 50 IAC 2.3-1-2).
- h. Petitioners did not provide probative evidence showing the property should be assessed in fair condition. Petitioners did not provide photographs, cost estimates,

or other evidence showing the repairs needed. Petitioners' testimony regarding the condition of the property is conclusory. Conclusory statements do not constitute probative evidence. *See Heart City Chrysler v. State Bd. of Tax Comm'rs*, 714 N.E.2d 239 (Ind. Tax Ct. 1999); *Whitley Products v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).

- i. The Petitioners failed to support their claim with probative evidence. The burden never shifted to the Respondent to rebut the Petitioners' evidence. *Lacy Diversified Indus. v. Dep't of Local Gov't Fin.*, 799 N.E. 2d 1215, 1221-1222 (Ind. Tax Ct. 2003). The Board finds for the Respondent.

Conclusion

16. The Petitioners 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>.