

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

**Petition #:** 51-001-03-1-1-00009  
**Petitioners:** Douglas R. & Christina A. Lane  
**Respondent:** Center Township Assessor (Martin County)  
**Parcel #:** 0012734007  
**Assessment Year:** 2003

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 Petitioners initiated an assessment appeal with the Martin County Property Tax Assessment Board of Appeals (PTABOA) by written document dated December 13, 2004.
2. The PTABOA mailed notice of its decision on April 26, 2005.
3. The Petitioners initiated an appeal to the Board by filing a Form 131 petition with the Martin County Assessor on May 25, 2005. The Petitioners elected to have this case heard in small claims.
4. The Board issued a notice of hearing to the parties dated January 24, 2006.
5. The Board held an administrative hearing with regard to the above referenced petition on February 28, 2006, before the duly appointed Administrative Law Judge Jennifer Bippus.
6. Douglas Lane, property owner, and Carolyn McGuire, Martin County Assessor, appeared at the hearing and were sworn as witnesses.

**Facts**

7. The subject property is classified as an agricultural general farm. The property is located at R.R. 1, Box 185AA, in Shoals, Indiana, Center Township, Martin County.
8. The Administrative Law Judge did not conduct an inspection of the subject property.
9. The PTABOA determined that the assessed value of the subject property is \$11,300 for the land and \$137,100 for the improvements, for a total assessed value of \$148,400.

10. The Petitioners did not request a specific value.

### **Issue**

11. Summary of Petitioners' contentions in support of alleged error in assessment:

- a) The Petitioners have appealed the grade of the subject dwelling several times. The grade was changed from "C+1" to "C" in 2002. *Lane testimony.*
- b) The Petitioners compared the subject dwelling to a home owned by Jon Brown, which is also located in Center Township. *Pet'rs Ex. 2.* Jon Brown's home is assigned a grade of "C" with eight percent (8%) depreciation. *Id; Lane testimony.* Jon Brown's home has different roof angles, a brick exterior, an attractive offset look, and dormers. In addition, Jon Brown's home was designed by an architect and built by a contractor. *Id.* Petitioner, Douglas Lane, built the subject dwelling. Mr. Lane is not a professional builder. *Lane testimony.*
- c) "E" grade homes are generally what people build themselves. *Lane argument.* While the subject dwelling is not an "E" grade home, it should not be graded any higher than "C-2." *Id.* The grade of the subject dwelling should not be in the same class as a home built by a professional. *Id.*
- d) The subject dwelling has cracks in the foundation, a simple roof design, and some cracks on the exterior. *Lane testimony, Pet'rs Ex. 4.* Photographs of the interior of the dwelling show serious cracks, which allow water to enter the dwelling. *Lane testimony; Pet'rs Ex. 5.* The exterior of the home contains creek rock, and there are cracks in the creek rock. *Id.* Brick, as was used on Jon Brown home, is much stronger than creek rock. *Lane testimony; Pet'rs Ex. 6.*
- e) Mr. Lane began building the subject dwelling in 1993 and it is not complete. Some of the outlets in the subject dwelling do not have wiring, the dining room window does not have trim or finish, the stairway leading to the basement is not complete, and the floor is coming up by one door. *Lane testimony; Pet'rs Ex. 7.* The Petitioners contend that ten percent (10%) depreciation should be applied to the replacement cost new of the subject home. *Lane argument.* The Petitioners further contend that the subject dwelling would be worth more if it were in a better neighborhood. *Id.* In support of their contention, the Petitioners submitted photographs of homes within the neighborhood, including several older mobile homes in various states of disrepair. *See Pet'rs Ex. 8.*
- f) The Petitioners withdrew the land issue listed on the Form 131 petition. *Lane testimony; Board Ex. D.*

12. Summary of Respondent's contentions in support of the assessment:

- a) The PTABOA found that the subject dwelling has a unique design and is a very desirable property. *McGuire testimony*. The home has a high pitched roof, cathedral ceilings, a loft area, custom large windows on one end, and a large deck. *Id.* The Jon Brown home has only standard windows. *Id.*
- b) Nothing is ever guaranteed to be perfect regardless of who builds a home. The stone on the subject home is very attractive and the home is well built. *Id.*
- c) The neighborhood factor is the same for the entire township, and the Respondent used the depreciation tables from the Real Property Assessment Guidelines for 2002 – Version A (Guidelines) to arrive at the depreciation percentage it used to value the subject dwelling. *Id.*

**Record**

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

- a) The Petition.
- b) The recording of the hearing on compact disk, labeled IBTR 6181.
- c) Exhibits:

Petitioners Exhibit 1: Copy of Jon Brown's property record card.  
Petitioners Exhibit 2: Copy of photographs of Jon Brown property.  
Petitioners Exhibit 3: Copy the Petitioners' property record card.  
Petitioners Exhibit 4-6: Exterior photographs of the Petitioners' home.  
Petitioners Exhibit 7: Interior photographs of the Petitioners' home.  
Petitioners Exhibit 8: Photographs of other homes in the Petitioners' neighborhood.

