

PETITIONER BERT S. ENGLER, PRO SE

MARILYN S. MEIGHEN, ATTORNEY FOR RESPONDENT

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

Bert S. Engler,)	Petition No. 88-009-11-1-5-00001
)	
Petitioner,)	
)	
v.)	Parcel No. 88-43-32-000-017.000-009
)	
Washington County Assessor,)	Washington County
)	Jefferson Township
)	2011 Assessment
Respondent.)	

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

March 20, 2013

FINAL DETERMINATION

The Indiana Board of Tax Review (Board) has reviewed the evidence and arguments presented in this case. The Board now enters its findings of fact and conclusions of law.

ISSUE

Is the current 2011 assessment of \$23,500 an accurate market value-in-use for the subject property and does the evidence show what a more accurate assessed valuation would be?

HEARING FACTS AND OTHER MATTERS OF RECORD

1. The property includes 17.625 acres, a single family mobile home, and a lean-to located at 6621 West Christmas Tree Road in Campbellsburg, Indiana.¹
2. The Petitioner initiated an assessment appeal for 2011 with the Washington County Property Tax Assessment Board of Appeals (PTABOA) by timely filing a Form 130 Petition.
3. On June 29, 2012, the PTABOA mailed its Notification of Final Assessment Determination (Form 115) for 2011, concluding that the assessment is \$17,300 for land and \$6,200 for improvements (total \$23,500).
4. On August 8, 2012, the Petitioner filed a Form 131 Petition seeking the Board's review of that 2011 determination. The Form 131 stated the assessed value for 2011 should be \$16,610 for land and \$3,600 for improvements (total \$20,210).
5. Administrative Law Judge Rick Barter held the Board's administrative hearing on October 30, 2012. He did not conduct an on-site inspection of the property.
6. Petitioner Bert Engler, County Assessor Jason Cockerill and licensed Indiana appraiser Richard Sceifers were sworn as witnesses.
7. The Petitioner presented the following exhibits:
 - Petitioner Exhibit A – The property record card (PRC) for the subject property and photographs of the mobile home and storage site,
 - Petitioner Exhibit B – Photographs and PRC of 10974 West Spangler Hill Road,
 - Petitioner Exhibit C – Notice of Assessment by Assessing Official (Form 113) dated February 14, 2012, and the PRC for the subject property,

¹ The property record card shows the parcel has 19.625 acres. The Petitioner and the Washington County Assessor agree the parcel contains only 17.625 acres. The Sceifers' appraisal also placed a value on only 17.62 acres +/-.

Petitioner Exhibit D – Letter from Salem Mobile Homes,
Petitioner Exhibit E – Letter from Baird Mobile Homes,
Petitioner Exhibit F – Sheriff’s deed,
Petitioner Exhibit G – United States Department of Agriculture map of farm
1563,
Petitioner Exhibit H – REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 -
VERSION A, ch. 2 at 105 (incorporated by reference at 50
IAC 2.3-1-2).

8. The Respondent presented the following exhibits:
 - Respondent Exhibit A – Property record cards for the subject property,
 - Respondent Exhibit B – Change of assessment comparison
 - Respondent Exhibit C – Photographs of the subject property,
 - Respondent Exhibit D – Richard Sceifers’ appraisal of the subject property,
9. The following additional items are recognized as part of the record:
 - Board Exhibit A – Form 131 Petition,
 - Board Exhibit B – Notice of Hearing,
 - Board Exhibit C – Hearing sign-in sheet.

SUMMARY OF THE PETITIONER’S CASE

10. The 1986 mobile home on the property has no value. The Petitioner submitted two letters from mobile home dealers stating that the mobile home has no value and it will cost more than \$1,000 to remove from the site. The assessment includes \$1,500 for air conditioning that the mobile home does not have. *Engler testimony; Pet’r Ex. D, E.*
11. A mobile home located at 10974 West Spangler Hill Road is owned by W.S. Roberts, a member of the Washington County PTABOA. The grade of that mobile home is D+2. In contrast, the Petitioner’s mobile is assessed with a grade of C. *Engler testimony; Pet’r Ex. A, B.*
12. The land assessment is for 19.625 acres. In reality the parcel has only 17.625 acres, as shown on a sheriff’s deed issued in July 2008 when the Petitioner bought the property at a sheriff’s sale for \$38,601. *Engler testimony; Pet’r Ex. A, F.*

13. The acreage is based on a road right-of-way that is shown on a map from the United States Department of Agriculture. *Engler testimony; Pet'r Ex. G.* The parcel is not assessed in accordance with Indiana's assessment manual because it should have a 100% negative influence factor applied to that right-of-way. *Engler testimony; Pet'r Ex. H.*
14. The Petitioner is not contending that the assessed value for the mobile home should be reduced to zero. An assessed value of \$3,600 for the mobile home, lean-to, and porch is requested. *Engler testimony.*

SUMMARY OF THE RESPONDENT'S CASE

15. The 2011 assessed value is supported by an appraisal prepared in compliance with the Uniform Standards of Professional Appraisal Practice (USPAP) by Richard Sceifers, a licensed Indiana residential appraiser, real estate broker and auctioneer. He appraised and valued 17.62 acres. He concluded the value was \$27,000 as of March 1, 2011. *Meighen argument; Sceifers testimony; Resp't Ex. D.*
16. A sales comparison approach was used to determine the value of the property. Three comparable sales were used. Details are shown on the comparison grid on page 1 of the appraisal. The appraisal includes studies of Washington County property values and Indiana agricultural land values as determined by the Department of Local Government Finance. Adjustments to the comparable sales account for the required \$1,500 agricultural land base rate. *Sceifers testimony; Resp't Ex. D.*
17. The appraisal placed little or no value on the mobile home. *Sceifers testimony.*
18. Only 17.625 acres are being assessed, even though the PRC says 19.625 acres. This adjustment was made after the Petitioner brought the matter to the Respondent's attention. *Cockerill testimony.*

