

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

Petition #: 39-011-02-1-4-00032
Petitioner: Home Federal Savings Bank
Respondent: Madison Township Assessor (Jefferson County)
Parcel 0110133400
Assessment Year: 2002

The Indiana Board of Tax Review (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 Jefferson County Property Tax Assessment Board of Appeals (PTABOA) by written document dated August 7, 2003.
2. The PTABOA mailed notice of its decision to the Petitioner on September 23, 2003.
3. The Petitioner filed an appeal to the Board by filing a Form 131 with the County assessor on October 22, 2003. Petitioner elected to have this case heard in small claims.
4. The Board issued a notice of hearing to the parties dated April 6, 2004.
5. The Board held an administrative hearing on June 30, 2004, before the duly appointed Administrative Law Judge Jennifer Bippus.
6. Persons present and sworn in at hearing:
 - a. For Petitioner: Milo Smith, Taxpayer's Representative
 - b. For Respondent: Donald Thompson, Madison Township Assessor
Margaret Hoffman, Jefferson County Assessor
Elbert Hinds, Jefferson County PTABOA
George Thomas, Jefferson County PTABOA
James Martin, Jefferson County PTABOA

Facts

7. The property is classified as a commercial property as is shown on the property record card #0110133400.
8. The Administrative Law Judge did not conduct an inspection of the property.
9. Assessed Value of subject property as determined by the Jefferson County PTABOA:
Land \$141,600 Improvements \$281,800
10. Assessed Value requested by Petitioner on the Form 131 petition:
Land \$70,000 Improvements: \$ 200,000
11. The Petitioner withdrew the land value issue at the hearing. *Smith Testimony; Board Exhibit D.*

Contentions

12. Summary of Petitioner's contentions in support of alleged error in assessment:
 - a. The Petitioner contended that the building should be assessed from the General Commercial Retail (GCR) Bank model. It is currently assessed from the General Commercial Mercantile (GCM) Bank model.
 - b. The Petitioner presented one photograph showing metal stud framing. The Petitioner contended that the exterior walls consist of stucco boards placed on metal studding. *Smith Testimony; Petitioner Exhibit 1.*
 - c. The Basic Shell Components for GCM call for exterior concrete block walls. The subject building does not have concrete block walls. The Basic Shell Components for GCR call for wood and metal stud frame construction. *Smith Testimony; Petitioner Exhibit 4.*
13. Summary of Respondent's contentions in support of the assessment:
 - a. The GCR part of the Version A –Real Property Assessment Guideline shows construction more conducive to residential type facilities. *Thompson Testimony.*
 - b. In Jefferson County, residential is wood frame construction and metal stud construction is not used in residential buildings within the County. If the subject property were studded with wood walls, there may be some merit to using the GCR schedule. Stucco fits within the definition of the type 1 wall for a GCM bank.¹ *Thompson Testimony.*
 - c. The structure is a bank, used commercially, and should be priced from the GCM schedule. *Thompson Testimony.*

¹ Wall type is a descriptive classification indicating the exterior wall construction material used for most of the use types. Wall type 1 consists of concrete block, stucco, tile, wood, aluminum, metal siding or an equivalent material. *Version A – Real Property Assessment Guideline, Chapter 6, page 13.*

Record

14. The official record for this matter is made up of the following:
- a. The Petition, and all subsequent pre-hearing or post-hearing submissions by either party.
 - b. The tape recording of the hearing labeled BTR # 5873.
 - c. Exhibits:
 - Petitioner Exhibit 1: One photograph of metal studs supporting the stucco exterior siding.
 - Petitioner Exhibit 2: Copy of the subject property record card.
 - Petitioner Exhibit 3: Copy of Version A – Real Property Assessment Guideline, Appendix G, Schedule A.1, page 12 (Commercial and Industrial Cost Schedules).
 - Petitioner Exhibit 4: Copy of Version A – Real Property Assessment Guideline, Appendix D, page 3 (Overview General Commercial Models).

 - Respondent Exhibit 1: Map of Madison Clifty Drive.
 - Respondent Exhibit 2: Aerial view of subject property.
 - Respondent Exhibit 3: Department of Local Government Finance (DLGF) letter approving land values.
 - Respondent Exhibit 4: PTABOA approval of land values.
 - Respondent Exhibit 5: Neighborhood Valuation Form.
 - Respondent Exhibit 6: Neighborhood Value Method page.
 - Respondent Exhibit 7: Appraisals.
 - Respondent Exhibit 8: Comparable property record cards.
 - Respondent Exhibit 9: Multiple listing page of sold properties.
 - Respondent Exhibit 10: Multiple listing page for sale properties.
 - Respondent Exhibit 11: Sales disclosure forms.
 - Respondent Exhibit 12: Copy of the subject property record card.
 - Respondent Exhibit 13: Copy of Version A – Real Property Assessment Guideline, Chapter 6, pages 9, 13, 16, and 17 and Appendix D, pages 5, 6, 8, 32, and 37.
 - d. These Findings and Conclusions.

