

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

Petition #: 39-011-02-1-4-00021
Petitioners: Dean and Debbie Ford
Respondent: Madison Township Assessor (Jefferson County)
Parcel: 0110089500
Assessment Year: 2002

The Indiana Board of Tax Review (IBTR) issues this determination in the above matter, and finds and concludes as follows:

Procedural History

1. The Petitioners initiated an assessment appeal with the Jefferson County Property Tax Assessment Board of Appeals (PTABOA) by written document dated August 7, 2003.
2. The Petitioners received notice of the decision of the PTABOA on October 14, 2003.
3. The Petitioners filed an appeal to the IBTR by filing a Form 131 with the county assessor on December 4, 2003. Petitioners elected to have this case heard in small claims.
4. The IBTR issued a notice of hearing to the parties dated April 6, 2004.
5. The IBTR held an administrative hearing on June 30, 2004, before its duly appointed Administrative Law Judge Jennifer Bippus.
6. Persons present and sworn in at hearing:
 - A. For Petitioners: Dean Ford, Petitioner
Daniel Ford, Petitioners' Son
 - B. For Respondent: Donald Thompson, Madison Township Assessor
Margaret Hoffman, Jefferson County Assessor
Elbert Hinds, Jefferson County PTABOA
George Thomas, Jefferson County PTABOA
James Martin, Jefferson County PTABOA

Facts

7. The property is classified as a commercial property as is shown on the property record card #0110089500.
8. The Administrative Law Judge did not conduct an inspection of the property.
9. Assessed Value of subject property as determined by the Jefferson County PTABOA:
Land \$250,400 Improvements \$439,100
10. Assessed Value requested by Petitioners:
Land \$50,000 Improvements: \$245,000

Contentions

11. Summary of Petitioners' contentions in support of alleged error in assessment is:
 - A. The Petitioners contend that the subject land is overpriced. The Petitioners rely, in part, upon estimates submitted by three appraisal services to the Jefferson County Assessor for use in determining land values for the 2002 general reassessment. According to the Petitioners, there is a wide disparity in the land values provided by the appraisal services. *Dean Ford Testimony; Respondent Exhibit 7*. The Petitioners apparently contend that this disparity is evidence that the base rates determined by Jefferson County for use land assessment are invalid.
 - B. The Petitioners also contend that the subject land is overpriced based upon the values set forth in two of the appraisal service estimates. *Id*. Specifically, the Petitioners point to the values set forth for industrial acreage outside of the city limits in the estimates prepared by Ohio Valley Appraisal Services and Gray Appraisal Services. Those estimates set forth values of \$4,800 to \$6,000 and \$10,000 to \$15,000 per acre respectively. *Id*. According to Petitioners, the subject land consists of approximately 7 acres. *Dean Ford Testimony*. Thus, even if the rate of \$10,000 per acre were used, the subject land should only be valued at \$70,000. *Id*. However, the Petitioners acknowledge that the subject land is located within the city limits, and that the estimates set forth different rates for property within the city limits. *Id*.
 - C. The Petitioners further contend that the subject land is not as valuable as land that fronts Clifty Drive. *Dean Ford Testimony*. According to the Petitioners, acreage off of Clifty Drive does not sell as quickly as acreage on Clifty Drive. *Id*. The Petitioners point to the sale of other properties within the city limits to support their contention that actual land values are significantly less than the rate used to assess the subject property. *Id*.
 - D. The Petitioners also contend that the subject building was originally used as a tobacco warehouse, but that the building has become almost obsolete

due to changes in the tobacco industry. *Id.* The Petitioners estimate that approximately 80% of tobacco warehouses have ceased to operate. The Petitioners maintains that they continue to store tobacco in the subject building mainly out of protest. *Id.* The Petitioners currently use the subject building to store lumber during the summer months and some (very little) tobacco during the winter months. *Id.*

E. Finally, the Petitioners contend that the subject building is not suited for other uses. *Id.* It has no heat and a blacktop surface throughout, except for a concrete pit in the center and concrete apron outside of the door. *Id.* The Petitioners assert that the blacktop floor could never withstand machinery, which renders the building useless for anything other than storage. *Id.*

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

A. The Respondent asserts that, pursuant to the neighborhood valuation form for Jefferson County, the front foot value for land facing Clifty Drive is \$1,100 per front foot, while the front foot value for land off of Clifty Drive is \$600 per front foot. *Thompson Testimony.*

B. The Respondent contends that all commercial property within the city limits was valued on a front foot basis during the 2002 reassessment. *Id.* According to the Respondent, it decided to uniformly assess commercial property in this manner in response to appeals from the previous reassessment. *Id.*

C. The Respondent contends that, based on its location, the subject property is correctly valued at \$600 per front foot in accordance with the neighborhood valuation form. *Thompson Testimony.*

D. The Respondent further contends that the subject building is priced as a light warehouse, and that it is currently being used to store lumber and tobacco. *Thompson Testimony.*

E. The Respondent acknowledged that it might have considered obsolescence if the building were not being used for storage. *Id.* However, the Respondent submitted photographs of the subject property and a telephone directory listing in support of its contention that the subject property is currently being used to store lumber in conjunction with the operation of a lumber supply business. *Respondent Exhibits 13- 15.*

F. The Respondent submitted evidence setting forth land base used in the 2002 Reassessment and demonstrating how those rates were determined. *Hoffman Testimony; Respondent Exhibits 1-7, 9-11.*

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 # 5871.

