

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

Petition #: 59-011-02-1-5-00016
Petitioners: Joe Riley and Yonetta Coffman
Respondent: Paoli Township Assessor (Orange County)
Parcel: 011023094002
Assessment Year: 2002

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 Orange County Property Tax Assessment Board of Appeals (the PTABOA) by written document dated November 26, 2003.
2. Notice of the PTABOA's decision was mailed to the Petitioners on May 24, 2004.
3. The Petitioners filed an appeal to the Board by filing a Form 131 with the county assessor on June 15, 2004. The Petitioners elected to have this case heard in small claims.
4. The Board issued a notice of hearing to the parties dated June 29, 2005.
5. The Board held an administrative hearing on August 30, 2005, before the duly appointed Administrative Law Judge Jennifer Bippus.
6. Joseph F. Riley, one of the owners of the subject property, and Karen Riley appeared for the Petitioners and were sworn as witnesses. Linda Reynolds, representing the Orange County Assessor, appeared at the hearing and was also sworn.

Facts

7. The property is located at South County Road 150 East, Paoli,
8. The property is an "other residential structure" on a .3 acre lot.
9. The Administrative Law Judge (the ALJ) did not conduct an inspection of the property.
10. The Orange County PTABOA determined the assessed value of the property to be \$800 for the land and \$4,300 for improvements for a total assessed value of \$5,100.

11. The Petitioners requested an assessed value of \$70 for the land and \$600 for the improvements for a total assessed value of \$670 on their Form 131 petition.

Issues

12. Summary of Petitioners' contentions in support of alleged error in assessment:
 - a) The Petitioners contend that the assessment of the subject property is overstated. According to the Petitioners, the subject property has a septic system on it and there is a leach field up the whole right side. Across the front of the road, coming down from the property owned by Mr. Riley's brother, is a line and septic that goes into this leach field. The Petitioners allege that the land cannot be built on and has very little value because of the leach field. *J. Riley testimony.*
 - b) According to the Petitioners, the assessor informed them that the reason the value was increased was because of a hydrant on the subject property. The Petitioners, however, argue that the hydrant belongs to Mr. Riley's brother who buys water and resells it to the Petitioners. There is a meter on the hydrant and the Petitioners pay for water. The Petitioners contend that if the property were to sell, the new owner would not have rights to the water. In support of this, the Petitioners provided a statement from Mr. Riley's brother that water would not be transferred to any new owner. *J. Riley testimony; Pet'r Ex. 5.*
 - c) On the property, according to the Petitioners, there is a little 14' x 16' cabin with a porch. The inside is not finished, there are bare stud walls, no insulation, no heating, and no sewer system hooked to it. *J. Riley testimony.* The porch is made out of old telephone poles, the roof is cast off fiberglass, and the floor is cast off metal. The cabin is on pillars, there is no foundation. The cabin could be moved by just unhooking the electricity. There is no inside shower or bathroom. There is an outside shower fastened on the side of the cabin and an outhouse. *J. Riley testimony; Pet'r Ex. 6.* The Petitioners allege that the assessed value of the structure is too high for these used materials. *J. Riley testimony.*
13. Summary of Respondent's contentions in support of the assessment:
 - a) The PTABOA inspected the property after the county hearing, but could not get inside. The photos presented by the Petitioners at the PTABOA hearing were used to determine the interior finish. *Reynolds testimony.*
 - b) There is no interior finish, no heating, and no plumbing inside the structure. The structure was valued as a shed with electricity added. The structure was not assessed as a dwelling. *Reynolds testimony.*
 - c) It is a well built shed with vinyl siding. The porch is in good shape even with the used materials. The porch is assessed as a stand alone. *Reynolds testimony.*

- d) The land is valued as residential excess acreage at \$800. The Petitioners are not assessed for a homesite. There is water, a cleanout, and electric available. *Reynolds testimony*.

Record

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

- a) The Petition.
b) The recording of the hearing.
c) Exhibits:

Petitioner Exhibit 1: Assessment value before reassessment (Form 11 for 3/1/97),
Petitioner Exhibit 2: Assessment value after PTABOA hearing (Form 115, page 1),
Petitioner Exhibit 3: Explanation for the raise in assessment (Form 115, page 2),
Petitioner Exhibit 4: Final reassessment values (Form 11 for 3/1/02),
Petitioner Exhibit 5: Statement concerning water,
Petitioner Exhibit 6: Photographs of subject property.

Respondent Exhibit 1: Copy of Form 130,
Respondent Exhibit 2: Copy of Form 115,
Respondent Exhibit 3: Original 2002 property record card,
Respondent Exhibit 4: Corrected 2002 property record card,
Respondent Exhibit 5: Version A – Real Property Assessment Guideline, page 2,
pages 68 – 70,
Respondent Exhibit 6: Copy of site viewing findings by PTABOA.

Board Exhibit A: Form 131 petition,
Board Exhibit B: Notice of Hearing,
Board Exhibit C: Notice of County Assessor Representation,
Board Exhibit D: Hearing Sign In Sheet.

- d) These Findings and Conclusions.

Analysis

15. 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 Township 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 Township 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.
16. The Petitioners failed to provide sufficient evidence to support their contentions. This conclusion was arrived at because:
- a) The Petitioners contend that the land has very little value due to the septic system, leach field, and lack of water. The Petitioners also stated the land cannot be built upon. *J. Riley testimony*. Generally, land values in a given neighborhood are determined through the application of a Land Order that was developed by collecting and analyzing comparable sales data for the neighborhood and surrounding areas. *See Talesnick v. State Bd. of Tax Comm'rs*, 693 N.E.2d 657, 659 n. 5 (Ind. Tax Ct. 1998). However, properties often possess peculiar attributes that do not allow them to be lumped with each of the surrounding properties for purposes of valuation. The term "influence factor" refers to a multiplier “that is applied to the value of land to account for characteristics of a particular parcel of land that are peculiar to that parcel.” PROPERTY ASSESSMENT GUIDELINES OF 2002, glossary at 10. Petitioner has the burden to produce "probative evidence that would support an application of a negative influence factor and a quantification of that influence factor." *See Talesnick v. State Bd. of Tax Comm'rs.*, 756 N.E.2d 1104, 1108 (Ind. Tax Ct. 2001). While the property's leach field and building restrictions may be relevant to the issue of whether a negative influence factor should apply here, the Petitioner failed to show how this condition would impact the market value-in-use of the subject property, or show what the actual market value of the property is. *See Talesnick*, 756 N.E.2d at 1108.
- b) The Petitioners also contend that the structure is over-valued. According to the Petitioners, the cabin has no inside finish, no insulation, and no heating. Further the porch was built with used materials. *J. Riley testimony*. Petitioners, however, presented no evidence that these issues were not correctly addressed in the assessment.¹ Nor did the Petitioners present evidence that the market value of the property differed from the assessed value. Thus, the Petitioners contentions amount to little more than conclusory statements. Such statements, unsupported by factual evidence, are not sufficient to establish an error in assessment. *Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1120 (Ind. Tax Ct. 1998).

¹ In fact, the evidence suggests that these issues were addressed in the assessment. The Respondent testified that the structure was assessed as utility shed with electricity.

- c) Where the Petitioner has not supported his claim with probative evidence, the Respondent's duty to support the assessment with substantial evidence is not triggered. *Lacy Diversified Indus. v. Dep't of Local Gov't Fin.*, 799 N.E.2d 1215, 1221-1222 (Ind. Tax Ct. 2003).

Conclusion

17. The Petitioners failed to make a prima facie case. The Board finds in favor of the 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>>.