

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

Petition No.: 09-014-08-1-5-00001
Petitioners: Craig L. and Maurice O. Fuller
Respondent: Cass County Assessor
Parcel No.: 09-05-16-300-011.000-014¹
Assessment Year: 2008

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 Cass County Property Tax Assessment Board of Appeals (the PTABOA) by written document on January 22, 2009.
2. The PTABOA issued notice of its decision on November 9, 2009. *See Respondent Exhibit 9.*
3. The Petitioners filed a Form 131 petition with the Board on December 28, 2009. The Petitioners elected to have their case heard according to the Board's small claim procedures.
4. The Board issued a notice of hearing to the parties dated June 9, 2010.
5. The Board held an administrative hearing on August 17, 2010, before the duly appointed Administrative Law Judge (the ALJ) Dalene McMillen.
6. The following persons were present and sworn in at hearing:
 - a. For Petitioners: Maurice O. Fuller, property owner
 - b. For Respondent: Judy Lewis, Cass County Assessor

¹ Mr. Fuller argued that the county incorrectly listed the tax ID number of 1107066011 instead of the parcel number of 09-05-16-300-011.000-014 on his Request for Review before the county. *Petitioner Exhibit 2; Fuller testimony.* Ms. Lewis testified that 1107066011 was the previous parcel number for the property under appeal. *Lewis testimony.*

Facts

7. The subject property is a single-family residence with a shed and detached garage on 1.379 acres located at 1278 North County Road 900 West, Logansport, Jefferson Township, in Cass County.
8. The ALJ did not conduct an on-site inspection of the property under appeal.
9. For 2008, the PTABOA determined the assessed value of the Petitioner's property to be \$14,200 for the land and \$64,900 for the improvements, for a total assessed value of \$79,100.
10. The Petitioners did not request an assessed value on their Form 131 petition. Mr. Fuller contends his primary issue is that the county did not allow him to file any exemptions for the 2007 assessment year.

Issue

11. Summary of the Petitioners' contentions in support of alleged error in their property's assessment:
 - a. Mr. Fuller contends that local officials erred when they would not allow him to file "exemptions" on the Petitioners' property for 2007.² *Fuller testimony; Petitioner Exhibit 2.* Mr. Fuller testified he purchased the property on October 31, 2007. *Id.* After purchasing his property, Mr. Fuller argues, he attempted to file for exemptions in the auditor's office. *Fuller testimony.* According to Mr. Fuller, the auditor's office stated he had missed the deadline for filing for 2007. *Id.* He argues, however, that the deadline for filing 2007 exemptions was extended and therefore the county should have allowed him to file.³ *Id.*
 - b. In addition, Mr. Fuller argues that the PTABOA never issued a determination on his exemption claims for 2007. *Fuller testimony.* Mr. Fuller testified he sent several letters to Ms. Judy Lewis, County Assessor, and Vaneen Ide, County Auditor. *Fuller testimony; Petitioner Exhibits 1, 4, 5 and 7.* According to Mr. Fuller, in his letters, he expressed frustration with the county's inability or lack of action upon his request for exemptions. *Id.*
 - c. Finally, Mr. Fuller contends the assessor made an error on their property record card. *Fuller testimony.* According to Mr. Fuller, the county assessor is assessing

² Both parties use the generic term "exemption" when referring to various credits, deductions and exemptions.

³ Mr. Fuller testified that the local officials also removed the former owner's 2007 exemptions. *Fuller testimony.* This caused the property taxes to increase to \$1,347.46 for 2007 payable 2008. *Id; Petitioner Exhibit 8.*

one of his buildings as a detached garage with living quarters.⁴ *Fuller testimony.* Mr. Fuller contends the building is a storage building and has no living quarters. *Fuller testimony.*

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

- a. The Respondent contends the Petitioners were not allowed to file exemptions for 2007 because they did not own the property on March 1, 2007. *Lewis testimony; Respondent Exhibit 8.* In addition, Ms. Lewis argues, the Petitioners missed the filing deadline for 2007. *Id.*⁵
- b. The Respondent also contends the property under appeal is correctly assessed at \$79,100. *Lewis testimony; Respondent Exhibit 10.* According to Ms. Lewis, as a result of the PTABOA hearing, the 17' x 48' building was changed from a one-story home with an attached utility shed, garage and roof extension to a detached garage with a porch. *Id.* In addition, several other changes were made to the house and pole building. *Id.* Ms. Lewis testified that as a result of all the corrections made to Mr. Fuller's property, the assessed value of the improvements was reduced from \$87,600 to \$64,900 and Mr. Fuller was issued a refund in the amount of \$150.95. *Lewis testimony; Respondent Exhibit 6.*

Record

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

- a. The Form 131 petition and related attachments.
- b. The digital recording of the hearing.
- c. Exhibits:

