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

Petition #: **59-006-06-1-1-00001**
Petitioners: **Melvin & Martha Catlin**
Respondent: **Orange County Assessor**
Parcel #: **006-003-002-000**
Assessment Year: **2006**

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 January 12, 2007.

2. The Petitioners received notice of the decision of the PTABOA via a Form 115 Notification of Final Assessment Determination dated August 28, 2007.

3. The Petitioners initiated an appeal to the Board by filing a Form 131 received by the board on October 31, 2007. The Petitioners elected to have this case heard according to small claims procedures.

4. The Board issued a notice of hearing to the parties dated January 15, 2008.

5. The Board held an administrative hearing on February 20, 2008, before the duly appointed Administrative Law Judge (the ALJ) Rick Barter.

6. Persons present and sworn in at hearing:

   a. For Petitioner: Melvin Catlin, Petitioner

   b. For Respondent: Linda J. Reynolds, Orange County Assessor

Facts

7. The subject property is an improved agricultural parcel located at 5755 N. County Road 800 East in Northeast Township, Campbellsburg.

8. The ALJ did not conduct an on-site visit of the property.

9. The PTABOA determined the assessed value of the subject property is $44,300 for the land and $125,700 for the improvements, for a total assessed value of $170,000.

10. The Petitioners did not request a specific amount for the assessed value of the property, only that the total acreage be 79.5 acres. The Petitioners did not contest the value of the improvements.

Issues

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

    a. The Petitioners contend that the property is over-assessed because the total acreage is stated as 84.48 acres on the property record card when it should be 79.5 acres. *M. Catlin testimony.* According to Mr. Catlin, the property deed states that they own 79.59 acres and nothing has changed since the property transferred. *Id.* In support of this contention, the Petitioners submitted an ASC map of the subject property which states "79.5 total farm land" in a handwritten note.[1] *Petitioners Exhibit 1.*

    b. The Petitioners further contend that they confirmed the size of the parcel by measuring the property with a land wheel. *Catlin testimony.* In support of this contention, Mr. Catlin entered into evidence a sketch of the parcel with notes along lines representing boundaries and the corresponding measurements showing a total of 79.49 acres. *Petitioners Exhibit 2.*

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

    a. The Respondent contends that, while the subject property's deed states 79.5 acres, the Geographical Information System (GIS) map calculates the parcel to be 83.63 less the right of way. *Reynolds testimony.* In support of this contention Respondent entered into evidence a map with the GIS boundaries in black, the deed boundaries highlighted in pink and the actual area of occupation in yellow. *Respondent Exhibit 1.* The map reveals slight variations in the boundaries. *Reynolds testimony.* The Respondent argues that the deed did not show the property measured from the center of the road. *Id.* In addition, the Respondent contends the Petitioners' lot lines and fence lines are outside of the deed lines. *Id.*

    b. The Respondent further contends that, historically, deeded acreage was often in error. *Reynolds testimony.* The Respondent submitted a letter from Orange County Surveyor Jim Oakley dated February 20, 2008, which states that while sections were supposed to be one mile on each side, the distance varies on each because of the instruments originally used to establish boundaries. *Id.* According to the Respondent, that variation causes the more precise calculations of the GIS measurements to differ from the deed-stated area of parcels. *Id.* In support of this contention, the

[1] The Petitioner identified the source of the map as ACS. When asked to identify "ACS" Mr. Catlin explained it is the new name for farm services. A notation on the map, however, identifies it as "USDA Farm Service Agency," a department of the United States Department of Agriculture.

Respondent submitted a map of the area surrounding the subject property and the correlating GIS parcel data sheet for each property listing both the deed acreage and the GIS-calculated acreage to demonstrate the variations described. *Respondents exhibits 3 through 5*.

Record

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

a. The Petition and related attachments,

b. The digital recording of the hearing labeled 59-006-06-1-1-00001Catlin,

c. Exhibits:

Petitioner Exhibit 1 - Government map showing tract 223944 dated November 3, 2006,
Petitioner Exhibit 2 – Sketch of subject land parcel and calculations,
Petitioner Exhibit 3 – Subject property record card with notes,

Respondent Exhibit 1 – Aerial map of the subject property with highlighting,
Respondent Exhibit 2 – Letter from the county surveyor dated February 20, 2008,
Respondent Exhibit 3 –GIS parcel information sheet for the subject property,
Respondent Exhibit 4 – Map with neighboring parcels and acreage marker,
Respondent Exhibit 5 – GIS parcel information sheets for neighboring properties,

