

REPRESENTATIVE FOR PETITIONERS:

Maurice O. Fuller, *pro se*

REPRESENTATIVE FOR RESPONDENT:

Kathy Isaacs, Cass County Assessor

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

Maurice O. and Craig L. Fuller,)	Petition Nos.: 09-014-10-1-5-00001
)	09-014-10-1-1-00002
)	09-014-10-1-1-00003
Petitioners)	
)	Parcel Nos.: 09-05-16-300-011.000-014
)	09-05-16-300-012.000-014
v.)	09-05-16-300-017.000-014
)	
)	County: Cass
Cass County Assessor,)	
)	Township: Jefferson
)	
Respondent.)	Assessment Year: 2010

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

October 3, 2012

FINAL DETERMINATION

The Indiana Board of Tax Review (“Board”), having reviewed the facts and evidence, and having considered the issues, now finds and concludes the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Introduction

1. Maurice and Craig Fuller offered a certified appraisal attempting to prove that their farm, which consists of two agricultural parcels and a homesite, was assessed too high. That appraisal, however, estimates the value of the two agricultural parcels to be much higher than their assessments, which rely on a statewide agricultural land base rate. And while the appraiser apparently estimated the homesite's value as less than its assessment, his analysis is contained in a separate appraisal report that the Fullers did not offer into evidence. The Board therefore upholds the assessments for all three parcels.

Procedural History

2. The Fullers filed Form 130 petitions with the Cass County Assessor contesting the three parcels' March 1, 2010 assessments. On September 23, 2011, the Cass County Property Tax Assessment Board of Appeals ("PTABOA") issued its determinations denying the Fullers relief. The Fullers then timely filed three Form 131 petitions with the Board. The Board has jurisdiction over the Fullers' appeals under Indiana Code §§ 6-1.1-15 and 6-1.5-4-1.
3. On July 10, 2012, the Board's administrative law judge, Jennifer Bippus ("ALJ"), held a hearing on the Fullers' petitions. Neither the Board nor the ALJ inspected the Fullers' property.

Hearing Facts and Other Matters of Record

4. The following people testified under oath:

For the Fullers: Maurice O. Fuller

For the Assessor: Brian Thomas¹

¹ Kathy Isaacs, the Cass County Assessor, was sworn in but did not testify.

5. The Fullers submitted the following exhibits:
 - Petitioners Exhibit A: Appraisal Report on tillable farm land & farm buildings prepared by Sheldon Holsinger.

6. The Assessor submitted the following exhibits:
 - Respondent Exhibit A: Page 1 of Holsinger’s Appraisal report on tillable farm land & farm building.

7. The Board recognizes the following additional items as part of the record of proceedings:
 - Board Exhibit A: Form 131 petitions
 - Board Exhibit B: Hearing notices
 - Board Exhibit C: Hearing sign-in sheet
 - Board Exhibit D: 2009 and 2010 property record cards for the parcels under appeal²

8. The Fullers’ parcels are located at 1278 North County Road 900 West in Logansport. The parties did not formally offer any evidence to show how the parcels were classified for assessment purposes. The Assessor, however, did provide property record cards from which the ALJ read at the Board’s hearing. And those property record cards indicate that parcel 09-05-16-300-011.000-014 was divided into a one-acre homesite and .38 acres of excess residential land. The Board refers to this parcel as the “homesite.” Most of the land in the other two parcels was classified as agricultural.

9. The PTABOA determined the following assessments:

The homesite

Land: \$15,500	Improvements: \$64,800	Total: \$80,300
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Parcel 09-05-16-300-012.000-014

Land: \$22,700	Improvements: \$0	Total: \$22,700
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Parcel 09-05-16-300-017.000-014

Land: \$19,400	Improvements: \$35,400	Total: \$54,800
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² As explained below, neither the Fullers nor the Assessor offered the property record cards as exhibits. But in an extended colloquy, both the ALJ and Mr. Fuller repeatedly referred to information on those cards. The Board therefore includes them as a Board Exhibit.

