

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:

Eleanor J. Mlynarik, Wabash Township Assessor

Nancy Moore, Tippecanoe County Assessor

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

Charles R. and Helen L. Vaughan	)	Petition No.:	79-132-02-1-1-01106
	)	Parcel:	132044000088
Petitioners,)		
)		
v.)		
	)	County:	Tippecanoe
Eleanor Mlynarik, Wabash	)	Township:	Wabash
Township 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:

ISSUE 1– *Whether twenty acres of agricultural land should be valued at an average rate of \$1,050 per acre without the application of soil productivity factors.*

ISSUE 2 – *Whether the one-acre agricultural homesite is overvalued at \$15,000 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 22, 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 Petitioner:

Charles V. Vaughan
David Miller

For the Respondent:

Eleanor Mlynarik
Nancy Moore

5. The following 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.

6. The subject property is an eighty-acre tract of agricultural land. The parcel contains a one-acre agricultural homesite.

7. The ALJ did not conduct an on-site inspection of the subject property.

8. For 2002, the PTABOA determined the assessed value of the property to be:

Land: \$110,400 Improvements: \$9,400.

9. For 2002, the Petitioners contend the assessed value of the property should be:

Land: \$75,400 Improvements: \$9,400.

JURISDICTIONAL FRAMEWORK

10. 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

11. 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).
12. 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”).
13. 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

Issue 1: Whether twenty acres of agricultural land should be valued at an average rate of \$1,050 per acre without the application of soil productivity factors.

14. The Petitioners contend twenty acres of the approximately eighty-acre tract that is used as pasture ground should be valued at a rate of \$1,050 per acre without the application of soil productivity factors.
15. The Respondent contends that the twenty acres of agricultural land are valued according to the soil maps and in a similar manner as other agricultural land in the township.

16. The Petitioners presented the following evidence in regard to this issue:
 - A. The twenty acres are classified as tillable land. (*Vaughan testimony*).
 - B. The twenty acres were removed from crop production many years ago because the ground was better suited for pasture rather than crop production. (*Vaughan testimony*).
 - C. A neighboring property, which is all tillable land, is valued at a lesser rate than the subject property. (*Vaughan testimony*).
17. The Respondent contended that the twenty acres of agricultural land are not treated differently than any other pasture ground in the township. (*Mlynarik testimony*).
18. Agricultural land is valued under the method established by rule by the Department of Local Government Finance (the “Department”). The agricultural land assessment formula values farmland, in part, based on the productivity of each parcel’s soil resources. Soil maps prepared by the United States Department of Agriculture categorize land according to its productivity. Under the rules adopted by the Department, agricultural land is valued using a statewide base rate of \$1,050 per acre and a multiplier to reflect the soil productivity index. (*Version A – Real Property Assessment Guideline, Chapter 2, p. 114*).
19. There are seven categories of agricultural land use types; only the agricultural homesite is excluded from the application of a soil productivity factor. (*Version A – Real Property Assessment Guideline, Chapter 2, p. 102, 105*).
20. Soil productivity ratings reflect the yield differences of soil types, and do not reflect crop management decisions made by the owner; even land that has been strip mined is assigned a soil productivity rating. The soil productivity index ranges from approximately 1.28 for the best soil in the state to a productivity factor of .50 for the poorest soil. (*Version A – Real Property Assessment Guideline, Chapter 2, p. 108*).

21. Clearly, the complete elimination of a soil productivity rating is outside the established parameters of a high of 1.28 and a low of .50.
22. Similarly, soil productivity ratings are based on corn yield using data collected by Purdue University and the United States Department of Agriculture. Accordingly, the established productivity ratings of the various soil types may not be adjusted by the local officials (such as, for example, changing a productivity factor of 1.28 to a factor of .50).
23. The use of soil productivity ratings is an essential part of assessing agricultural land under the Version A-Real Property Assessment Guideline incorporated by reference into 50 IAC 2.3. The soil productivity ratings are determined by data collected by Purdue University and the United States Department of Agriculture. These ratings are not subject to modification by either the local officials or the Board. Effectively, the Petitioners seek a soil productivity factor of 1.0 for the subject twenty acres.
24. The Petitioners failed to establish a prima facie case of error regarding this issue.

Issue 2: Whether the one-acre agricultural homesite is overvalued at \$15,000 per acre.

25. The Petitioners contend that, due to the age of the well and septic system, the one-acre homesite is overvalued at \$15,000.
26. The Petitioners further contend that the homesite is worth approximately \$10,000.
27. The Respondent contends that the homesite is correctly valued at the \$15,000 per acre rate established for the area.
28. 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 to meet health codes. (*Vaughan testimony*).

- C. The one-acre homesite may be worth approximately \$10,000. (*Vaughan testimony*).
29. The Respondent contended the rate of \$15,000 per acre for an agricultural homesite was established and derived from sales data within the area and approved by the PTABOA. (*Mlynarik testimony*).
30. 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. Department of Local Government Finance*, 791 N.E. 2d 286 (Ind. Tax 2003)(citing *Park Steckley I v. Department of Local Government Finance*, 779 N.E. 2d 1270, 1273 (Ind. Tax 2002)); see also *Blackbird Farms v. State Board of Tax Commissioners*, 765 N.E. 2d 711, 714 (Ind. Tax 2002).
31. The Petitioners 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. The testimony presented that the homesite value should be \$10,000 rather than \$15,000 because of the age of the well and septic system serves only as a conclusory statement because it is unsupported by any market evidence. *Heart City Chrysler v. State Board of Tax Commissioners*, 714 N.E. 2d 329 (Ind. Tax 1999).
32. The Petitioners failed to establish a prima facie case of error regarding this issue.

SUMMARY OF FINAL DETERMINATION

Issue 1: Whether twenty acres of agricultural land should be valued at an average rate of \$1,050 per acre without the application of land productivity factors.

33. The Petitioner 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.

Issue 2: Whether the one-acre homesite is overvalued at \$15,000 per acre.

34. The Petitioner 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.

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.