Board Exhibit A – Form 131 petition and related attachments,
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 failed to provide sufficient evidence to establish a prima facie case for a reduction in value. The Board reached this decision for the following reasons:

a. The Petitioners contend that the Respondent erred in determining the acreage of the subject property. *Catlin testimony.* According to the Petitioners, the property deed transfers only 79.5 acres rather than the 83.65 acres for which they are being assessed. *Id.* The Respondent agreed that the deed states that it transferred 79.5 acres. *Reynolds testimony.* The Respondent argued, however, that modern methods of mapping and calculating acreage were more precise. *Id.* In support of its argument, the Respondent submitted a letter from the county surveyor stating that mistakes were made in the original public land survey in setting section monuments. *Respondent Exhibit 2.* Thus, the surveyor contends, no section contains exactly 640 acres and no quarter contains exactly 160 acres. *Id.*

b. As part of its case, the Respondent also submitted an aerial map identifying the Petitioners' deeded property and the property that the Respondent contends is "occupied" by the Petitioners. *Respondent Exhibit 1.* The parcel the Respondent contends is "occupied" by the Petitioners is slightly larger than the parcel identified on the Respondent's map as the parcel deeded to the Petitioners. *Id.* According to Ms. Reynolds, the deed does not show property measured from the middle of the road. Further, Ms. Reynolds argued that the Petitioners' lot lines and fence lines are outside of their deeded acreage. Regardless of whether property is typically measured from the center of the road or whether the Petitioners "use" or "occupy" property outside of their deeded parcel, the Petitioners only own the property that was deeded to them. Barring a showing of some agreement to pay taxes on such property, we are unaware of any grounds on which the Petitioners can be assessed for property it does not own. *See e.g.* Ind. Code § 6-1.1-2-4 ("The owner of any real property on the assessment date of a year is liable for the taxes imposed for that year on the property, unless a person holding, possessing, or occupying any real property on the assessment date of a year is liable for the taxes imposed for that year on the property under a memorandum of lease or other contract with the owner that is recorded with the county recorder before January 1, 1998.")

b. It is unclear from the record whether the deeded property exceeds 79.5 acres based on modern measuring methods or whether the Respondent is assessing the property based on the Petitioners' usage rather than their ownership. The Petitioners, however, have 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 at 478. Thus, the Petitioners have not sufficiently shown that their property is being assessed in error.

c. Even if we were to find that the Petitioners are being assessed for acreage in excess of the property that they own, the Petitioners still failed to raise a prima facie case because identifying an error in the method of assessing a property does not rebut the presumption that the assessment is a reasonable measure of a property's true tax value. *See O'Donnell v. Dep't. of Local Gov't. Finance,* 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) (arguments based on strict application of the Guidelines are not enough to rebut the presumption that the assessment is correct).

d. The 2002 Real Property Assessment Manual (hereinafter MANUAL) defines the "true tax value" of real estate 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, for the property." 2002 REAL PROPERTY ASSESSMENT MANUAL – VERSION A 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. The value established by use of the Guidelines, while presumed to be accurate, is merely a starting point. "[A]ny individual assessment is to be deemed accurate if it is a reasonable measure of "True Tax Value'…No technical failure to comply with the procedures of a specific assessing method violates this [assessment] rule so long as the individual assessment is a reasonable measure of 'True Tax Value'…" 50 IAC 2.3-1-1(d).

e. Thus, even if the Respondent's assessment did not fully comply with the Guidelines, the Petitioners could not prevail unless they had shown that the property's assessment is not a reasonable measure of its true tax value. Here the Petitioners failed to present any evidence to determine how the change in acreage would impact the assessed value of their property. As the Respondent noted in her argument, the difference in calculated acreage could be farm land, home site or right of way. If the excess acreage were right of way with no assessed value, the acreage could change without any difference in assessed value. On the other hand if it were farmland, the difference could be measured in thousands of dollars. Thus, the Petitioners failed to raise a prima facie case that their assessed value is incorrect.

f. Where the taxpayer fails to provide probative evidence that an assessment should be changed, the Respondent's duty to support the assessment with substantial evidence is not triggered. *See Lacy Diversified,* 799 N.E.2d at 1221-1222; Whitely *Products,* 704 N.WE.2d at 1119.

Conclusion

16. The Petitioners failed to raise 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 the assessment should not be changed.

ISSUED: **April 14, 2008**

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Commissioner,
Indiana Board of Tax Review

IMPORTANT NOTICE

- 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.