Analysis

15. The most applicable governing case 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).

- c. The model that most closely resembles the physical features of the improvement is to be used. *Herb v. State Board of Tax Comm'rs*, 656 N.E.2d 890 (Ind. Tax 1995).
- d. Variations from the model may be accounted for by base rate adjustments. *Barth, Inc. v. State Board of Tax Comm'rs*, 699 N.E.2d 800, 802 (Ind. Tax 1998).
- e. To demonstrate error in model selection, the Petitioner must demonstrate how the features of its improvement compare to the features of the requested model. *LDI Mfg. Co. v. State Bd. of Tax Comm'rs*, 759 N.E.2d 685 (Ind. Tax Ct. 2001); *Indianapolis Racquet Club v. State Board of Tax Comm'rs*, 722 N.E.2d 926 (Ind. Tax 2000).

16. The Petitioner did not provide sufficient evidence to support Petitioner's contentions. This conclusion was arrived at because:
- a. The Petitioner contended that the building should be assessed from the GCR Bank model rather than the GCM Bank model.
 - b. In support of this position, the Petitioner presented only one photograph (*Petitioner Exhibit 1*), purportedly of the metal studding used to construct the bank. Further, the Petitioner testified that the exterior walls consist of stucco board placed on the metal studding. The Petitioner claimed such construction is indicative of the GCR Basic Shell Components (*See Version A – Real Property Assessment Guideline, Appendix D, page 32*).
 - c. This evidence, however, is insufficient to establish error in model selection.
 - d. In selecting the correct model to use for assessing improvements, the assessor must determine which model most closely resembles the structure. The Tax Court has long recognized that buildings may not conform perfectly to the model specifications. *Herb v. State Board of Tax Comm'rs*, 656 N.E.2d 890 (Ind. Tax 1995) (Finding that model selection involves subjective judgment on the part of the assessor); *See also Barth, Inc. v. State Board of Tax Comm'rs*, 699 N.E.2d 800, 802 (Ind. Tax 1998) (Base Rate adjustments are permitted to account for variations from the model).
 - e. The Petitioner has shown, at best, that the exterior wall component of the building under appeal varies from the GCM Basic Shell Components.
 - f. However, the GCM and GCR Basic Shell Components referred to by the Petitioner also contain specifications for the following (*Version A – Real Property Assessment Guideline, Appendix D, pages 5 and 32*):
 - 1. Site preparation;
 - 2. Foundation;
 - 3. Frame;
 - 4. Ground Floor;

5. Structural Floors;
 6. Roof Structure; and
 7. Roofing.
- g. Further, interior finish and mechanical features components are contained in the GCM Bank model (*Version A – Real Property Assessment Guideline, Appendix D, page 8*) and the GCR Bank model (*Version A – Real Property Assessment Guideline, Appendix D, page 37*).
- h. Features identified in these models include:
1. Floor Height;
 2. Finish Type;
 3. Walls;
 4. Flooring;
 5. Ceiling;
 6. Partitions;
 7. Lighting;
 8. HVAC;
 9. Heating Only;
 10. Cooling additive; and
 11. Plumbing.
- i. To demonstrate error in model selection, the Petitioner must demonstrate how the features of its improvement compare to the features of the requested model. *LDI Mfg. Co. v. State Bd. of Tax Comm’rs*, 759 N.E.2d 685 (Ind. Tax Ct. 2001); *Indianapolis Racquet Club v. State Board of Tax Comm’rs*, 722 N.E.2d 926 (Ind. Tax 2000).
- j. Presenting one photograph, purporting to show a variation of only a single feature from the Basic Shell Components, is simply inadequate to establish a prima facie case of error in model selection. The Petitioner made no comparison between the features in the building under appeal and the remaining features included in the Basic Shell Components for GCM and GCR structures. Further, the Petitioner made no comparison between the interior finish and mechanical features in the building under appeal and the interior finish and mechanical features identified in the GCM Bank and GCR Bank models.

Conclusion

17. The Petitioner failed to make a prima facie case. The Board finds in favor of the 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

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.