BURDEN

19. Generally, a taxpayer seeking review of an assessing official's determination has the burden of proving that a property's assessment is wrong and what its correct assessment should 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). Nevertheless, the Indiana General Assembly enacted a statute that in some cases shifts the burden of proof:

This section applies to any review or appeal of an assessment under this chapter if the assessment that is the subject of the review or appeal increased the assessed value of the assessed property by more than five percent (5%) over the assessed value determined by the county assessor or township assessor (if any) for the immediately preceding assessment date for the same property. The county assessor or township assessor making the assessment has the burden of proving that the assessment is correct in any review or appeal under this chapter and in any appeals taken to the Indiana board of tax review or to the Indiana tax court.

IC § 6-1.1-15-17.2

20. In this appeal, both parties agreed the 2011 assessment increased by more than 5%. Therefore, the Respondent has the burden to prove the assessment is correct.

ANALYSIS

21. Real property is assessed based on its "true tax value," which means "the market value-in-use of a property for its current use, as reflected by the utility received by the owner or a similar user, from the property." Ind. Code § 6-1.1-31-6(c); 2002 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 550 IAC 2.3-1-2). There are three generally accepted techniques to calculate market value-in-use: the cost approach, the sales comparison approach, and the income approach. Indiana assessing officials primarily use the cost approach. *Id.* at 3. Indiana promulgated Guidelines that explain the application of the cost approach. The value established by use of the Guidelines is

presumed to be accurate, but it is merely a starting point. Other evidence relevant to market value-in-use can rebut that presumption. That evidence may include actual construction costs, sales information regarding the subject or comparable properties, appraisals, and any other information compiled in accordance with generally accepted appraisal principles. MANUAL at 5.

22. Regardless of the valuation method used, a party must explain how its evidence relates to market value-in-use as of the relevant valuation date. *See O'Donnell v. Dep't of Local Gov't Finance*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006); *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). The valuation date for a 2011 assessment was March 1, 2011. IC 6-1.1-4-4.5(f). Any evidence of value relating to a different date must also have an explanation about how it demonstrates, or is relevant to, that required valuation date. *Long*, 821 N.E.2d at 471.
23. The most effective method to establish value can be through the presentation of a market value-in-use appraisal, completed in conformance with the Uniform Standards of Professional Appraisal Practice. *Kooshtard Property VI, LLC v. White River Twp. Assessor*, 836 N.E.2d 501, 506 n. 6 (Ind. Tax Ct. 2005).
24. The Respondent successfully made a prima facie case that the assessment is correct. Mr. Sceifers' 2011 appraisal at \$27,000 is relevant, probative evidence that the value of the subject property was at least \$23,500 as of March 1, 2011.
25. Once the Respondent establishes a prima facie case, the burden shifts to the Petitioner to rebut the Respondent's evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). The Petitioner must offer evidence that impeaches or rebuts the Respondent's evidence. *Id.*; *Meridian Towers*, 805 N.E.2d at 479.
26. The Petitioner presented statements of value from two mobile home dealers that the Petitioner's mobile home is of no value. But the appraisal also placed little or no value on the mobile home. Because neither party attributed any value to a mobile home, these

statements from the mobile home dealers do nothing to show error in the appraisal presented by the Respondent.

27. The Petitioner purchased the property for \$38,601 in July 2008. In original tax appeals, however, each assessment and each tax year stands alone. *See Thousand Trails Inc. v. State Bd. of Tax Comm'rs*, 747 N.E.2d 1072, 1077 (Ind. Tax Ct. 2001). Nothing in the record relates this purchase price to the relevant valuation date of March 1, 2011. Accordingly, this evidence is of no probative value. *Long*, 821 N.E.2d at 471.
28. According to the Petitioner, the assessment contains errors in total acreage, a lack of a negative influence factor, grade, and air conditioning. Even if that claim is true, the Petitioner failed to make his case by simply contesting the methodology used to compute the assessment. To successfully make his case he needed to show the assessment does not accurately reflect the subject property's market value-in-use. *Eckerling v. Wayne Twp. Assessor*, 841 N.E.2d 674, 677 (Ind. Tax Ct. 2006); *see also P/A Builders & Developers, LLC v. Jennings County Assessor*, 842 N.E.2d 899, 900 (Ind. Tax Ct. 2006) (explaining that proper focus is not on methodology, but rather on what the correct value actually is).
29. The Petitioner did not present substantial, probative evidence to support his claim for an assessment of \$20,210. Furthermore, he failed to rebut the value proved by the Respondent.

SUMMARY OF FINAL DETERMINATION

30. The evidence substantially supports an assessed value of at least \$23,500 for 2011. Therefore, the assessment will not be changed.

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

Commissioner, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

- Appeal Rights -

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5, as amended effective July 1, 2007, by P.L. 219-2007, and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice. The Indiana Tax Court Rules are available on the Internet at: <http://www.in.gov/judiciary/rules/tax/index.html>>. The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>. P.L. 219-2007 (SEA 287) is available on the Internet at <http://www.in.gov/legislative/bills/2007/SE/SE0287.1.html>.