

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

Petition: 51-007-12-1-6-00001
Petitioner: Rosemary Harder
Respondent: Martin County Assessor
Parcel: 51-407-00040-00
Assessment Year: 2012

The Indiana Board of Tax Review (Board) issues this determination, finding and concluding as follows:

Procedural History

1. On March 14, 2012, the Petitioner, Rosemary Harder, filed a Form 130 petition challenging the subject property's assessment. On January 10, 2013, the Martin County Property Tax Assessment Board of Appeals ("PTABOA") issued a notice of its determination reducing the assessment, although apparently not to the extent that the Petitioner wanted. She responded by timely filing a Form 131 petition with the Board. She elected to have her appeal heard under the Board's small claims procedures.
2. On February 11, 2014, the Board's administrative law judge, Ron Gudgel, held a hearing on the Petitioner's appeal. Neither he nor the Board inspected the property.
3. The following people testified: the Petitioner; Kirk Reller, a real property advisor for the Martin County Assessor; and Carolyn McGuire, the Martin County Assessor.

Facts

4. The subject property consists of a mobile home and deck. The land on which they sit is assessed as a separate parcel and is not part of this appeal.
5. The PTABOA determined an assessment of \$5,900—\$4,900 for the mobile home and \$1,000 for the deck.
6. The Petitioner did not request a specific value.

Record

7. The official record contains the following:
 - a. The Form 131 petition,
 - b. A digital recording of the hearing,
 - c. Respondent Exhibit A: Form 130 petition,
Respondent Exhibit B: Property record card and photograph of the subject property,
Respondent Exhibit C: Form 115, Notification of Final Determination,
Respondent Exhibit D: Property record card with changes made by the PTABOA,
Respondent Exhibit E: Form 131 petition,
Respondent Exhibit F: Value report from NADA Appraisal Guide,
Respondent Exhibit G: Schedules E.2 and F from Appendix C to the 2011 Real Property Assessment Guidelines,

Board Exhibit A: Form 131 petition,
Board Exhibit B: Notice of Hearing-Reschedule, dated December 5, 2013,
Board Exhibit C: Hearing sign-in sheet,
 - d. These Findings and Conclusions.

Burden

8. Generally, a taxpayer seeking review of an assessing official's determination has the burden of 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). The taxpayer must explain how each piece of evidence relates to the 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”). If the taxpayer makes a prima facie case, the burden shifts to the assessor to offer evidence to impeach or rebut 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
9. Indiana Code § 6-1.1-15-17.2, as amended,¹ creates an exception to that general rule and shifts the burden of proof from the taxpayer to the assessor in two circumstances. Where the assessment under appeal represents an increase of more than 5% over the prior year's

¹ The amendments to Ind. Code § 6-1.1-15-17.2 became effective with the Governor's signature on March 25, 2014. *See* P.L. 97-2014 (indicating that the Act containing the amendments is effective upon passage). The statute, as amended, applies to “all appeals or reviews pending on the effective date of the amendments” *Id.*; I.C. § 6-1.1-15-17.2(e) (2014).

assessment for the same property, the assessor has the burden of proving that the assessment under appeal is correct. I.C. § 6-1.1-15-17.2(b). The assessor also has the burden where a property's gross assessed value was reduced in an appeal, and the assessment for the following assessment date represents an increase over "the gross assessed value of the real property for the latest assessment date covered by the appeal, regardless of the amount of the increase" See I.C. § 6-1.1-15-17.2(d).

10. The subject property was first assessed in 2012—there is no assessment for the previous year. Indiana Code § 6-1.1-15-17.2 therefore does not apply, and the Petitioner retains the burden of proof.

Contentions

11. Summary of the Petitioner's case:
 - a. The Petitioner does not understand why the land under her mobile home was assessed to a different parcel. She is not particularly troubled by the mobile home's assessment after the PTABOA lowered it. But she noted that in searching the National Automobile Dealers Association ("NADA") appraisal guide, the Respondent identified the home as "economy," while she considers it "standard." The report from the Respondent's search shows the manufacturer as unknown but the certificate of title identifies the manufacturer as Skyline. Also, while the report shows the value of the home's skirting at \$291, the skirting is old and has holes. She does not believe it is worth \$200. *Harder testimony; Resp't Ex. F.*
 - b. The home also has other problems. Its windows are in bad shape. Both the back door, which has buckled from the weather, and the front screen door need to be replaced. So does the home's shingle roof, which was about 16 years old on the assessment date. *Harder testimony.*
 - c. The Petitioner mainly disputes the deck's assessment. She talked to "people" at Home Depot about getting "kind of an estimate" for building the deck. They told her it would cost "maybe" \$400. That was for a new deck; the existing one was around 16 years old on the assessment date. She could not sell it for anywhere near its \$1,000 assessment. She does not even know why the deck is part of the assessment because it is not attached to the mobile home. *Harder testimony.*
 - d. The Petitioner rents the mobile home out. She bought the home and deck together, but she does not remember how much she spent. She had footers put in and bought anchors. It cost about \$1,200 to move the mobile home and set it up. *Harder testimony.*