C. Exhibits:

The Petitioners presented no exhibits.

- Respondent Exhibit 1: Map of Madison and Clifty Drive.
- Respondent Exhibit 2: Document identified as “aerial view of all parcels under appeal June 30, 2004” (aerial view was not attached).
- Respondent Exhibit 3: Department of Local Government Finance letter approving land values.
- Respondent Exhibit 4: Approval of base rates by the PTABOA.
- Respondent Exhibit 5: Neighborhood Valuation Form.
- Respondent Exhibit 6: Neighborhood Value Method.
- Respondent Exhibit 7: Appraisals.
- Respondent Exhibit 8: Property record cards for comparable properties.
- Respondent Exhibit 9: Multiple listing page of sold properties.
- Respondent Exhibit 10: Multiple listing page for sale properties.
- Respondent Exhibit 11: Sales disclosure forms.
- Respondent Exhibit 12: Property record card for the property under appeal.
- Respondent Exhibit 13: Photographs of the subject property.
- Respondent Exhibit 14: Photograph of Ford Lumber sign.
- Respondent Exhibit 15: Phone book listing for Ford-Lumber Building Supply.

D. These Findings and Conclusions.

Analysis

14. The most applicable governing law:
- A. 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 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. 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”).
 - 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. This conclusion was arrived at because:
- A. The Petitioners attack the assessment on essentially two grounds: (1) that the Respondent incorrectly valued the subject land; and (2) that the subject improvement is obsolete.
 - B. With regard to the first ground, the Petitioners rely, in part, on Dean Ford's own estimates as to what various properties in the area are worth and the amounts for which he believes those properties previously sold. *Dean Ford Testimony*. However, the Petitioners did not present any evidence regarding the actual sale prices of those properties beyond Dean Ford's general recollection as someone who is interested in commercial property in the area. *Id.* This testimony is not sufficiently reliable to constitute probative evidence of the sale prices for those properties.
 - C. Moreover, the Petitioners did not present any probative evidence to establish the comparability of the properties at issue to the subject property. At most, Dean Ford provided information regarding the location of those properties. *Dean Ford Testimony*. However, the Petitioners did not present evidence regarding things such as topography, geographical features, or other distinguishing features of the properties in question nor did they explain how those features compared to the subject property. *See, Blackbird Farms Apts., LP v. Department of Local Government Finance*, 765 N.E.2d 711 (Ind. Tax 2002) (discussing the need to address features of land in order to establish comparability).
 - D. The Petitioners also contest the land valuation by alleging that estimates of two appraisal services engaged by the County provide for base rates far lower than the \$600 per front foot used to value the subject property. *Dean Ford Testimony; Respondent Exhibit 7*. However, the Petitioners seek to apply the rates set forth by those appraisal services for industrial acreage outside the city limits despite their acknowledgment that the subject property is located within the city limits. *Id.*
 - E. The Petitioners have therefore failed to demonstrate that the valuation of the subject land is incorrect or what the correct amount would be. *See, Meridian Towers*, 805 N.E.2d at 478.
 - F. The Petitioners similarly have failed to support the second ground of their claim - that the assessment is incorrect because it does not account for the subject property's obsolescence.
 - G. Obsolescence is the functional or economic loss of property value. *Meridian Towers*, 805 N.E.2d at 478. Pursuant to the Real Property Assessment Guidelines for 2002 – Version A, obsolescence is expressed as a percentage reduction in the remainder value of the subject improvement above and beyond normal depreciation. *See Real Property Assessment Guidelines for 2002 – Version A, Appendix F, p.7-21 (incorporated, by reference at 50 IAC 2.3-1-2)*. In order to establish a prima facie case for obsolescence, a taxpayer bears the burden both of demonstrating the cause of obsolescence and of quantifying the amount of

obsolescence to be applied to the improvement. *Meridian Towers*, 805 N.E.2d at 478.

- H. Here, the Petitioners presented little evidence to establish the cause of the asserted obsolescence and no evidence whatsoever to quantify the amount of such obsolescence. Dean Ford testified generally that changes in the tobacco industry have led to a significant decline in the number of operating storage facilities. *Dean Ford Testimony*. However, the Petitioners did not present any evidence regarding the amount by which those industry changes affect the ability of the subject property to generate income or the extent to which such a decrease in income generating capacity affect the property's fair market value-in-use.
- I. Based on the foregoing, the Petitioners failed to establish a prima facie case for a change in assessment.

Conclusion

- 16. The Petitioners have not made a prima facie case. The Board finds in favor of the Respondent. There is no change in the assessment of the subject property.

ISSUED: _____

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.

