

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

Petition: 48-033-06-1-1-06308
Petitioner: Rose Adams Whitehead
Respondent: Union Township Assessor (Madison County)
Parcel: 15-0011-1-031
Assessment Year: 2006¹

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 Petitioner initiated an assessment appeal with the Madison County Property Tax Assessment Board of Appeals (the PTABOA) by filing Form 130 dated May 10, 2006.
2. The PTABOA mailed notice of its decision to the Petitioner on September 18, 2006.
3. The Petitioner filed a Form 131 on October 18, 2006. The Petitioner elected to have this case heard according to small claims procedures.
4. The Board issued a notice of hearing to the parties dated June 19, 2007.
5. Paul Stultz, the administrative law judge (ALJ), held an administrative hearing in Anderson on July 31, 2007.
6. Persons present and sworn as witnesses at the hearing:
For Petitioner – Rose Adams Whitehead,
Betty Swift,
For Respondent – Linda Geiger, Union Township Assessor,
Cheryl Heath, Madison County Assessor.

Facts

7. The subject property is 2.561 acres of land with barns and corn cribs located in or near Anderson. The ALJ did not inspect the property.
8. The PTABOA determined the total assessed value of this parcel is \$4,600 for land and \$8,600 for improvements (\$13,200 total).

¹ The Form 131 identifies the year as 2005, but the parties agreed the year under appeal is 2006.

9. The Petitioner requested an assessed value of \$2,728 for land and \$8,600 for improvements (\$11,328 total).

Contentions

10. Summary of the Petitioner's contentions:
 - a. The subject property should be valued as agricultural land rather than residential land. It is a continuation of the adjoining 76 acres of agricultural land owned by the Petitioner. *Swift testimony, Pet'r Ex. 3.*
 - b. The subject land should be classified as non-tillable land type 71 for land used for barn lots, barns or silos. Land classified as non-tillable land type 71 receives a negative 40% influence factor. *Swift testimony; Pet'r Ex. 3.*
 - c. One acre should be valued at \$880 per acre with a negative 40% influence factor applied. The remaining 1.561 acres should be valued at \$880 per acre with no influence factor. *Swift testimony, Pet'r Ex. 3.*
11. Summary of the Respondent contentions:
 - a. This property is not assessed as residential land. *Heath testimony.*
 - b. All non-residential parcels measuring less than 5 acres are valued at \$1,800 an acre. The \$880 only applies when there is more than 5 acres. *Heath testimony.*

Record

12. The official record for this matter is made up of the following:
 - a. The Petition,
 - b. A digital recording of the hearing,
 - c. Petitioner Exhibit 1 – Form 131,
Petitioner Exhibit 2 – Aerial map of subject parcel,
Petitioner Exhibit 3 – Calculation of land value,
Petitioner Exhibit 4 – Form 115,
Petitioner Exhibit 5 – Property record card,
Board Exhibit A – Notice of Defect and Form 131 with attachments,
Board Exhibit B – Notice of hearing,
Board Exhibit C – Hearing sign in sheet.
 - d. These Findings and Conclusions.

Analysis

13. 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.
14. The Petitioner did not provide sufficient evidence to support her contentions. This conclusion was arrived at because:
 - a. Critical elements for application of the Guidelines are lacking from the Petitioner's evidence. The image of the property shows that part of it is occupied by barns and related buildings. The balance appears to be some undefined part of a much larger field. *Pet'r Ex. 2*. The evidence contains nothing about the appropriate soil productivity factor. In addition, the record lacks probative evidence regarding the size of the area identified as “barn lot acreage.” Conclusory statements that the barn lot is one acre out of the total are not probative evidence. *Lacy Diversified Indus. v. Dep't of Local Gov't Fin.*, 799 N.E.2d 1215, 1221 (Ind. Tax Ct. 2003); *Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998). Without first establishing the productivity factor, the size of the area being tilled, and the size of the barn lot, it is impossible to conclude that the current assessment is wrong and what the correct assessment should be according to the Guidelines. *See Meridian Towers*, 805 N.E.2d at 478; *see also Clark*, 694 N.E.2d at 1234.
 - b. The Petitioner might have made a case based on other approaches to value. 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); 2002 REAL PROPERTY ASSESSMETN MANUAL AT 2 (incorporated by reference at 50 IAC 2.3-1-2). 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 (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 cost, sales information regarding the subject or comparable properties, appraisals, and any other information compiled in accordance with generally accepted appraisal principles. *MANUAL* at 5.

- c. The Petitioner presented no appraisal, sales information, or other market data in support of her argument.
- d. The goal under Indiana's new assessment system is to ascertain market value-in-use. The purported errors focus solely on the methodology used to determine the assessment. Even if the assessment did not fully comply with the Guidelines, the Petitioner failed to show that the total assessment is not a reasonable measure of true tax value. Her arguments based on strict application of the Guidelines are not enough to rebut the presumption that the assessment is correct. *O'Donnell v. Dep't of Local Gov't Fin.*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006); *Eckerling v. Wayne Twp. Assessor*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006).
- e. When a taxpayer fails to provide probative evidence to support any change of an assessment, the Respondent's duty to support the current assessment with substantial evidence is not triggered. *See Lacy Diversified*, 799 N.E.2d at 1221-1222; *Whitley Products*, 704 N.E. 2d at 1119.

Conclusion

- 15. The Petitioner failed to make a prima facie case.

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

- APPEAL RIGHTS -

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5, as amended effective July 1, 2007, by P.L. 219-2007, and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice. The Indiana Tax Court Rules are available on the Internet at <http://www.in.gov/judiciary/rules/tax/index.html>. The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code>. P.L. 219-2007 (SEA 287) is available on the Internet at <http://www.in.gov/legislative/bills/2007/SE/SE0287.1.html>