

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

Petition #: 48-027-03-1-5-00436
Petitioners: Dwight and Brenda Gross
Respondent: Pipe Creek Township Assessor (Madison County)
Parcel #: 2670735003901
Assessment Year: 2003

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 Madison County Property Tax Assessment Board of Appeals (“PTABOA”) by written document dated September 7, 2004.
2. The PTABOA’s Notification of Final Assessment Determination was mailed to the Petitioners on September 27, 2004.
3. The Petitioners filed an appeal to the Board by filing a Form 131 petition with the county assessor on October 4, 2004. The Petitioners elected to have this case heard in small claims.
4. The Board issued a notice of hearing to the parties dated January 14, 2005.
5. The Board held an administrative hearing on April 26, 2005, before the duly appointed Administrative Law Judge (ALJ), Debra Eads.
6. Persons present and sworn in at hearing:
 - a) For Petitioners: Dwight Gross, Petitioner
 - b) For Respondent: Priscilla Frazier, Pipe Creek Township Assessor
Cheryl Heath, County Chief Deputy Assessor
Lloyd Brumback, County Deputy Assessor

Facts

7. The subject property is classified as residential, as is shown on the property record card (“PRC”) for parcel # 2670735003901.
8. The ALJ did not conduct an inspection of the property.
9. Assessed Values of subject property as determined by the Madison County PTABOA:
Land \$9,900 Improvements \$66,300
10. Assessed Values requested by the Petitioner per the Form 131 petition:
Land \$3,300 Improvements \$58,850

Issues

11. Summary of Petitioners’ contentions in support of alleged error in assessment:
 - a) The value assigned to the newly built garage located on the subject property (\$17,100) far exceeds its cost of construction. *Gross testimony.*
 - b) The total cost of construction for the detached garage was \$9,650. *Gross testimony; Petitioner Exhibit 1.*
 - c) Should the garage burn down, the replacement cost would be less than what the Petitioners paid to construct the garage, because the foundation is already there. *Gross testimony.* It would cost somewhere around \$4,000 to \$5,000 to replace the garage. *Gross testimony.*
12. Summary of the Respondent’s contentions in support of the assessment:
 - a) The Respondent asked Petitioner, Dwight Gross, if he felt that the subject dwelling was fairly priced at \$49,000. Gross responded that he would ask for more than \$49,000 for the subject dwelling. *Gross testimony.* Gross stated that the Petitioners bought the property for \$39,000 in 1994 and that they subsequently made improvements to it. *Gross testimony.*
 - b) The Respondent asked Gross whether \$76,200, the current assessment for the subject property in total, would be a fair sale price. Gross responded that the price would be “fair,” except that the garage was too much. *Gross testimony.*
 - c) The Respondent did not offer any independent evidence to support the assessed values.

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 BTR # 6177.
- c) Exhibits:

Petitioner Exhibit 1: Corley Construction, Inc. Contract of Sale, dated November 15, 2001.

Respondent: No documentary evidence submitted

Board Exhibit A: Form 131 Petition
Board Exhibit B: Notice of Hearing on Petition

- 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 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 provide sufficient evidence to support their contentions. This conclusion was arrived at because:

- a) The 2002 Real Property Assessment Manual (“Manual”) provides that a taxpayer may rebut the value determined under the Real Property Assessment Guidelines for 2002 – Version A (“Assessment Guidelines”) by introducing evidence consistent with the Manual’s definition of true tax value, including evidence of actual construction costs. 2002 REAL PROPERTY ASSESSMENT MANUAL 4 (incorporated by reference at 50 IAC 2.3-1-2).
- b) The Petitioners submitted evidence that the actual cost of construction of their detached garage was \$9,650. *Petitioner Exhibit 1*. This is precisely the type of evidence contemplated by the Manual as being relevant to rebut an assessment. The actual construction cost of the detached garage is substantially less than the \$17,100 for which the garage is currently assessed. *Board Exhibit A*. The Petitioners therefore established a prima facie case of error in assessment.
- c) The Burden shifted to the Respondent to rebut or impeach the Petitioners’ evidence regarding the cost of construction the subject garage. *See Meridian Towers*, 805 N.E. 2d at 479. The Respondent did not do so.
- d) Based on the foregoing, the preponderance of the evidence supports a finding that the current assessment is in error, and that the assessed value of the subject garage should be reduced to \$9,650, rounded to \$9,700.¹ The Petitioners did not present any evidence to demonstrate error in the assessment other than with respect to the subject garage.

Conclusion

16. The Petitioners made a prima facie case. The Respondent did not rebut Petitioners’ evidence. The Board finds in favor of the Petitioners.

17. The assessed value of the detached garage should be the actual cost of construction - \$9,650 rounded to \$9,700.

¹ *See* REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002-VERSION A, ch. 3 at 62 (incorporated by reference at 50 IAC 2.3-1-2) regarding rounding improvement values to the nearest \$100 increment.

Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should 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. You must name in the petition and in the petition's caption the persons who were parties to any proceeding that led to the agency action under Indiana Tax Rule 4(B)(2), Indiana Trial Rule 10(A), and Indiana Code 4-21.5-5-7(b)(4), 6-1.1-15-5(b). The Tax Court Rules provide a sample petition for judicial review. The Indiana Tax Court Rules are available on the Internet at <http://www.in.gov/judiciary/rules/tax/index.html>. The Indiana Trial Rules are available on the Internet at <http://www.in.gov/judiciary/rules/trialproc/index.html>. The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code>.