Petitioner Exhibit 1 – Four certified mail receipts to Judy Lewis, Cass
County Assessor,

Petitioner Exhibit 2 – Petitioners' Request for Review, dated January 22,
2009,

⁴ The Petitioners' property record card shows the size of the building in question to be 17' x 48'. *Respondent Exhibit 10.*

⁵ Ms. Lewis read into the record an August 7, 2009, letter from Brian Thomas, Ad Valorem Solutions to Mr. Fuller. *Lewis testimony; Respondent Exhibit 1.* In the letter, Mr. Thomas addressed the following question; "You not getting the homestead exemption for 2007 pay 2008. A) As I told you when I met you at your property – the Assessor has no authority to accept, deny, or authorize homestead exemptions. The County Auditor accepts the filings for these exemptions and the filing deadlines are statutory. The law is the law. I will reiterate the same thing I told you at the physical inspection of your property. You can continue your complaint about this but the Assessor's office has nothing to do with this exemption and the Auditor's office is following the laws of the State of Indiana." *Id.*

- Petitioner Exhibit 3 – Copy of the Indiana Board of Tax Review Notice of Defect in Completion of Assessment Appeal Form,
- Petitioner Exhibit 4 – Letter from Maurice Fuller to Judy Lewis, dated November 12, 2009,
- Petitioner Exhibit 5 – Letter from Maurice Fuller to Judy Lewis, dated January 25, 2010,
- Petitioner Exhibit 6 – Page 2 of the Form 131 appeal,
- Petitioner Exhibit 7 – Letter from Maurice Fuller to Vaneen Ide, Cass County Auditor, dated January 13, 2010,
- Petitioner Exhibit 8 – 2007 pay 2008 property tax bill for the Petitioners' property,
- Respondent Exhibit 1 – Letter from Brian Thomas, Ad Valorem Solutions, to Maurice Fuller, dated August 7, 2009,
- Respondent Exhibit 2 – Letter and proof of mailing from Judy Lewis to Craig and Maurice Fuller, dated October 8, 2009,
- Respondent Exhibit 3 – Letter from Judy Lewis to Craig Fuller, dated December 3, 2009,
- Respondent Exhibit 4 – Letter from Judy Lewis to Maurice Fuller, dated December 18, 2009,
- Respondent Exhibit 5 – Two letters from Judy Lewis to Maurice Fuller, dated December 17 and 18, 2009, and confirmation of delivery,
- Respondent Exhibit 6 – Letter from Judy Lewis to Maurice Fuller, dated January 15, 2010, and envelope from Maurice Fuller to Judy Lewis, dated January 14, 2010,
- Respondent Exhibit 7 – Two letters from Judy Lewis to Maurice Fuller, dated December 18, 2009, and January 28, 2010, respectively; letter and envelope from Maurice Fuller to Judy Lewis, dated January 27, 2010; and a copy of Petitioners' Request for Review, dated January 22, 2009,
- Respondent Exhibit 8 – Letter from Judy Lewis to Maurice Fuller, dated February 1, 2010; letter from Maurice Fuller to Vaneen Ide, dated January 27, 2010; and Petitioners' Request for Review, dated January 22, 2009,
- Respondent Exhibit 9 – Notification of Final Assessment Determination – Form 115, dated November 9, 2009, and Joint Report by Taxpayer/Assessor to the County Board of Appeals of a Preliminary Informal Meeting – Form 134, dated August 12, 2009,
- Respondent Exhibit 10 – Two property record cards for the Petitioners' property,

Board Exhibit A – Form 131 petition with attachments,
Board Exhibit B – Notice of Hearing,
Board Exhibit C – Hearing sign-in sheet.

- 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 Township 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 Township 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 case. *Id; Meridian Towers*, 805 N.E.2d at 479.
15. The Petitioners failed to provide sufficient evidence to establish a prima facie case. The Board reached this decision for the following reasons:
- a. Mr. Fuller first argues that the local officials erred when they refused to allow him to file his “exemptions” for 2007. *Fuller testimony*.
 - b. In 2007, the Indiana Code provided at least three benefits to homeowners that could reduce an assessment or the homeowner’s tax liability:
 - A homestead credit that was applied against property taxes. Ind. Code § 6-1.1-20.9.⁶

⁶ Indiana Code § 6-1.1-20.9 has since been repealed. P.L. 146-2008 § 813.

- A standard deduction from a homestead’s assessed value. The homeowners were entitled to that standard deduction if they were entitled to a homestead credit for the following year. Ind. Code § 6-1.1-12-37.
- A deduction from a mortgaged property’s assessed value. Ind. Code § 6-1.1-12-1.

