

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

Petition #: 76-011-03-1-5-00005
Petitioners: Samuel M. & Emma V. Griffiths
Respondent: Pleasant Township Assessor (Steuben County)
Parcel #: 06-25-000-027.000-13
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 filed an appeal to the Steuben County Property Tax Assessment Board of Appeals (PTABOA) on December 15, 2004.
2. The PTABOA issued notice of its decision on May 3, 2006.
3. The Petitioners filed a Form 131 Petition to the Indiana Board of Tax Review for Review of Assessment (Form 131 petition) with the Steuben County Assessor on June 1, 2006. The Petitioners elected to have this case heard in small claims.
4. On October 24, 2006, the Board mailed a notice of hearing to the parties.
5. The Board held an administrative hearing on December 14, 2006, before the duly appointed Administrative Law Judge, Joseph Stanford.
6. Persons present and sworn in at hearing:
 - a) For Petitioners: Samuel M. Griffiths, Taxpayer
 - b) For Respondent: Jennifer Becker, Representative for Pleasant Township Assessor
Larry H. May, Steuben County Assessor

Facts

7. The subject property is classified as agricultural and residential, and it is located at 997 East Maumee Street, Angola, Indiana.
8. The Administrative Law Judge (ALJ) did not inspect the property.

9. The PTABOA determined that the assessed value of the subject property is \$27,900 for the land and \$91,700 for the improvements for a total assessed value of \$119,600.
10. At the hearing, the Petitioners did not request a specific value, but instead requested that a building currently assessed as a detached garage be assessed as a utility shed. On their Form 131 petition, however, the Petitioners requested an assessed value of \$27,900 for the land and \$90,200 for the improvements for a total assessed value of \$118,100.

Issue

11. Summary of the Petitioners' contentions:
 - a) The Petitioners own a building that they once used as a garage, but that they now use to store mowers, seeds and other items. *Griffiths testimony; Pet'rs Ex. 5.* Believing that the Respondent had measured the building incorrectly, the Petitioners asked the Respondent to correct its error. *Griffith testimony.* Although the Respondent corrected the building's measurements, it also reclassified the building from a car shed to a detached garage and lowered the physical depreciation applied to the building from sixty-five percent to forty-five percent. *Griffith testimony.* With those changes, the Respondent assessed the building at \$5,700. *Id.; Resp't Ex. 2.*
 - b) The Petitioners contend that the Respondent incorrectly assessed the subject building as a detached garage when that building more closely resembles a utility shed. *Griffiths argument.* In the Petitioners' view, buildings should be classified based upon their actual usage. The Petitioners, however, have not used the subject building as a garage since 1993, when they moved the building to its present location. *Griffith's testimony; Pet'rs Ex. 5.* The Petitioners disagree with the Respondent's statement that the subject building should be classified as a pole barn. *Griffiths testimony.* The subject building does not have poles in the ground, which is the hallmark of a pole barn. *Id.*
 - c) To support their proposed classification, the Petitioners point to a neighboring building that is classified as a utility shed. *Griffiths testimony; Pet'rs Ex. 6.* The Petitioners contend that the neighboring building — a 20' x 24' structure built in approximately 1900 — is comparable to the subject building. *Id.* Although the Petitioners asked local assessing officials how they could prompt a change in the subject building's classification, they never received a definitive answer. *Griffiths testimony; Pet'rs Ex. 5.*
 - d) The Petitioners further contend that the subject building is over assessed in light of its age and condition. The building is eighty-five years old and its condition is below average. *Griffiths testimony.* Likewise, the Petitioners believe the Respondent erred by decreasing the amount of physical depreciation applied to the building in conjunction with its reclassification. *Id.*

12. Summary of Respondent's contentions:

- a) The Real Property Assessment Guidelines for 2002 – Version A (Guidelines) do not include pictures of utility sheds. Nonetheless, residential-type utility sheds generally may be purchased at stores such as Lowes. *Becker testimony*. Utility sheds are made with cheaper materials than are detached garages, and they have a life expectancy of only twenty years. *Id.* The subject building, by contrast, remains standing after eighty-five years. *Id.*
- b) After the Petitioners converted their building to a four-wall structure, the Respondent determined that it was more comparable to a detached garage than to a car shed. *Becker testimony*. Based on photographs from the Guidelines, the subject building is most comparable either to a detached garage or to a pole barn. *Becker argument; Resp't Exs. 3-4.*
- c) The neighboring building identified by the Petitioners as being comparable to the subject building was not valued as a utility shed. *Becker testimony; Pet'rs Ex. 6.* The neighboring building is unusable. *Id.* The Respondent therefore "sound valued" that building at \$200. *Id.* In doing so, the Respondent conformed to the Guidelines, which allow assessors to sound value farm buildings that are unused or are in poor condition. *Id.* The apparent classification of the neighboring building as a utility shed merely reflects a data entry error. *Id.*
- d) The Petitioners did not present any market evidence to show that the Respondent assessed the subject property above its market value. *Becker argument.*

