

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

Petition #: 20-015-03-1-6-00040
Petitioners: Henry A. & Ruth Riga
Respondent: Elkhart Township Assessor (Elkhart County)
Parcel #: Brookside Park Lot 8
Assessment Year: 2003

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 Elkhart County Property Tax Assessment Board of Appeals (the “PTABOA”) by written document dated March 6, 2003.
2. The PTABOA mailed notice of its decision to the Petitioners on October 23, 2003.
3. The Petitioners filed an appeal to the Board by filing a Form 131 with the county assessor on November 21, 2003. Petitioners elected to have this case heard in small claims.
4. The Board issued a notice of hearing to the parties dated March 25, 2004.
5. The Board held an administrative hearing on June 9, 2004, before the duly appointed Administrative Law Judge Joseph Stanford.
6. Persons present and sworn in at the hearing:
 - a) For Petitioners: Ruth Riga (Taxpayer)
 - b) For Respondent: Becca Briscoe (Elkhart Township Assessor)
Cathy Searcy (Elkhart County PTABOA)

Facts

7. The property is classified as a mobile home, and includes a utility shed and a deck. The subject property was assessed as personal property.

8. The Administrative Law Judge did not conduct an inspection of the property.
9. Assessed Value of subject property as determined by the Elkhart County PTABOA: \$10,000 (\$8,500 for the mobile home and \$1,500 for a utility shed and a deck).
10. Assessed Value requested by Petitioners: \$8,010 (\$6,510 for the mobile home and \$1,500 for the utility shed and deck).

Issue

11. Summary of Petitioners' contentions in support of alleged error in assessment:
 - a) Mr. & Mrs. Riga purchased the mobile home, including the shed and the deck, for \$8,500 in 1998. Mrs. Riga contends that mobile homes should depreciate in value. (*Riga testimony*).
 - b) The property was originally assessed at \$20,000 for the 2003 assessment year. It was lowered twice after questioning the assessment. (*Riga testimony*).
 - c) Mrs. Riga calculated that the property's assessment should be \$6,510 in 2003. This calculation was based on the decreasing value of past assessments. In 1999, the property's assessed value was \$7,800. The 2000 assessed value was \$7,410. The 2001 assessed value was \$7,290. The 2002 assessed value was \$6,900. (*Riga testimony*).
 - d) Mrs. Riga agrees with the township assessor that, when using the National Automobile Dealers Association (NADA) Guide, the subject property falls into the "average retail" category. The NADA Guide shows a value of \$8,337 for the subject mobile home. (*Riga testimony*).
12. Summary of Respondent's contentions in support of the assessment:
 - a) In Elkhart County, mobile homes were originally assessed using the 2002 Version A - Real Property Assessment Guideline. When those values appeared to be too high, a 45% obsolescence factor was placed on all mobile homes. This reduced the subject property from \$20,000 to \$11,300. On appeal, the NADA value was introduced into evidence, and the assessment was lowered to \$10,000. (*Briscoe testimony*).
 - b) The Township officials ignored evidence of an additional full bath that exists. This would have raised the assessment another \$1,200. (*Briscoe testimony*).
 - c) The PTABOA determined that the NADA price was better evidence than Mrs. Riga's opinion of value. Ms. Searcy noted that a new assessment manual was adopted for the 2003 assessment, with assessments based on market value. Thus, comparisons with previous assessments would not be accurate. No motion was made at the PTABOA hearing to open the issue of bathroom fixtures. (*Searcy testimony*).

Record

13. 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 #5819.
- c) Exhibits:

Petitioners Exhibit 1: Application for Certificate of Title for subject mobile home.

Respondent Exhibit 1: Notification of Final Assessment determination, Form 115, and Petition to the Property Tax Assessment Board of Appeals for Review of Assessment, Form 130.

Respondent Exhibit 2: Telephone conversation notes dated March 13, 2003.

Respondent Exhibit 3: NADA pricing guide.

Respondent Exhibit 4: Letter to Mr. & Mrs. Riga.

Respondent Exhibit 5: Property record card after 45% obsolescence was applied.

Respondent Exhibit 6: Department of Local Government Finance depreciation table.

Respondent Exhibit 7: Press release.

Respondent Exhibit 8: News article.

Respondent Exhibit 9: Comparison study conducted by John Loos, Cleveland Township Assessor.

Respondent Exhibit 10: Notice of Representation.

- d) These Findings and Conclusions.

Analysis

14. The most applicable governing law is:

- 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).

15. The Petitioners did not provide sufficient evidence to support the Petitioners' contentions. This conclusion was arrived at because:
- a) The actual purchase price of the subject property may provide probative evidence of market value. In this appeal, however, the Petitioners paid \$8,500 for the property *five years* prior to the assessment date in question. The Petitioners established no link between the 1998 purchase price and the 2003 assessed value of the property. *Heart City Chrysler v. State Board of Tax Commissioners*, 714 N.E. 2d 329 (Ind. Tax 1999).
 - b) The past years' assessment data used by the Petitioners is not related to the 2003 market value. Prior to 2002, assessments were not based on actual market value. A Petitioner cannot, therefore, use prior years' assessments to accurately calculate the 2003 assessed value of a property.
 - c) The NADA Pricing Guide is clearly the best evidence on the record to determine the market value of the subject mobile home. Both parties agree that the subject should be classified as "average retail." The NADA "average retail" value for a mobile home is \$8,337, excluding optional equipment and accessories.
 - d) The NADA value of \$8,337 therefore clearly refutes the Petitioners' contention that the value should be \$6,510. Further, as discussed, the NADA value does not include optional equipment and accessories. Undisputed testimony indicated the property under appeal has an additional full bath that was not assessed.

Conclusion

16. The Petitioners failed to make a prima facie case. There is no change in the assessment as a result of this issue.

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.