

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

Petition #: 84-025-02-1-5-00002
Petitioners: Gerald J. & Patricia D. Weber
Respondent: Fayette Township Assessor (Vigo County)
Parcel #: 101-02-17-454-003
Assessment Year: 2002

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 Vigo County Property Tax Assessment Board of Appeals (PTABOA) on September 19, 2003.
2. The Petitioners received notice of the decision of the PTABOA dated April 2, 2004.
3. The Petitioners filed an appeal to the Board by filing a Form 131 with the county assessor on April 19, 2004. Petitioners elected to have this case heard in small claims.
4. The Board issued a notice of hearing to the parties dated July 16, 2004.
5. The Board held an administrative hearing on September 22, 2004, before the duly appointed Administrative Law Judge, Joan L. Rennick.
6. Persons present and sworn as witnesses at the hearing:
 - a) For Petitioners — Gerald J. Weber
 - b) For Respondent — Deborah J. Lewis, Vigo County Assessor
Ann Akers, PTABOA member
Gloria Donham, PTABOA member
Robert Walls, PTABOA member

Facts

7. The property is classified as Residential, as is shown on the property record card for parcel # 1010217454003.
8. The Administrative Law Judge did not conduct an inspection of the property.
9. Assessed Value of subject property as determined by the Vigo County PTABOA:

Land \$23,700	Improvements \$104,100	Total \$127,800
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10. Assessed Value requested by Petitioners:
Land \$16,250 Improvements \$ 98,900 Total \$115,150

Issues

11. Summary of Petitioners' contentions in support of alleged error in assessment:
- a) The land value should be based on \$26,000 per acre. *Weber testimony.*
 - b) The subject property is .65 acre. *Id.*
 - c) Land values of two neighbors in the same subdivision are based on \$26,000 per acre. *Id.*
 - d) The subject lot is $\frac{1}{3}$ to $\frac{1}{4}$ worthless because of a ravine. *Id.*
 - e) Petitioners purchased the lot next to subject property for access to a better road. *Id.*
 - f) The subject is a nice 34-year-old home. It should not be rated in good condition, but rather in average condition. *Id.*
 - g) The township assessor agreed on these issues. *Id.*
12. Summary of Respondent's contentions in support of the assessment:
- a) The small acreage adjustment table was used for the land value calculation for the subject, which is .65 acre. The neighbors' properties are over one acre. While preparing for this hearing, the county assessor's office did a review of neighboring parcels in the subject neighborhood to determine if the parcels were being assessed at the same rate. The neighboring parcels all have lots that are over one acre. The Petitioners are the only ones affected by the small acreage adjustment table. *Lewis testimony.*
 - b) At the PTABOA hearing, the Petitioners stated they purchased the lot next to the subject, and it was suggested that they combine the parcels. Both lots combined would be over one acre and they would no longer be assessed from the small acreage adjustment table. *Id.*
 - c) The PTABOA reviewed the condition of the houses in the neighborhood and it appeared the majority of the houses in the neighborhood are assessed in good condition with the exception of one in average condition. *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 BTR # 5618,
 - c) Petitioners Exhibit 1: Map showing the property and the ravine,
 - d) Respondent Exhibit 1: Property record card of the subject property,
 - e) 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. Wash. 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. Petitioners did not provide sufficient evidence to support their contentions. This conclusion was arrived at because:

Land Valuation

- a) The Petitioners' land is currently being assessed using a base rate of \$26,000. That is the base rate they requested. Because the Petitioners' land is less than an acre, an Acreage Size Adjustment Factor must be applied to the base rate. REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 — VERSION A (GUIDELINES), ch. 2 at 70.
- b) The Acreage Size Adjustment Factor for .65 acre is 1.40. The assessment is computed as follows:
$$\begin{aligned} \$26,000 \times 1.40 &= \$36,400 \text{ (Acreage Adjusted Rate)} \\ \$36,400 \times .65 \text{ acre} &= \$23,660. \end{aligned}$$
GUIDELINES, ch. 2, at 72 – 73
- c) This amount is the same as the current land value indicated on the property record card. Accordingly, no change is required to correct this calculation.
- d) Petitioners also contend that $\frac{1}{3}$ to $\frac{1}{4}$ of the land is unusable due to a ravine. Petitioners presented no evidence to quantify any negative impact the ravine may have on the value of the land. Unsubstantiated conclusory statements 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).
- e) Petitioners failed to establish any error in the valuation of their land.

Condition

- f) Condition is defined as a rating assigned each structure that reflects its effective age in the market. It is determined by inspection of the structure and by relating the structure to comparable structures within the subject’s neighborhood. GUIDELINES, App. B at 5.
- g) Good condition means, “[t]he structure has been maintained in better physical condition than the majority of the structures in the neighborhood and suffers from no deferred maintenance. It offers more amenities and has better utility than the majority of the structures in the neighborhood. It is in a better location within the neighborhood than the majority of structures.” *Id.* at 7.
- h) Average condition means “[t]he structure has been maintained like and is in the typical physical condition of the majority of structures in the neighborhood. It offers the same utility as the majority of the structures in the neighborhood. It has the same location influences as the majority of structures in the neighborhood.” *Id.*
- i) Petitioners must show both (1) the level of deterioration of the property, and (2) the manner in which the deterioration affected the building’s remaining usefulness. *Fleet Supply, Inc., v. State Bd. of Tax Comm’rs*, 747 N.E.2d 645, 650 (Ind. Tax Ct. 2001).
- j) Petitioners presented no evidence of the amount of physical deterioration, the amount of maintenance required to restore the dwelling to perfect condition, or evidence of similarly situated properties receiving the condition rating they sought. Petitioners instead simply concluded that a 34-year-old house should be in average condition. Unsubstantiated conclusory statements do not constitute probative evidence. *Whitley Products*, 704 N.E.2d at 1119.

Conclusions

16. Petitioners failed to make a prima facie case. The Board finds in favor of 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.