Respondent did not submit any exhibits.

Board Exhibit A: Copy of Form 131 petition and attachments.  
Board Exhibit B: Copy of notice of hearing.  
Board Exhibit C: Hearing sign-in sheet.  
Board Exhibit D: Withdrawal of Issue 3 - land.

- d) These Findings and Conclusions.

## Analysis

13. The most applicable governing cases are:

- a) A Petitioner seeking review of a determination of the county Property Tax Assessment Board of Appeals has the burden to establish a prima facie case proving, by a preponderance of the evidence, 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 276 (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 Petitioners did not provide sufficient evidence to support their contentions. This conclusion was arrived at because:

- a) The Petitioners contend that the quality grade assigned to the subject dwelling should be lowered from “C” to “C-2” and that the replacement cost new of the subject home should be depreciated by ten percent (10%).
- b) Pursuant to the Real Property Assessment Guidelines for 2002 – Version A (Guidelines), assessors are directed to assign various quality grades to improvements based upon the design of the improvements and the quality materials and workmanship used in their construction. *See REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 – VERSION A*, app. A, at 3 (incorporated by reference at 50 IAC 2.3-1-2). “Construction quality and the resultant quality grade assigned is a composite characteristic.” *GUIDELINES*, app. A at 3. The Guidelines provide quality grade specification tables to assist in the determination of appropriate quality grades. *Id.* at 9.
- c) While the Petitioners compared the subject dwelling to a home owned by Jon Brown, the Petitioners did not explain how the features of their home compared to the descriptions set forth in the quality grade specification tables contained in the Guidelines. Comparing the subject dwelling to one other home is not an adequate substitute for an analysis of the construction elements of the subject dwelling

under the grade specification tables. Even if the Petitioners were correct in their assertion that the Brown home exhibits superior design and workmanship as compared to the subject dwelling, that fact would only establish that one of the two dwellings is graded incorrectly. It does nothing to identify which of the two dwellings has received an improper grade. The Petitioners therefore failed to establish a prima facie case that the Respondent assigned an incorrect quality grade to the subject dwelling.

- d) The Petitioners also contend that the subject home depreciated at a greater rate than is reflected in the current assessment. The Petitioners submitted photographs showing various instances of deterioration within the subject dwelling. *Pet'rs Exs. 4-7; Lane testimony*. The Petitioners also submitted evidence regarding the condition of nearby homes. *Pet'rs Ex. 8*. According to the Petitioners, the deteriorated condition of the subject dwelling and the surrounding neighborhood demonstrate that the subject dwelling has suffered depreciation of at least ten percent (10%) of its replacement cost new. *See Lane testimony*.
- e) The Petitioners may be correct that the conditions identified contribute to the depreciation of the subject home. Nonetheless, the Petitioners did not present any evidence to quantify the amount of depreciation attributable to those conditions. The Guidelines recognize that the condition of a dwelling contributes to its rate of depreciation. *See GUIDELINES, app. B at 6*. The Guidelines therefore require assessing officials to assign a condition rating to each structure they assess. *Id.* at 6-7. In this case, the Respondent assigned the subject dwelling a condition rating of "average." *Pet'rs Ex. 3*. The subject dwelling, as described by Mr. Lane and reflected in the photographs submitted by the Petitioners, is consistent with the Guidelines' description of a dwelling in average condition. *GUIDELINES, ch. 3 at 60* ("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."). Based on the foregoing, the Petitioners failed to make a prima facie case of error with regard to the amount of depreciation applied to the subject dwelling.
- f) Where the taxpayer fails to provide the Board with probative evidence supporting its position, the Respondent's duty to support the assessment with substantial evidence is not triggered. *Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1119, 1120 (Ind. Tax Ct. 1998).

### **Conclusion**

- 16. The Petitioners failed to make a prima facie case that the assessment is incorrect. The Board finds for the Respondent. Accordingly, there is no change in the assessment.

## 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](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>.