

REPRESENTATIVE FOR PETITIONER: John A. Tompkins, Pro Se

REPRESENTATIVE FOR RESPONDENT: Larry Unversaw, Field Deputy for Center
Township, Marion County

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

John A. Tompkins,	)	Petition No.:	49-101-02-1-5-04797
	)	Parcel:	1-065909
Petitioner,)		
)		
v.)		
	)	County:	Marion
Center Township Assessor,	)	Township:	Center
	)	Assessment Year:	2002
Respondent.)		

Appeal from the Final Determination of the
Marion County Property Tax Assessment Board of Appeals

March 23, 2005

FINAL DETERMINATION

The Indiana Board of Tax Review (the “Board”) having reviewed the facts and evidence, and having considered the issues, now finds and concludes the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

ISSUE

1. The issue presented for consideration by the Board was:
ISSUE - Whether the subject property should receive a 50% obsolescence adjustment.

PROCEDURAL HISTORY

2. Pursuant to Ind. Code § 6-1.1-15-3, the Petitioner filed a Form 131 Petition, petitioning the Board to conduct an administrative review of the above petition. The Form 131 was filed on April 21, 2004. The determination of the Marion County Property Tax Assessment Board of Appeals (PTABOA) is dated March 26, 2004.

HEARING FACTS AND OTHER MATTERS OF RECORD

3. Pursuant to Ind. Code § 6-1.1-15-4 and § 6-1.5-4-1, a hearing was held on September 28, 2004, in Indianapolis, Indiana, before Paul Stultz, the duly designated Administrative Law Judge authorized by the Board under Ind. Code § 6-1.5-3-3.
4. The following persons were sworn and presented testimony at the hearing:
For the Petitioner:
John A. Tompkins, property owner.

For the Respondent:
Larry Unversaw, Field Deputy for Center Township, Marion County.
5. The Petitioner did not present any exhibits.
6. The following exhibit was presented for the Respondent:
Respondent's Exhibit 1 – 2002 property record card for the parcel under appeal.

7. The following additional items are officially recognized as part of the record of proceedings and labeled Board Exhibits:
 - Board Exhibit A – The 131 Petition.
 - Board Exhibit B – Notice of Hearing dated August 17, 2004.
8. The subject property is a single-family dwelling located at 340 West 30th Street, Indianapolis, Center Township, Marion County.
9. The Administrative Law Judge did not conduct an on-site inspection of the subject property.
10. For 2002, the PTABOA determined the assessed value of the property to be:
 - Land: \$7,700 Improvements: \$37,700 Total: \$45,400.
11. For 2002, the Petitioner contends the assessed value of the property should be:
 - Land: \$700 Improvements: \$800 Total: \$1,500.

JURISDICTIONAL FRAMEWORK

12. The Indiana Board is charged with conducting an impartial review of all appeals concerning: (1) the assessed valuation of tangible property; (2) property tax deductions; and (3) property tax exemptions; that are made from a determination by an assessing official or a county property tax assessment board of appeals to the Indiana board under any law. Ind. Code § 6-1.5-4-1(a). All such appeals are conducted under Ind. Code § 6-1.1-15. *See* Ind. Code § 6-1.5-4-1(b); Ind. Code § 6-1.1-15-4.

ADMINISTRATIVE REVIEW AND THE PETITIONER'S BURDEN

13. A Petitioner seeking review of a determination of an assessing official has the burden to establish a prima facie case proving that the current assessment is incorrect, and specifically what the correct assessment would 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).

14. In making its case, the taxpayer must explain how each piece of evidence is relevant 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”).
15. Once the Petitioner establishes a prima facie case, the burden shifts to the assessing official to rebut the Petitioner’s evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). The assessing official must offer evidence that impeaches or rebuts the Petitioner’s evidence. *Id.*; *Meridian Towers*, 805 N.E.2d at 479.

