

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

Petition #: 53-011-02-1-4-00221A
Petitioner: Larry and Patricia Hall (Hall Signs)
Respondent: Richland Township Assessor
Parcel #: 0072815015
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 Petitioner initiated an assessment appeal with the Monroe County Property Tax Assessment Board of Appeals (PTABOA) by written document dated June 2, 2003.
2. The Petitioner received notice of the decision of the PTABOA on November 24, 2003.
3. The Petitioner filed an appeal to the Board by filing a Form 131 with the county assessor on December 3, 2003. The Petitioner elected to have this case heard in small claims.
4. On January 7, 2004, the Board issued a Notice of Defect in Completion of Assessment Appeal Form. The Petitioner did not respond to the Notice of Defect.
5. On February 13, 2004, the Board issued a Final Determination denying the petition for failure of the Petitioner to comply with the Notice of Defect provisions.
6. On February 21, 2004, the Petitioner requested a rehearing before the Board.
7. On March 4, 2004, the Board granted the Petitioner's request for rehearing.
8. The Board issued a notice of hearing to the parties dated March 10, 2004.
9. The Board held an administrative hearing on May 6, 2004, before the duly appointed Administrative Law Judge Debra Eads.
10. Persons present and sworn in at hearing:
 - a) For Petitioner: Fred McCarter, CMI
Rhonda Green

- b) For Respondent: Judith Sharp, County Assessor
 Peter Amundson, Nexus Group

Joni Fishman was present for the County but was not sworn in and did not testify. Marilyn Meighen acted as attorney for the County and the Township and was not sworn in.

Facts

11. The property is classified as industrial, as is shown on the property record card for parcel # 0072815015.
12. The Administrative Law Judge (ALJ) did not conduct an inspection of the property.
13. Assessed Value of subject property as determined by the Monroe County PTABOA: Land \$170,000, Improvements \$2,286,300.
14. Assessed Value requested by Petitioner: Land \$170,000, Improvements \$1,500,700.

Issues

15. Summary of Petitioner's contentions in support of alleged error in assessment:
 - a) The Petitioner contends the assessed value of the building exceeds the cost of construction of the improvement.
 - b) Cost of construction for the improvements, not including paving and landscaping, was \$1,300,000 in 1996. Trending of that amount to the valuation date of January 1, 1999 results in a value for the building as \$1,397,500. (Petitioner Exhibit 1)
 - c) Petitioner requests value for the building of \$1,397,500, plus the current value of the paving (\$103,200) and land (\$170,000), regardless of whether the building is priced as a GCI wall type 3 or a GCK building. (Petitioner Exhibit 1)
 - d) In answer to a question by the ALJ, the price paid by the Petitioner for the construction of the building was the same price any other potential client would have paid for the same building. (McCarter testimony)
16. Summary of Respondent's contentions in support of the assessment:
 - a) Challenges to appeals must be based on "aggregate data, rather than individual evidence of property wealth". (Respondent Exhibit 1)
 - b) Testimony pertained to whether the subject building should be classified as GCI wall type 3 or GCK for purposes of determining the appropriate replacement cost. (Amundson testimony)
 - c) Concern was expressed that the letter (Petitioner Exhibit 1) indicating the cost of construction did not include "mass excavation" nor was the cost broken down into the individual components. (Amundson testimony)

Record

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

- a) The Petition, and all subsequent pre-hearing, and post-hearing submissions by either party.
- b) The tape recording of the hearing labeled BTR #5904.
- c) Exhibits:

Petitioner Exhibit 1: Narrative detailing petitioner contentions; June 23, 2003 memo from Roger Todd to Fred McCarter; April 20, 2004 letter from Erik Nordahl to Fred McCarter; Page 85 Chapter 2 Version A of the Real Property Assessment Guidelines; Page 38 Appendix D Version A of the Real Property Assessment Guidelines; Light pre-engineered kit building checklist; Nucor building systems specification sheet for the subject building; Two page summary of Tax Court case regarding kit buildings compiled by CMI; Petitioner pricing of subject building using GCI wall type 3; Petitioner pricing of subject building using GCK schedule; and Nine (9) photos of the subject.

Respondent Exhibit 1: Assessor pre-hearing brief

Respondent Exhibit 2: Property record card for the subject property

Respondent Exhibit 3: Eight (8) photos of the subject property

Board Exhibit A: Form 131 petition with attachments including: Form 130; Form 115; POA; Property Record Card; Building Checklist

Board Exhibit B: Notice of Hearing on Petition - Rehearing

Board Exhibit C: Rehearing correspondence

Board Exhibit D: Notice of Appearance of Marilyn Meighen on behalf of the Richland Township Assessor.

- d) These Findings and Conclusions.

Analysis

18. The most applicable governing cases are:

- a) The petitioner must sufficiently explain the connection between the evidence and petitioner's assertions in order for it to be considered material to the facts. See generally, *Heart City Chrysler v. State Bd. of Tax Comm'rs*, 714 N.E.2d 329, 333 (Ind. Tax Ct. 1999).
- b) The Board will not change the determination of the County Property Tax Assessment Board of Appeals (PTABOA) unless the petitioner has established a prima facie case and, by a preponderance of the evidence proven, both the alleged errors in the assessment, and specifically what assessment is correct. See *Clark v.*

State Bd. of Tax Comm'rs, 694 N.E.2d 1230 (Ind. Tax Ct. 1998); North Park Cinemas, Inc. v. State Bd. of Tax Comm'rs, 689 N.E.2d 765 (Ind. Tax Ct. 1997).

19. The Petitioner did provide sufficient evidence to support the Petitioner's contentions.

This conclusion was arrived at because:

- a) The Petitioner submitted evidence of the actual cost of the improvement at the time of construction and then trended that cost to the January 1999 assessment date. The Respondent challenged neither the trending method nor the adjustment percentage applied.
- b) The Respondent failed to address the evidence in a meaningful fashion. The only rebuttal of the cost evidence was a vague reference to the lack of mass excavation cost for a pit and flooring for a crane. The pit is used in the coating of signs. *Amundson testimony*. The Petitioner stated that the crane and all costs associated with the crane are personal property. The pit is also personal property. The Petitioner made reference to the personal property regulation (Regulation 16). *McCarter testimony*. Pursuant to 50 IAC 4.3-4-10(e), crane foundations are personal property. Pits for equipment or processing are also personal property. Therefore, any excavation costs for the crane and pit would not be included in the cost of the building.
- c) The Respondent also made reference to the lack of a breakdown of the total cost into individual components. The breakdown of cost into components would not in any way affect the final total construction cost.
- d) Respondent based their argument on the adherence to the Real Property Assessment Guidelines and the classification of the improvements as GCK or GCI wall type 3. Adherence to the Guidelines alone is insufficient to establish the appropriateness of the assessment.
- e) The Petitioner was correct in their statement that classification of the subject improvements for purposes of determining the cost is largely inconsequential when the actual cost of construction of the specific building is available.
- f) Respondent failed to rebut the Petitioner statement that the cost of construction paid by the Petitioner was different than would have been available to anyone else. Therefore, the aggregate data vs. individual property wealth concern is not valid.

Conclusions

20. The Petitioner made a prima facie case. The Respondent did not rebut Petitioner's evidence. Actual cost of construction of the subject improvements outweighs adherence to the Real Property Assessment Guidelines cost schedules with regard to the improvement assessment value.

21. The Board finds in favor of Petitioner.

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.