

REPRESENTATIVES FOR PETITIONERS:

Charles V. Vaughan, Attorney

David Miller, Accountant for the law offices of Chas. R. Vaughan and Chas. V. Vaughan

REPRESENTATIVES FOR RESPONDENT:

Jerry L. Rooze, Shelby Township Trustee Assessor

Nancy Moore, Tippecanoe County Assessor

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

Charles R. and Helen L. Vaughan	)	Petition No.:	79-120-02-1-1-00926
	)	Parcel:	120051000058
Petitioners,)		
)		
v.)		
	)	County:	Tippecanoe
Jerry Rooze, Shelby Township	)	Township:	Shelby
Trustee Assessor)		
	)	Assessment Year:	2002
Respondent.)		

Appeal from the Final Determination of the
Tippecanoe County Property Tax Assessment Board of Appeals

September 15, 2004

FINAL DETERMINATION

The Indiana Board of Tax Review (the "Board") having reviewed the facts and evidence, and having considered the issues, now finds and concludes the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

ISSUES

1. The issues presented for consideration by the Board were:

Whether the one-acre agricultural homesite is overvalued at \$21,000 per acre.

PROCEDURAL HISTORY

2. Pursuant to Ind. Code § 6-1.1-15-3, Charles R. and Helen L. Vaughan (the “Petitioners”) filed a Form 131 Petition for Review of Assessment, petitioning the Board to conduct an administrative review of the above petition. The Form 131 was filed on November 14, 2003. The determination of the Tippecanoe County Property Tax Assessment Board of Appeals (the “PTABOA”) was issued on October 17, 2003.

HEARING FACTS AND OTHER MATTERS OF RECORD

3. Pursuant to Ind. Code § 6-1.1-15-4 and § 6-1.5-4-1, a hearing was held on April 20, 2004, in Lafayette, Indiana before Joan Rennick, the duly designated Administrative Law Judge (the “ALJ”) authorized by the Board under Ind. Code § 6-1.5-3-3.
4. The following persons were sworn and presented testimony at the hearing:

For the Petitioners:

Charles V. Vaughan, Taxpayer
David Miller

For the Respondent:

Jerry Rooze, Township Assessor
Nancy Moore, County Assessor

5. The following exhibits were presented for the Petitioners:

Petitioners’ Exhibit 1 – Topographical maps of the property.

6. The following exhibits were presented for the Respondent:
 - Respondent's Exhibit 1 – A copy of a portion of Table 19, Water Features for the 1987 Soil Survey of Tippecanoe County, Indiana.
7. The following additional items are officially recognized as part of the record of proceedings and labeled Board Exhibits:
 - Board Exhibit A – The Form 131 Petition.
 - Board Exhibit B – Notice of Hearing of Rescheduled Hearing dated February 5, 2004.
 - Board Exhibit C – A Request for Continuance of Hearing dated January 19, 2004.
 - Board Exhibit D – A letter dated January 27, 2004, granting the Request for Continuance.
 - Board Exhibit E – The original Notice of Hearing dated December 18, 2003.
 - Board Exhibit F – A proposed Stipulation Agreement between the Petitioners and the Respondent dated April 20, 2004.
8. The subject property is a two hundred acre tract of agricultural land. The parcel contains a one-acre agricultural homesite.
9. The ALJ did not conduct an on-site inspection of the subject property.
10. For 2002, the PTABOA determined the assessed value of the property to be:
 - Land: \$264,300 Improvements: \$71,800.
11. For 2002, the Petitioners contend the assessed value of the property should be:
 - Land: \$202,300 Improvements: \$71,800.

Stipulation

12. Subsequent to the completion of argument at the administrative hearing, the parties entered into a stipulated agreement to resolve the issue of the valuation of a portion of the land affected by flooding. Specifically, the parties agreed that thirty acres of agricultural land should be valued at "\$1,050 per acre, with no adjustment." (*Board Ex. F*).

13. The specifics of the agreement are not provided, and the parties will need to address the implementation of the agreement. If, for example, the parties intend to apply a soil productivity factor of 1.0 to an additional 30 acres of agricultural land, such particular information may need to be reflected on a revised property record card.

JURISDICTIONAL FRAMEWORK

14. The Indiana Board is charged with conducting an impartial review of all appeals concerning: (1) the assessed valuation of tangible property; (2) property tax deductions; and (3) property tax exemptions; that are made from a determination by an assessing official or a county property tax assessment board of appeals to the Indiana board under any law. Ind. Code § 6-1.5-4-1(a). All such appeals are conducted under Ind. Code § 6-1.1-15. *See* Ind. Code § 6-1.5-4-1(b); Ind. Code § 6-1.1-15-4.

ADMINISTRATIVE REVIEW AND THE PETITIONER'S BURDEN

15. 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).
16. 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. Wash. 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”).
17. 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.

ANALYSIS

Whether the one-acre agricultural homesite is overvalued at \$21,000 per acre.

18. The Petitioners contend that, due to the age of the well and septic system, the one-acre homesite is overvalued at \$21,000. The Petitioners assert that the homesite is worth approximately \$10,000.
19. The Respondent contends that the homesite is correctly valued at the \$21,000 per acre rate established for the area.
20. The Petitioners presented the following evidence in regard to this issue:
 - A. The well and septic system are more than 25 years old. (*Vaughan testimony*).
 - B. If the one-acre homesite were sold, the well and septic system would require replacement at an estimated cost of \$20,000 to \$30,000 to meet health code requirements. (*Vaughan testimony*).
 - C. The one-acre homesite may be worth approximately \$10,000. (*Vaughan testimony*).
21. The Respondent presented the following evidence in regard to this issue:
 - A. The rate of \$21,000 per acre for an agricultural homesite was established by the township assessor and adopted by the PTABOA. (*Rooze testimony*).
 - B. The land value is based on the sales of land within the time frame of the assessment date of January 1, 1999. (*Moore testimony*).
22. The Petitioners are challenging the per acre base rate applied to their one-acre homesite. When challenging a land base rate, a taxpayer must present “probative evidence showing that either (1) comparable properties were assessed and taxed differently than its own under the land order or (2) its land was improperly assessed under the wrong section of the land order.” *Indian Industries, Inc. v. Dep’t of Local Gov’t Fin.*, 791 N.E.2d 286 (Ind.

Tax 2003)(citing *Park Steckley I v. Dep't of Local Gov't Fin.*, 779 N.E.2d 1270, 1273 (Ind. Tax 2002)); *see also Blackbird Farms v. State Bd. of Tax Comm'rs*, 765 N.E.2d 711 (Ind. Tax 2002).

23. The Petitioners, however, did not offer any evidence of comparable properties being treated differently under the land order nor did the Petitioners offer any evidence that the homesite was valued under the wrong section of the land order. Further, the testimony presented that the homesite value should be valued at \$10,000 rather than \$21,000 because of the age of the well and septic system is conclusory and unsupported by any market evidence. *Heart City Chrysler v. State Bd. of Tax Comm'rs*, 714 N.E.2d 329 (Ind. Tax 1999). The Petitioners have therefore failed to make a prima facie case of error regarding this issue.

SUMMARY OF FINAL DETERMINATION

Whether the one-acre agricultural homesite is overvalued at \$21,000 per acre.

24. The Petitioners did not meet the burden of making a prima facie case regarding this issue. The assessment is not changed as a result of this issue.
25. The assessment should be changed to reflect the stipulation regarding the portion of land that suffers from flooding.

This Final Determination of the above captioned matter is issued by the Indiana Board of Tax Review on the date first written above.

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.