ANALYSIS

ISSUE – *Whether the subject property
should receive a 50% obsolescence adjustment.*

16. The Petitioner testified that, on April 4, 1997, the PTABOA awarded a 50% obsolescence adjustment to the property for a previous assessment. The Petitioner asserted the same amount of obsolescence should be applied to the 2002 assessment. *Tompkins testimony; Board Exhibit A, attachment (Form 130 petition).*
17. The Petitioner contended the current value of the improvements should be \$800 and the land value should be \$700. *Tompkins testimony; Board Exhibit A, attachment (Form 130 petition).*

18. The Petitioner further testified the structure had received a grade of D+1 for the prior assessment and asserted that no improvements or repairs had been made to the property since the 1997 PTABOA decision. *Tompkins testimony*.¹
19. The Respondent testified obsolescence is rarely given to residential properties, and contended the PTABOA decision for the 2002 assessment was correct. *Unversaw testimony*.
20. Obsolescence is defined as “[a] diminishing of a property’s desirability and usefulness brought about by either functional inadequacies or super-adequacies inherent in the property itself, or adverse economic factors external to the property.” REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 - VERSION A, glossary at 14.
21. Functional obsolescence is “[o]bsolescence caused by factors inherent in the property itself.” *Id.* at 8.
22. Economic obsolescence is “[o]bsolescence caused by factors extraneous to the property. Also referred to as external obsolescence.” *Id.* at 6.
23. “Because...the concept of replacement cost new minus depreciation [is] derived from the market, much of the functional obsolescence is taken care of. External obsolescence will be accounted for through the neighborhood factor.” REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 - VERSION A, app. B at 4 (emphasis in the original is omitted).²

¹ Grade is “[t]he classification of an improvement based on certain construction specifications, design and quality of materials and workmanship.” REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 - VERSION A, app. B at 9. The structure also received a grade of D+1 for the 2002 assessment. *Respondent Exhibit 1*.

² “The neighborhood factor accounts for the impact on value caused by physical characteristics in the neighborhood such as type and layout of streets, availability of support services, and utilities. It also takes in to [sic] account the economic characteristics such as demand for property and mortgage interest rates; governmental characteristics such as police protection, fire protection, and zoning; and social characteristics such as crime rates, owner-occupant ratios, and family size.” REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 - VERSION A, app. B at 8.

24. To receive an adjustment for obsolescence, the Petitioner must (1) identify the causes of obsolescence and (2) quantify the amount of obsolescence to be applied. *Clark v. State Board of Tax Commissioners*, 694 N.E.2d 1230, 1241 (Ind. Tax 1998).
25. The Petitioner presented no appraisal, sales data, evidence of the assessment of comparable properties, or other market data to support his contention that the current assessment of the land and improvements is incorrect.
26. Instead, the Petitioner presented evidence of a PTABOA determination dated April 4, 1997, awarding the property an obsolescence adjustment of 50% for a previous year's assessment. *Board Exhibit A, attachment (Form 130 petition); Tompkins testimony*.
27. However, in Indiana, each tax year stands alone. Evidence of a prior year's assessment does not constitute probative evidence. *Quality Farm & Fleet, Inc. v. State Bd. of Tax Comm'rs*, 747 N.E.2d 88, 93 (Ind. Tax 2001).
28. The Petitioner testified that no repairs had been made to the property since the 1997 PTABOA decision, but identified no specific causes of obsolescence currently present in the property. The Petitioner has therefore failed to satisfy the first prong of the two-prong *Clark* test.
29. Further, the Petitioner presented no evidence to quantify that any purported deficiencies in the property have resulted in a 50% loss of market value. The Petitioner has therefore failed to satisfy the second prong of the two-prong *Clark* test.³
30. Accordingly, the Petitioner did not make a prima facie case concerning this issue.

³ Additionally, applying the requested 50% obsolescence adjustment to the current assessed values would not result in the improvement value of \$800 and land value of \$700 sought by the Petitioner.

SUMMARY OF FINAL DETERMINATION

ISSUE 1– *Whether the subject property should receive a 50% obsolescence adjustment.*

31. The Petitioner did not make a prima facie case. The assessment is not changed as a result of this issue.

This Final Determination of the above captioned matter is issued by the Indiana Board of Tax Review on the date first written above.

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.