

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

Petition #: 51-010-02-1-5-00009
Petitioners: Doyle J. & Rita J. Elliott
Respondent: Rutherford Township Assessor (Martin County)
Parcel #: 010-06142-22
Assessment Year: 2002

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

Procedural History

1. The Petitioners initiated an assessment appeal with the Martin County Property Tax Assessment Board of Appeals (the "PTABOA") by written document dated March 31, 2004.
2. The Petitioners were mailed a notice of the decision of the PTABOA on May 24, 2004.
3. The Petitioners filed an appeal to the Board by filing a Form 131 with the county assessor on or about June 21, 2004. The Petitioners elected to have this case heard as a small claim.
4. The Board issued a notice of hearing to the parties dated January 13, 2005.
5. The duly appointed Administrative Law Judge, Rick Barter, held an administrative hearing for the Board on February 15, 2005.
6. Persons sworn as witnesses at the hearing:
 - a) Doyle Elliott, Petitioner,
 - b) Janet Sue Hembree, Rutherford Township Trustee/Assessor.

Persons present at the hearing who were not sworn as witnesses:

- a) Donna Van Winkle, Petitioner's sister,
- b) Carolyn S. McGuire, Martin County Assessor.

Facts

7. The property is a 1989 mobile home assessed as real property that is located on a one-acre homesite.
8. The Administrative Law Judge did not conduct an inspection of the property.
9. Assessed value of subject property as determined by the PTABOA:
Land \$3,500 Improvements \$47,200 Total \$50,700.
10. Assessed value requested by Petitioners:
Land \$2,500 Improvements \$33,500 Total \$36,000.

Issues¹

11. Summary of Petitioners' contentions in support of alleged error in assessment:
 - a) The mobile home, the addition to the mobile home, the garage, and the utility shed are all assessed incorrectly. *Elliott testimony.*

Mobile home

- b) The current assessed value of the mobile home is \$23,000. *Petitioners Ex. 7.* The Petitioners contended the correct assessed value should be \$20,000. *Elliott testimony.*
- c) The mobile home was purchased in 1989 for \$18,500. The Petitioners presented an estimate from Country Style Homes indicating the home has a value of \$8,500 as of March 10, 2004. The estimate further indicated the 2004 replacement cost new would be \$20,000. *Elliott testimony; Petitioners Ex. 1.*
- d) Petitioners presented an annually assessed mobile home worksheet of a purported comparable property. The 2003 total true tax value of that mobile home is \$18,780. *Petitioners Ex. 5.* This other mobile home was constructed in 1990. Petitioners' mobile home was constructed in 1989. The homes are the same size. *Elliott testimony.*

¹ Petitioners' Form 131 petition indicated the assessed value of the land was excessive, but they did not address this contention at the Board's hearing.

Addition

- e) The current assessed value of the addition is \$11,200. *Petitioners Ex. 7.*
Petitioners contended the correct assessed value should be \$7,400. *Board Ex. A.*
- f) Petitioners introduced a list of materials and prices from Home Depot, dated February 4, 2005. The Petitioners testified the materials listed are similar to those used in the construction of the room in 1994. The exhibit also included a hand-drawn sketch of the subject room addition, a list of materials, an estimate dated February 4, 2005, from Home Depot for Truswal Systems, and a copy of a check dated July 7, 1993, in the amount of \$1,660 that was payment for constructing the foundation for the room. *Petitioners Ex. 2.*
- g) Based on this data, Petitioners concluded that the total 1994 cost of the foundation was \$6,000. *Elliott testimony.*
- h) Petitioners added the estimated cost of materials from 2005 to the 1994 cost of the foundation and opined that the correct 2002 assessed value of the room addition is \$7,400. *Elliott testimony.*

Garage

- i) The current assessed value of the garage is \$12,400. *Petitioners Ex. 7.* The Petitioners contended the correct assessed value should be \$5,900. *Board Ex. A.*
- j) Petitioners presented a list of materials and estimated costs from Home Depot, dated February 2, 2005, totaling \$4,163. Petitioners estimated the garage floor cost to be \$1,368. Petitioners added an estimated \$400 labor cost to reach a total of \$5,931 as the cost to reproduce a similar garage. *Elliott testimony; Petitioners Ex. 3.*
- k) Petitioners submitted a portion of a property record card as proof that a detached garage measuring 26 feet by 32 feet in Perry Township was assessed at \$8,900. *Elliott testimony; Petitioners Ex. 6.*