However, the homestead credit and standard deduction against property taxes on an individual’s property is granted only to an individual who, on March 1 of a particular year, either owned a homestead or was buying a homestead.⁷ Ind. Code § 6-1.1-12-37 and § 6-1.1-20.9-2. Mr. Fuller testified that he purchased the property under appeal on October 31, 2007. *Fuller testimony*. By Mr. Fuller’s own admission, therefore, the Petitioners did not own or purchase the property on March 1, 2007, and were not eligible for the homestead credit or standard deduction for the March 1, 2007, assessment date. Moreover, the Petitioners failed to present any evidence that the property was mortgaged or that the property was entitled to any other exemption, credit or deduction for the March 1, 2007, assessment year. Nor did Mr. Fuller show that he was not receiving the proper exemptions, credits or deductions for the March 1, 2008, assessment year. Thus, the Board finds that the Petitioners failed to raise a prima facie case that their property was improperly denied any exemption, credit or deduction.

- c. Mr. Fuller also argues that the Assessor erred in the assessment of the Petitioners’ property.
- d. The 2002 Real Property Assessment Manual defines “true tax value” as “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 50 IAC 2.3-1-2). The appraisal profession traditionally has used three methods to determine a property’s market value: the cost approach, the sales-comparison approach and the income approach to value. *Id.* at 3, 13-15. In Indiana, assessing officials generally value real property using a mass-appraisal version of the cost approach, as set forth in the Real Property Assessment Guidelines for 2002 – Version A.
- e. A property’s market value-in-use as determined using the Guidelines is presumed to be accurate. *See* MANUAL at 5; *Kooshtard Property, VI, LLC v. White River Twp. Assessor*, 836 N.E.2d 501,505 (Ind. Tax Ct. 2005); *P/A Builders & Developers, LLC*, 842 N.E.2d 899 (Ind. Tax Ct. 2006). A taxpayer may rebut that assumption with evidence that is consistent with the Manual’s definition of true tax value. MANUAL at 5. A market value-in-use appraisal prepared according to

⁷ Only the person having title to real estate on March 1 is considered to be the owner of that real estate. *See* Indiana Codes § 6-1.1-1-2 and § 6-1.1-1-9.

the Uniform Standards of Professional Appraisal Practice (USPAP) often will suffice. *See Kooshtard Property VI*, 836 N.E.2d at 505, 506 n.1. A taxpayer may also offer sales information regarding the subject property or comparable properties and other information compiled according to generally accepted appraisal principles. MANUAL at 5.

- f. Here, the Petitioners contend the detached garage should be reclassified as a storage building. *Fuller testimony*. The evidence, however, suggests that the structure is, in fact, a garage. Mr. Fuller admitted that the structure has a garage door and that his son “parks his lawnmower” in the building from time to time. *Fuller testimony*. Thus, the Petitioners failed to prove that the Respondent erred in its assessment. Further, even if the Petitioners had shown that the detached garage was assessed incorrectly, which they did not, the Petitioners failed to show that the assessment did not accurately reflect the market value of their property. A Petitioner fails to sufficiently rebut the presumption that an assessment is correct by simply contesting the method the assessor used to compute the assessment. *Eckerling v. Wayne Township Assessor*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006); *P/A Builders & Developers v. Jennings County Assessor*, 842 N.E.2d 899, 900 (Ind. Tax Ct. 2006) (recognizing that the current assessment system is a departure from the past practice in Indiana, stating that “under the old system, a property’s assessed value was correct as long as the assessment regulations were applied correctly. The new system, in contrast, shifts the focus from mere methodology to determining whether the assessed value is *actually correct*”).⁸
- g. Where a taxpayer fails to provide probative evidence that an assessment should be changed, the Respondent’s duty to support the assessment with substantial evidence is not triggered. *See Lacy Diversified Indus. v. Department of Local Government Finance*, 799 N.E.2d 1215, 1221-1222 (Ind. Tax Ct. 2003).

Conclusion

16. The Petitioners failed to prove that they were entitled to receive an exemption, credit or deduction for the March 1, 2007, assessment year or that they were not receiving the exemptions, credits and deductions that they were entitled to for the March 1, 2008, assessment year. The Petitioners also failed to provide sufficient evidence to support a change in the property’s assessment. The Board therefore finds in favor of the Respondent.

⁸ Mr. Fuller also contends the county is assessing the detached garage with living quarters. *Fuller testimony*. Ms. Lewis testified that, as a result of a site inspection of the property and the PTABOA hearing, the Petitioners’ property record card was corrected to reflect there is no living quarters in the detached garage. *Lewis testimony*; *Respondent Exhibit 10*.

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: _____

Chairman,
Indiana Board of Tax Review

Commissioner,
Indiana Board of Tax Review

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 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 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/bills/2007/SE0287.1.html>.