Record

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

- a) The Form 131 petition.
- b) The digital recording of the hearing.
- c) Exhibits:
 - Petitioners Exhibit 1: Photographs of subject structure
 - Petitioners Exhibit 2: Form 131 Petition
 - Petitioners Exhibit 3: Statement of present use of structure
 - Petitioners Exhibit 4: Statement of insurance coverage
 - Petitioners Exhibit 5: Summary of Petitioners' contentions; Photographs of
subject structure
 - Petitioners Exhibit 6: Photograph and property record card for comparable structure

Respondent Exhibit 1: Notice of Appearance
Respondent Exhibit 2: Subject property record card
Respondent Exhibit 3: Guideline photographs of pole barns
Respondent Exhibit 4: Guideline photographs of detached garages

Board Exhibit A: Form 131 Petition
Board Exhibit B: Notice of Hearing
Board Exhibit C: Hearing Sign-in sheet

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. The Board reaches this conclusion for the following reasons:

- a) The Petitioners contend that the Respondent should have assessed one of the buildings located on their property as a utility shed rather than as a garage.
- b) The 2002 Real Property Assessment Manual (Manual) defines the “true tax value” of real property as “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.” 2002 REAL PROPERTY ASSESSMENT MANUAL 2 (incorporated by reference at 50 IAC 2.3-1-2). As set forth in the Manual, the appraisal profession traditionally has used three methods to determine a property's market value: the cost approach, the sales comparison approach, and the income approach. *Id.* at 3, 13-15. In

Indiana, assessing officials generally assess real property using a mass appraisal version of the cost approach, as set forth in the Guidelines.

- c) A property's market value-in-use, as ascertained through application of the Guidelines' cost approach, is presumed to be accurate. *See* MANUAL at 5; *Kooshtard Property VI, LLC v. White River Twp. Assessor*, 836 N.E.2d 501, 505 (Ind. Tax Ct. 2005) *reh'g den. sub nom. P/A Builders & Developers, LLC*, 842 N.E.2d 899 (Ind. Tax 2006). But a taxpayer may offer evidence to rebut that presumption, provided such evidence is consistent with the Manual's definition of true tax value. MANUAL at 5. An appraisal prepared in accordance with the Manual's definition of true tax value generally will suffice. *Id.*; *Kooshtard Property VI*, 836 N.E.2d at 505, 506 n.1 (“[T]he Court believes (and has for quite some time) that the most effective method to rebut the presumption that an assessment is correct is through the presentation of a market value-in-use appraisal, completed in conformance with the Uniform Standards of Professional Appraisal Practice (USPAP).”). A taxpayer may also rely upon sales information regarding the subject or comparable properties and any other information compiled in accordance with generally accepted appraisal principles to rebut the presumption that an assessment is correct. MANUAL at 5.
- d) By contrast, a taxpayer does not rebut the presumption that an assessment is correct simply by contesting the methodology the assessor used to compute the assessment. *Eckerling v. Wayne Twp. Assessor*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006). Instead, the taxpayer must show that the assessor's methodology yielded an assessment that does not accurately reflect its property's market value-in-use. *Id.*
- e) Here, the Petitioners did not present any evidence to show either the subject property's market value-in-use as a whole, or the market value-in-use of the storage building located on that property. Instead, the Petitioners simply contested the Respondent's methodology in classifying that building as a detached garage rather than as a utility shed. That is precisely the approach the Tax Court rejected in *Eckerling*.
- f) Moreover, the Petitioners' reliance on a neighboring building's apparent classification as a utility shed misses the mark. First, the Petitioners did not establish that the neighboring building was comparable to the subject building or explain how any differences between the two buildings affected their relative market values-in-use. *See Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005) (“[T]he Longs were responsible for explaining to the Indiana Board the characteristics of their own property, how those characteristics compared to those of the purportedly comparable properties, and how any differences affected the relevant market value-in-use of the properties.”). Second, the Respondent determined that the neighboring building was unusable and sound valued it at \$200. Thus, the Respondent did not actually assess that building using the cost schedules for utility sheds.

- g) Thus, by failing to present market-based evidence to rebut the correctness of the subject property's assessment, the Petitioners failed to establish a prima facie case of error.

Conclusion

16. 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>>.