10. On their Form 131 petitions, the Fullers requested the following assessments:
- Homesite: \$63,500
 - Parcel 09-05-16-300-012.000-014: \$89,790
 - Parcel 09-05-16-300-017.000-000: \$17,535

Parties' Contentions

A. Summary of the Fullers' Evidence and Contentions

11. The Fullers contend that the parcels were incorrectly assessed in light of an "Appraisal report on tillable farm land and farm buildings" ("Farm Appraisal") prepared by Sheldon Holsinger, a certified appraiser. In that Farm Appraisal, Mr. Holsinger explained that he appraised "65.95 acres in SW ¼ Section 16 of Jefferson Township, with the residence and 1.379 acres valued separately (see attached report) . . ." *Pet'rs Ex. A at 1*. Thus, Mr. Holsinger's laid out his appraisal of the Fullers' homesite in a separate "URAR report."³ *Id. at 1, 25*. The Fullers did not submit that URAR report at the Board's hearing.
12. Mr. Holsinger summarized his conclusions as follows:

Market value by type of real estate:

0.5 acres in buildings (see also separate URAR report)		\$60,000
29.93 acres tillable @ \$3,000	=	\$89,790
0.45 acres in road frontage @ \$0	=	\$0
<u>35.07</u> acres in non-tillable @ \$500	=	<u>\$17,535</u>
65.95 total	:	\$167,325
	rounded to	\$167,500
Dwelling with 1.379 acres on URAR report		<u>\$63,500</u>
total of all real estate		\$231,000

Pet'rs Ex. A at 1, 25.

³ The Board assumes that the abbreviation "URAR" stands for "uniform residential appraisal report."

13. At the Board’s hearing, Mr. Fuller mostly focused on the homesite, claiming that it was assessed for significantly more than the value that Mr. Holsinger assigned to it. Mr. Fuller also contended that the Assessor misclassified a building on the homesite as a detached garage. While the building admittedly has a garage door, the Fullers do not park cars in it; they use it as a hog house instead. *Fuller testimony.*
14. The Fullers also dispute the assessments for the two agricultural parcels. According to Mr. Fuller, the Farm Appraisal shows parcel 09-05-16-300-012.000-014 as having 29.93 acres, but the property record card lists only 27.3 acres. *Fuller testimony; Pet’rs Ex. A at 1, 25.* And Mr. Fuller claimed that the parcel’s \$22,700 assessment did not “make any sense.” *Fuller testimony.* Mr. Holsinger valued the 29.93 acres at \$3,000 per acre, which Mr. Fuller testified was “about normal.” *Id.*
15. Similarly, according to Mr. Fuller, the Farm Appraisal shows parcel 09-05-16-300-017.000-000 as having only 35.07 acres, while the parcel’s property record card lists 38.8 acres. The property record card also includes a building that Mr. Fuller called a “lean-to,” which Mr. Fuller claimed was no longer on the property. *Fuller testimony.* The Farm Appraisal valued the 35.07 acres of land at \$17,535. *Id.; Pet’rs Ex. A at 1, 25.*
16. Finally, Mr. Fuller believes that the property tax system is too complicated. In his view, assessments should be done by professional appraisers and Indiana should adopt a “flat tax.” *Fuller argument.*

B. Summary of the Assessor’s Evidence and Contentions

17. Mr. Thomas, the Assessor’s witness, acknowledged that the measured area from Mr. Holsinger’s appraisal did not necessarily match what was reported on the property record cards. But Mr. Thomas met with Mr. Fuller and toured the property to try to ascertain “how it all works out.” *Thomas testimony.* Mr. Thomas explained that, at the end of the day, the parcels are collectively assessed for less than what Holsinger estimated in his appraisal. *Id.*

Administrative Review and the Parties' Burdens

18. Generally, a taxpayer seeking review of an assessing official's determination must make a prima facie case proving both that the current assessment is incorrect and what the 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).
19. In making its case, the taxpayer must explain how each piece of evidence relates to its 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”).
20. If the taxpayer makes a prima facie case, the burden shifts to the assessor to offer evidence to rebut or impeach the taxpayer's evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004); *Meridian Towers*, 805 N.E.2d at 479.

Discussion

21. Indiana assesses real property based on its true tax value, which the 2002 Real Property Assessment Manual defines 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.” 2002 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.3-1-2). A party's evidence in a tax appeal must be consistent with that standard. *See id.* For example, a market-value-in-use appraisal prepared according to Uniform Standard of Professional Appraisal Practice (“USPAP”) often will be probative. *See id.*; *Kooshtard Property VI, LLC v. White River Twp. Assessor*, 836 N.E.2d 501, 506 n.6 (Ind. Tax Ct. 2005) *reh'g den. sub nom.* A party may also offer actual construction costs, sales information for the subject or comparable properties, and any other information compiled according to generally acceptable appraisal principles. MANUAL at 5.