Utility Shed

- l) The current assessed value of the utility shed is \$600. *Petitioners Ex. 7.*
Petitioners contended the correct assessed value should be \$200. *Board Ex. A.*
- m) Petitioners constructed the utility shed in 1997 from discarded building materials, as shown by a series of photographs. It has a dirt floor. *Elliott testimony; Petitioners Ex. 4.*
- n) The utility shed would not be replaced if lost. *Elliott testimony.*

- o) Petitioners presented a portion of a property record card showing a utility shed assessed at \$700. *Petitioners Ex. 6*. Petitioners contended this purported comparable utility shed is a structure measuring 12 feet by 20 feet, with masonry blocks, concrete floor, shingle roof and vinyl siding. *Elliott testimony*.

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

- a) The PTABOA changed the grade of the mobile home from "custom" to "economy." *Hembree testimony*.
- b) A similar property on 1.2 acres less than a mile away sold for \$31,500 on March 31, 2000. That purported comparable is a mobile home measuring 14 feet by 70 feet. It was built in 1975. *Respondent Ex. 3*.
- c) The comparable identified by Petitioners was assessed using the same base rate (\$27,500) as the Petitioners' mobile home. Petitioners' purported comparable is an annually assessed mobile home, which is assessed as personal property.² Petitioners' mobile home is assessed as real property. The difference in the assessments is the result of different features and depreciation rates. There is no basis for comparability. *Hembree testimony; Petitioners Ex.s 5, 7*.
- d) The garage assessments are not comparable. The purported comparable garage identified by Petitioners was constructed in 1985. Petitioners' garage was constructed in 1989. They have received different depreciation. The purported comparable garage is also smaller (832 square feet) than the Petitioners' garage, which is 864 square feet. *Hembree testimony*.
- e) There is no basis for comparability of the utility sheds. The purportedly comparable utility shed was built in 1940. Petitioners' utility shed was built in 1997. *Id.*

Record

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

- a) The Petition,
- b) The tape recording of the hearing labeled IBTR 6065,

² A real property mobile home meets one of the following requirements: (1) it is located on land owned by the home owner; or (2) it is located on a permanent foundation. An annually assessed mobile home does not meet either of these requirements. REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 – VERSION A, glossary at 1, 17.

Exhibits:

- Petitioners Ex. 1: An estimate of the value and replacement cost of subject mobile home dated March 10, 2004,
- Petitioners Ex. 2: Copy of a 2005 estimate from Home Depot for construction materials and a copy of a 1993 for the foundation of the addition,
- Petitioners Ex. 3: Petitioners' estimate of the cost of materials and labor to reconstruct the garage,
- Petitioners Ex. 4: Three photographs of subject utility shed,
- Petitioners Ex. 5: Copy of a 2003 mobile home annually assessed worksheet for parcel #010-06141-22,
- Petitioners Ex. 6: Copy of side two of a property record card ("PRC") for parcel 007-12250-32 with the assessment of a detached garage highlighted,
- Petitioners Ex. 7: Copy of side two of PRC for the subject,
- Respondent Ex. 1: Copy of PRC for parcel 010-016141-22,
- Respondent Ex. 2: Copy of photograph of subject mobile home and pictures from the Assessment Guidelines,
- Respondent Ex. 3: Sales disclosure form,
- Respondent Ex. 4: Notice of Mobile Home assessment for parcel 010-06141-22 for 2003 and 2004, and the 2003 worksheet,
- Board Ex. A: Form 131,
- Board Ex. B: Notice of Hearing,

- c) 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 did not provide sufficient evidence to support their contentions. This conclusion was arrived at because:

Mobile Home

- a) Petitioners provided essentially four pieces of evidence to establish that their mobile home was improperly assessed. (1) The Petitioners purchased the mobile home for \$18,500 in 1989. (2) A mobile home dealer estimated the 2004 market value of the mobile home is \$8,500. (3) A mobile home dealer estimated the 2004 replacement cost new would be \$20,000. (4) An annually assessed mobile home worksheet of a purported comparable property.
- b) The estimated value of the Petitioners' mobile home and the estimated replacement cost new consist only of dollar amounts written on an invoice. The mobile home dealer did not explain the basis for either estimate. Similarly, the Petitioners presented no explanation as to basis for these opinions of value. Unsubstantiated conclusory opinions of value do not constitute probative evidence. *Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).
- c) For the 2002 reassessment, an assessment must reflect value as of January 1, 1999. 2002 REAL PROPERTY ASSESSMENT MANUAL at 4 (incorporated by reference at 50 IAC 2.3-1-2). Consequently, a party relying on a sale price or an appraisal must provide some explanation as to how the values demonstrate, or are relevant to, the property's value as of January 1, 1999. *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). Petitioners did not demonstrate how a 1989 purchase price or 2004 estimates of value relate to the valuation date of January 1, 1999.
- d) Petitioners also presented an annually assessed mobile home worksheet of a purported comparable property. The 2003 total true tax value of this mobile home is \$18,780. Petitioners failed to establish that these two mobile homes are comparable. For example, the Petitioners failed to explain the manner in which an annually assessed mobile home (personal property) is comparable to the Petitioners' real property. Further, the make of the Petitioners' mobile home is an Atlantic. The make of the purported comparable mobile home is a Sabre. Petitioners presented probative evidence comparing the features or amenities of these two different makes of mobile home. As the Respondent observed, the base rates of these two mobile homes are the same. The variance in the total assessed value could be due to different features and depreciation amounts. Conclusory

statements that a property is “similar” or “comparable” to another property do not constitute probative evidence of the comparability of the two properties. *Whitley Products*, 704 N.E.2d at 1119.

- e) Accordingly, Petitioners did not make a prima facie case concerning the assessment of the mobile home.

Addition

- f) The Petitioners constructed the addition to the mobile home in 1994. Adding the 1994 foundation cost to a 2005 cost estimate of materials used in the original construction, the Petitioners concluded the estimated replacement cost of the addition is \$7,400. As indicated, a party attempting to establish the market value-in-use of a property must provide some explanation as to how its evidence demonstrates, or is relevant to, the property’s value as of January 1, 1999. *Long*, 821 N.E.2d at 471.
- g) Petitioners presented no probative evidence or explanation about how 1994 and 2005 cost data relates to the valuation date of January 1, 1999. This evidence is not probative. Accordingly, Petitioners failed to make a prima facie case concerning the assessment of the addition.

Garage

- h) Petitioners constructed the detached garage in 1989 at a cost of \$5,000. The replacement cost of the garage is estimated, on the basis of 2005 material costs, to be \$5,900. Again, a party attempting to establish the market value-in-use of a property must provide some evidence or explanation about how the cost demonstrates, or is relevant to, the value of the property as of January 1, 1999. *Id.*
- i) Petitioners presented nothing probative regarding how 1989 and 2005 cost data relates to the valuation date of January 1, 1999. Without such explanation, this evidence is not probative.
- j) Petitioners also introduced evidence that a detached garage measuring 26 feet by 32 feet is assessed at \$8,900. Petitioners testified this property is located in Perry Township. Petitioners failed to prove that a smaller detached garage, located in a different township, is comparable. Petitioners further failed to explain how an assessment of \$8,900 supports their proposed value of \$5,900. As previously stated, the taxpayer must explain how each piece of evidence is relevant to the requested assessment. *Indianapolis Racquet Club*, 802 N.E.2d at 1022.
- k) Accordingly, Petitioners failed to make a prima facie case concerning the assessment of the garage.

Utility Shed

- l) Petitioners testified they constructed a utility shed in 1997 from discarded construction materials at no cost. They opined that its correct assessed value is \$200.
- m) Petitioners presented a portion of a property record card indicating another utility shed assessed for \$700. Petitioners testified this property is located in Perry Township. Petitioners failed to offer any explanation as to the manner in which a larger utility shed, located in a different township, is comparable to their own. Petitioners further failed to explain the manner in which an assessment of \$700 supports their proposed value of \$200. The taxpayer must explain how each piece of evidence is relevant to the requested assessment. *Indianapolis Racquet Club, 802 N.E.2d at 1022.*
- n) Similarly, Petitioners failed to explain how their photographs support the proposed value of \$200. Photographs without explanation are merely conclusory statements and not probative. *Bernacchi v. State Bd. of Tax Comm'rs, 727 N.E.2d 1133 (Ind. Tax 2000).*
- o) Petitioners presented no market evidence to support the proposed value of \$200. Accordingly, Petitioners failed to make a prima facie case concerning the assessment of the utility shed.

Conclusions

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

ISSUED: _____

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.