

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

Petition #: 79-156-02-1-5-01540
Petitioner: Isaac L. Whiteaker
Respondent: Fairfield Township Assessor (Tippecanoe County)
Parcel #: 156105000359
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 Tippecanoe County Property Tax Assessment Board of Appeals (PTABOA) by written document dated June 10, 2003.¹
2. The PTABOA’s Notification of Final Assessment Determination (Form 115) was mailed to the Petitioner on November 10, 2003.
3. The Petitioner filed an appeal to the Board by filing a Form 131 with the county assessor on December 23, 2003. Petitioner elected to have this case heard in small claims.
4. The Board issued a notice of hearing to the parties dated February 5, 2004.
5. The Board held an administrative hearing on April 20, 2004, before the duly appointed Administrative Law Judge Joan L. Rennick.
6. Persons present and sworn in at hearing:

- a) For Petitioner: Isaac Whiteaker
- b) For Respondent: Jan Payne, Fairfield Township Assessor
Nancy Moore, Tippecanoe County Assessor and
Secretary of the PTABOA

¹ The Petition to the Property Tax Assessment Board of Appeals for Review of Assessment (Form 130) is date stamped December 23, 2003. Since this date is subsequent to the date of the PTABOA’s Final Assessment Determination (and the Form 131 appeal to the Board was filed on December 23, 2003), the Board must assume the Form 130 petition to the PTABOA was actually filed on the date it was signed, June 10, 2003.

As noted, the Form 115 was issued on November 10, 2003, and the Petitioner did not file a Form 131 petition with the Board until December 23, 2003. No objection was raised by the Respondent; accordingly, the Board will consider any issue of timely filing to have been waived.

Facts

7. The property is classified as “other residential structure,” as is shown on the property record card for parcel #156-10500-0359.
8. The Administrative Law Judge did not conduct an inspection of the property.
9. Assessed Value of the subject property as determined by the Tippecanoe County PTABOA: Land \$ 6,000, Improvements \$ 15,900.
10. Assessed Value requested by Petitioner: Land \$100, Improvements \$15,900.

Issues

11. Summary of Petitioner’s contentions in support of alleged error in assessment:
 - a) An appraisal was done for land only for the purpose of establishing market value for the land and the appraiser valued the land at \$100.
 - b) The street dead-ends at this location near the railroad tracks. The lot is unimproved and there is no sewer, water or other city services available; therefore, the lot is not suitable for building. (The property currently contains improvements identified on the Form 131 petition as an “old building used as garage shop & storage.”)
 - c) The appraisal was done in October 2003 and the appraiser believes the neighborhood should be rated as poor.²
 - d) Petitioner presented a sales disclosure form as evidence of two lots purchased for \$1,500 by him on November 20, 2003, from an estate. These lots are across the street from the property under appeal.
12. Summary of Respondent’s contentions in support of the assessment:
 - a) Respondent contends the assessment was based on an analysis of sales in the designated and surrounding areas. Respondent stated the subject neighborhood was assigned a neighborhood factor of .98, meaning 2% was removed from the replacement cost new.
 - b) Respondent further contends some of the comparable sales identified by the appraiser were sold for the railroad relocation project and are not arm’s-length transactions.
 - c) The Respondent did not locate any sales disclosure forms to verify the appraisal’s assertion that sales of similar properties were in the range of \$100-\$200.

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.

² Neighborhood ratings, however, are not considered when determining the assessed value of land. As discussed, the Petitioner is not contesting the assessed value of the improvements on the parcel.

- b) The tape recording of the hearing labeled BTR #5379.
- c) Exhibits:
 - Petitioner Exhibit 1: The Complete Restricted Appraisal Report.
 - Petitioner Exhibit 2: Sales disclosure form for two lots across the street purchased by Petitioner on November 20, 2003.

 - Respondent Exhibit 1: PTABOA Meeting Minutes dated October 21, 2003 (Tabled)
 - Respondent Exhibit 2: PTABOA Meeting Minutes dated November 10, 2003 reflect changes to the assessment.
- d) These Findings and Conclusions.

Analysis

- 14. The most applicable governing law:
 - 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 Petitioner did not provide sufficient evidence to support his contentions. This conclusion was arrived at because:
 - a) The Petitioner presented an appraisal placing a value of only \$100 on this parcel.³ The appraisal supported this \$100 figure with only one sentence: "In 10/96 the City sold a similar lot, one block away for \$100.00." (*Petitioner's Exhibit 1, page 7*).
 - b) The same paragraph of the appraisal also indicates that similar properties have sold for \$183, \$275, and \$280. The Petitioner failed to explain the manner in which any of these properties are similar to the property under appeal or to reconcile these varying amounts. Further, the Petitioner failed to present evidence documenting these sales. As indicated, testimony from the Respondent indicated no sales disclosure forms were located to verify these sales.
 - c) On the Form 130 Petition to the Property Tax Assessment Board of Appeals for Review of Assessment, the Petitioner contended the value of the lot under appeal was \$2,000. No explanation was offered to explain the change in the proposed value to \$100.

³ Omitting maps, charts, and certifications, the appraisal consists of eight pages and two addenda pages. These ten pages of analysis purport to appraise 23 parcels of the Petitioner's property. (*Petitioner's Exhibit 1, pages 7-8*).

- d) Although asserting land in the neighborhood is of only minimal value, the Petitioner continued to acquire additional land in the neighborhood. The Petitioner presented a sales disclosure form indicating he purchased the neighboring property (two lots) \$1,500.
- e) The sales disclosure form clearly indicates the \$1,500 transaction was an estate sale made pursuant to an order of the local probate court. Although there is no indication this transfer represented an arm's-length transaction or the market value of the property, no explanation was offered to explain a purchase price 750% per lot greater than the alleged value of the property.
- f) Significantly, the appraiser also noted that a non-profit organization has been paying \$6,000 per lot for properties in this neighborhood. (*Petitioner's Exhibit 1, page 4*). As noted, \$6,000 is the current assessed value of the land.
- g) Summarizing, the Petitioner contends the property should be assessed at a minimal value of \$100. However, the Petitioner also asserts that similar properties have sold for \$183, \$275, and \$280. The Petitioner has previously asserted the property under appeal is worth \$2,000. Despite the contention that property in the neighborhood is of only minimal value, the Petitioner himself continued to purchase property in the neighborhood and has paid \$1,500 for two lots located across the street from the property under appeal.
- h) The Petitioner, by offering so many different and contradictory proposed values, has not established specifically what assessment is correct. *See Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998). Additionally, evidence presented by the Petitioner's own appraiser has confirmed that lots in the neighborhood are being purchased for \$6,000, the current assessed value of the property.

Conclusion

16. 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: _____ [date] _____

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.