22. By contrast, a taxpayer does not necessarily rebut the presumption that a property's assessment is correct simply by contesting the methodology that the assessor used to compute it. *See Eckerling v. Wayne Twp. Assessor*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006). Instead, the taxpayer must show that the assessor's methodology yielded an assessment that does not accurately reflect the property's market value-in-use. *Id.* And strictly applying the Guidelines is not enough to make that showing. *Id.*

23. As to the homesite, the Fullers point to a line in the Farm Appraisal where Mr. Holsinger lists that parcel as having a value of \$63,500. As explained above, however, Mr. Holsinger performed a separate appraisal and prepared a separate report (the URAR report) for the homesite. Presumably, the URAR report lays out the analysis underlying Mr. Holsinger's valuation opinion for that parcel. In any case, the Farm Appraisal does not contain that analysis. The Board is therefore left with Mr. Holsinger's entirely conclusory assertion about the homesite's market value, without any evidence to show that he arrived at his opinion by applying generally accepted appraisal principles. Such conclusory assertions, even when made by an appraiser, lack probative value. *See Inland Steel Co. v. State Bd. of Tax Comm'rs*, 739 N.E.2d 201, 220 (Ind. Tax Ct. 2000)(finding that an expert's testimony that the Producer Price Index ("PPI") should be used to convert obsolescence from 1993 dollars to 1985 dollars lacked probative value where the expert did not explain what the PPI represented, how it was calculated, or why it was appropriate).

24. In addition, the Fullers claim that the Assessor misclassified a building on the homesite as a garage when the Fullers actually use it as a hog barn. That amounts to little more than a challenge to the Assessor's methodology in computing the homesite's assessment. As explained above, such challenges do not suffice to rebut the presumption that a property was accurately assessed. *See Eckerling*, 841 N.E.2d at 678. In any case, Mr. Fuller's brief description of the structure does nothing to show that the Assessor misclassified the structure. If anything, it tends to support the Assessor's classification.

25. The Fullers also rely on Mr. Holsinger’s Farm Appraisal for their challenge to the agricultural parcels’ assessments. Of course, Mr. Holsinger appraised those parcels at \$167,500, which is \$90,000 more than the parcels’ combined assessment of \$77,500. Thus, Mr. Holsinger’s Farm Appraisal does not help the Fullers on their claims regarding the two agricultural parcels. In fact, it is unclear whether the Fullers were even seeking to have the assessments for both those parcels lowered. On their Form 131 petition for parcel 09-06-300-012.000-014, the Fullers actually requested a total value of \$89,790—almost \$35,000 more than the parcel’s assessment.
26. The Fullers, however, also claim that the agricultural parcels were assessed based on different measurements than what Mr. Holsinger used in his Farm Appraisal. The Fullers apparently view Mr. Holsinger’s breakdown of the land into 29.93 tillable acres and 35.07 non-tillable acres as equating to the acreage contained in the respective tax parcels. But Mr. Holsinger’s breakdown between tillable and non-tillable acres was not intended as an allocation between tax parcels. To the contrary, later in the Farm Appraisal, Mr. Holsinger provided a chart showing how the 29.93 acres of tillable land was allocated between the two tax parcels—one parcel had 12.8 tillable acres while the other had 17.13 tillable acres. *Pet’rs Ex. A at 4*. Also, the Fullers’ reading of the Farm Appraisal ignores the additional acreage that Mr. Holsinger included in his breakdown: .5 acres “in buildings” and .45 acres “in road frontage.” *Pet’rs Ex. at 1, 25*. In fact, Mr. Holsinger listed a total 65.95 acres between the two parcels. That is only slightly less than the 66.13 acres listed on the parcels’ property record cards. And the Fullers offered no evidence to help the Board resolve which of the two measurements was more accurate.
27. Similarly, while Mr. Fuller testified that a “lean-to” included in one of the agricultural parcel’s assessments no longer exists, the relevant question is whether it existed on March 1, 2010. And the Fullers did not address that point. The Fullers therefore failed to meet their burden of proof for changing the agricultural parcels’ assessments.

28. Finally, the Fullers' arguments regarding the qualifications of assessors and the property tax system in general are better addressed to the General Assembly. The Board lacks jurisdiction to address those arguments.

SUMMARY OF FINAL DETERMINATION

29. The Fullers failed to make a prima facie case for changing any of the subject parcels' assessments. The Board therefore finds for the Assessor.

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

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 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>>.