

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

Petition #: 63-012-03-1-4-00002
Petitioner: Alva H. Cox
Respondent: Washington Township (Pike County)
Parcel: 012-00238-00
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 Petitioner initiated an assessment appeal with the Pike County Property Tax Assessment Board of Appeals (PTABOA) by written document dated October 27, 2003.
2. Notice of the decision of the PTABOA was mailed to the Petitioner on March 15, 2004.
3. The Petitioner filed an appeal to the Board by filing a Form 131 with the County Assessor on March 22, 2004. Petitioner elected to have this case heard in small claims.
4. The Board issued a notice of hearing to the parties dated May 19, 2004.
5. The Board held an administrative hearing on June 24, 2004, before the duly appointed Administrative Law Judge Rick Barter.
6. Persons present and sworn in at hearing:
 - a. For Petitioner:
 - i. Alva H. Cox, Taxpayer
 - b. For Respondent:
 - i. Wilma Jones, Pike County Assessor
 - ii. Paul Lake, Pike County PTABOA
 - iii. David Tisdale, Pike County PTABOA
 - iv. Sam Polen, Pike County PTABOA

Facts

- 7. The property is classified as commercial, as is shown on the property record card #012-00238-00. In addition to the residential improvement under appeal the code includes land, two utility-storage buildings and a mobile home park.
- 8. The Administrative Law Judge did not conduct an inspection of the property.
- 9. Assessed Value of subject property as determined by the Pike County PTABOA:
Land \$20,200 Improvements \$148,900

The Assessed Value of the single improvement under appeal is \$60,800.

- 10. Assessed Value requested by Petitioner:
Land \$20,200 Improvements: \$138,100

Petitioner did not fill in a proposed new value on the Form 131 petition. After swearing in at the hearing, Petitioner responded when asked that he sought a \$50,000 Assessed Value on the subject improvement, which appears on page 2 of the property record card.

Issue

- 11. Summary of Petitioner's contentions in support of alleged error in assessment:
 - a. The house is 158 years old, as it was built in 1845. Petitioner had to replace the furnace because of chimneys; both chimneys have fallen in.
 - b. The improvement has been used for a period of years to store hay and straw.
 - c. Termites have destroyed the floor joists.
 - d. The assessed value, even with the 25% obsolescence granted by the PTABOA at the Form 130 appeal hearing, is overstated.
- 12. Summary of Respondent's contentions in support of alleged error in assessment is:
 - a. The home was assessed in accordance with the 2002 Version A – real Property Assessment Guideline.
 - b. The improvement is now appropriately assessed with the addition of 25% obsolescence based on damage and/or deterioration of the structure, granted by the PTABOA at its Form 130 appeal hearing on March 8, 2004. The home also has received 50% depreciation for age.

Record

13. The official record for this matter is made up of the following:
- a. The Petition, and all subsequent pre-hearing or post-hearing submissions by either party.
 - b. The tape recording of the hearing labeled BTR #5827.
 - c. Exhibits:
 - Petitioner Exhibit 1: Photograph of the chimney.
 - Petitioner Exhibit 2: A copy of several records offered to confirm the date of construction of the building.

 - Respondent Exhibit 1: A copy of the Form 130 petition to the PTABOA.
 - Respondent Exhibit 2: A copy of the Form 115 decision of the PTABOA.
 - Respondent Exhibit 3: A copy of the property record card of the property under appeal reflecting PTABOA changes.
 - Respondent Exhibit 4: A written summary of the argument presented by the Respondent.
 - Respondent Exhibit 5: A copy of the property record card of the property under appeal.
 - Respondent Exhibits 6A through 6D: Four photographs of the subject property.
 - d. These Findings and Conclusions.

Analysis

14. The most applicable governing law is:
- a. The Petitioner must sufficiently explain the connection between the evidence and petitioner's assertions in order for it to be considered material to the facts. *See generally, Heart City Chrysler v. State Bd. of Tax Comm'rs*, 714 N.E.2d 329, 333 (Ind. Tax Ct. 1999).
 - b. The Board will not change the determination of the County Property Tax Assessment Board of Appeals (PTABOA) unless the Petitioner has established a prima facie case and, by a preponderance of the evidence, proven both the alleged errors in the assessment, and specifically what assessment is correct. *See Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998); *North Park Cinemas, Inc. v. State Bd. of Tax Comm'rs*, 689 N.E.2d 765 (Ind. Tax Ct. 1997).
15. Petitioner did not provide sufficient evidence to support Petitioner's contentions. This conclusion was arrived at because:
- a. Petitioner submitted a Polaroid photograph of a chimney, which appears to have partially collapsed at the top, inside what appears to be an attic. This is reportedly one of two chimneys in similar condition. (*Cox testimony*)

- b. Petitioner testified that, in addition to the chimney damage illustrated by the photograph, there was additional deterioration of the structure in several places. He pointed out those spots on photographs submitted as evidence by the Respondent (Respondent Exhibits 6A through 6D). The damage included a brick sidewall damaged in the past by fire and which is bowed and several spots in the foundation where mortar has fallen out and bricks have slipped away and been partially replaced. The Petitioner testified he lives in the improvement. (*Cox testimony*).
- c. The parties agree the year of construction was 1845. Accordingly, the property has been awarded 50% physical depreciation.
- d. The Petitioner's testimony demonstrates deterioration and damage in the improvement. However, members of the PTABOA and the County Assessor acknowledge that this damage and deterioration exist, both through testimony at the hearing and by the fact that the PTABOA awarded 25% obsolescence as a result of this damage and deterioration.
- e. The Petitioner presented no market evidence to demonstrate that the current assessment does not accurately account for these deficiencies or that the requested figure of \$50,000 is a more accurate True Tax Value. Further, the Petitioner presented no evidence of any comparable properties to demonstrate his property has been assessed differently than similarly situated properties. Finally, the Petitioner failed to introduce evidence of any error in applying the 2002 Version A – Real Property Assessment Guideline by the local officials.
- f. The Petitioner failed to make a prima facie case of error in the assessment.

Conclusion

16. 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: _____
 (date)

 Commissioner

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.