12. Summary of the Respondent's case:

- a. The Respondent did not discover the mobile home until her office began working on the 2012 general reassessment. Thus, she first assessed the home in 2012. She assessed it as personal property for the January 15, 2012 assessment date. Because the Petitioner said that the home had a foundation, the PTABOA added the home to the land for 2013.² The PTABOA also corrected the home's age to reflect that it was built in 1996 rather than 2004. The home is sketched and priced at 14 feet by 56 feet. The Respondent priced the deck using the Residential and Agricultural Cost Schedule for exterior features from the 2011 Real Property Assessment Guidelines. *Reller testimony; McGuire testimony; Resp't Exs. D-G.*
- b. To meet her burden of proof, the Petitioner needed to offer probative evidence of the property's market value-in-use as of the assessment date. She failed to do so. Without any written document, her testimony about an estimate from Home Depot is hearsay.³ And her testimony about the home's condition is conclusory. *Reller argument.*

Analysis

13. The Petitioner failed to make a prima facie case for changing the assessment. The Board reaches this decision for the following reasons:

- a. The parties agree that the home at issue is a mobile home. The relevant statutes and regulations provide different methods for assessing mobile homes. Choosing the appropriate method for a given mobile home depends on various factors:
 - If it is regularly used to rent or otherwise furnish residential accommodations for periods of 30 days or more, the gross rent multiplier is the preferred valuation method. *See* I.C. § 6-1.1-4-39; *see also* I.C. § 6-1.1-31-7.
 - If the home has a certificate of title issued by the Indiana Bureau of Motor Vehicles under Ind. Code § 9-17-6 and is not on a permanent foundation, the DLGF's regulations define it as an "annually assessed mobile home." 50 IAC 3.3-2-2. Annually assessed mobile homes and exterior features, yard structures, and improvements owned by the mobile homeowner and located on the same parcel as the mobile home, are assessed on January 15 of each year. 50 IAC 3.3-3-1(d); 50 IAC 3.3-4-1(a). They have a true tax value

[S]et at the least of the values determined using:

² The Board infers from the Respondent's testimony that the mobile home was assessed as real property for 2013.

³ The Respondent did not object to the admissibility of Ms. Harder's hearsay testimony. On the other hand, it is not clear that Ms. Harder was even testifying at the time. She made the statement during an exchange in which she was cross-examining Mr. Reller.

- (1) the National Automobile Dealers Association Guide;
- (2) the purchase price of the mobile home if the:
 - (A) sale is of a commercial enterprise nature;
 - (B) buyer and seller are not related by blood or marriage; and
 - (C) sale date is within one (1) year prior to or subsequent to the January 15 valuation date; or
- (3) sales data for generally comparable mobile homes.

50 IAC 3.3-5-1; *see also*, 50 IAC 3.3-3-1(d) and I.C. § 6-1.1-31-7(b)(6).

- If the mobile home has a recorded affidavit of transfer to real property or has a certificate of title issued by the Indiana Bureau of Motor Vehicles under Ind. Code § 9-17-6 and is attached to a permanent foundation,⁴ the DLGF's regulations identify it as a "real property mobile home." 50 IAC 3.3-2-4. Real property mobile homes are assessed on March 1 of each year under the DLGF's assessment rules for real property. 50 IAC 3.3-3-1(b); 50 IAC 3.3-4-1(b).
- b. Although the Petitioner rented out the mobile home, she did not say what rent she charged or otherwise attempt to show its value using a gross rent multiplier. Turning to the other two methodologies, it is not clear whether the Respondent properly classified the property as an annually assessed mobile home or whether she should have instead classified it as real property. The PTABOA apparently agreed that the home was on a permanent foundation and ordered it to be assessed as real property starting in 2013.
 - c. Even if one assumes that Respondent improperly classified the property as an annually assessed mobile home for 2012 and that the Respondent should have assessed it as real property, the Petitioner offered little to show the home or deck's market value-in-use under the 2011 Real Property Assessment Manual and Guidelines. At most, she offered a vague, unreliable hearsay statement from unidentified people at Home Depot about the approximate cost to build a replacement deck, and described some deterioration in the home. That does not suffice to make a *prima facie* case.
 - d. If, on the other hand, one assumes that the Respondent properly classified the property as an annually assessed mobile home, the Petitioner did almost nothing to show that the assessment was wrong, much less what the correct assessment should be. Although she took issue with how the NADA guide valued the home's skirting, she did not offer evidence to show that generally comparable mobile homes sold for

⁴ The regulations define a permanent foundation as "any structural system capable of transposing loads from a structure to the earth at a depth below the established frost line." 50 IAC 3.3-2-3.5.

less. She likewise could not say how much she paid for the property. In any case, she bought it well before the January 15, 2012 assessment date.

Conclusion

14. The Petitioner failed to make a prima facie case for changing the assessment. The Board therefore finds for the Respondent.

Final Determination

In accordance with the above findings of fact and conclusions of law, the 2012 assessed value should not be changed.

ISSUED: August 11, 2014

Chairman, 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 and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required not later than forty-five (45) days after the date of this notice. The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>. The Indiana Tax Court's rules are available at <<http://www.in.gov/judiciary/rules/tax/index.html>>.