

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

Petition #: 26-017-03-1-1-00001
Petitioners: John & Ellen Vinson
Respondent: Washington Township Assessor (Gibson County)
Parcel #: 009-00826-00
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 Gibson County Property Tax Assessment Board of Appeals (PTABOA) by written document dated December 15, 2003.
2. Notice of the decision of the PTABOA was mailed to the Petitioners on April 21, 2004.
3. The Petitioners filed an appeal to the Board by filing a Form 131 with the County Assessor on May 25, 2004. Petitioners elected to have this case heard in small claims.
4. The Board issued a notice of hearing to the parties dated May 26, 2004.
5. The Board held an administrative hearing on July 21, 2004, before the duly appointed Administrative Law Judge Rick Barter.
6. Persons present and sworn in at hearing:
 - a) For Petitioners: John Vinson, Taxpayer
Ellen Vinson, Taxpayer
 - b) For Respondent: Juanita Beadle, Gibson County Assessor
Sandra Gruebel, Chief Deputy
Elizabeth Shanks, PTABOA member
Linda McKee, PTABOA member

Facts

7. The property is classified as agricultural, as is shown on the property record card for parcel #0090-0826-00.
8. The Administrative Law Judge did not conduct an inspection of the property.
9. Assessed Value of subject property as determined by the Gibson County PTABOA:
Land: \$41,100 Improvements: \$0 Total: \$41,100
10. Assessed Value requested by Petitioners:
Land: \$30,635 Improvements: \$0 Total: \$30,825

Issue

11. Summary of Petitioners' contentions in support of alleged error in assessment:
 - a) "This meeting is to address a parcel of land...that has been dissected [sic] by a railroad and we claim, has decreased the value of the property for its intended use which at the present time is agriculture crop production." *Petitioners' Exhibit 6*
 - b) The Gibson County PTABOA's reasoning (in the Form 130 appeal hearing) that current market value is higher than the assessed value does not review the reason for the appeal. *Petitioners' Exhibit 6*
 - c) A twenty-five percent (25%) reduction in the assessed value is reasonable and fair. *Vinson testimony*
 - d) The 2002 Real Property Assessment Manual states that true tax value is defined as: "The market value-in-use of a property for its current use, as reflected by the utility received by the owner or a similar user, from the property."
 - e) IC 6-1.1-31-7(D) further defines true tax value: "True tax value does not mean fair market value." Thus, the PTABOA denial of the appeal was wrong.
 - f) If property A could produce 160 bushels per acre of corn and has a market value of \$2,500 per acre, then Property B, after being dissected by a railroad, has less value. That is because the resulting corners cannot be farmed and every row is a point row, that means over populating. This creates at least 25% less productivity potential. *Vinson testimony*
 - g) The Petitioners use a 16-row planter at the present time which plants 40 feet at each pass and this over populates at least 40 feet of every row meeting at an angle. This over populating is detrimental, as having weeds in the fields as extra plants over the desired population uses fertilizer, moisture and sunshine from the other plants. These plants also create harvest problems as they are out of the proper location of the rows. *Vinson testimony*
 - h) This property had potential for possible housing development as it has roads on two sides and is very accessible. This is no longer a viable option because the land will never be returned to its original state, even if the railroad were to be removed. *Vinson testimony*
 - i) This property was to be taken by eminent domain law if the Petitioners had not agreed to lease it. *Vinson testimony*

12. Summary of Respondent's contentions in support of the assessment:

- a) Respondent testified that the assessed value was determined in accordance with IC 6-1.1-4-13 and the 2002 Real Property Assessment Manual, which defines "true tax value" as the "market value-in-use, as reflected by the utility received by the owner or a similar user, from the property." The "true tax value" may be thought of as the ask price of property by its owner, because this value clearly represents the utility obtained from the property. *Respondent's Exhibit 1*
- b) The Petitioners acknowledged that the asking price for the subject property would be approximately \$2,000 per acre. The current assessed value is \$870 per acre. *Respondent's Exhibit 1*
- c) Another issue addressed by the Petitioners is "point rows and difficulty in farming." While the County officials acknowledged that farming may be somewhat more inconvenient if fields are not of uniform shape, there are countless properties in Gibson County that are affected by similar disadvantages which are pre-existing, but which have no reduction factors applied to their assessment. Consequently, to apply a reduction factor to the subject property for inconvenience would result in non-uniformity of assessments for similar properties. *Respondent's Exhibit 1*
- d) Respondent also testified that, following the Form 130 hearing, the County Assessor placed a zero value on 6.399 acres of the subject since the company holding the leased easement pays the real estate taxes on that part of the tract. This reduced the total assessed value under appeal to \$41,100, or \$870 per acre. *Respondent's Exhibit 1*
- e) Finally, Respondent submitted six property card cards for agricultural property in the County and said that all had similar disadvantages to the subject, but they receive no negative influence factor as a result. *Respondent 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 or to either party.
- b) Notes of the hearing prepared by the Administrative Law Judge.¹
- c) October 18, 2004 letter from John and Ellen Vinson to Ronald Gudgel.
- d) October 19, 2004 letter from Juanita Beadle to Ronald Gudgel.
- e) Exhibits:
 - Petitioners' Exhibit 1: Copy of the Form 130 Petition.
 - Petitioners' Exhibit 2: Copy of the Form 115 determination.
 - Petitioners' Exhibit 3: Copy of the Form 131 Petition.

¹ Property tax appeal hearings are typically tape-recorded by the Indiana Board of Tax Review. A review of the tape of this hearing (labeled BTR #5829) indicates a malfunction occurred and the tape is blank. Accordingly, the Administrative Law Judge prepared notes reflecting the substantive matters discussed at the hearing. Copies of these notes were mailed to both parties, who were given ten days to comment on the contents of these notes. While neither party responded timely, both parties did agree to the accuracy of those notes.

Petitioners' Exhibit 4: Petitioners' statement.
Petitioners' Exhibit 5: Copy of the 2002 manual, page 2.
Petitioners' Exhibit 6: Petitioners' arguments.
Petitioners' Exhibit 7: Aerial view of subject before railroad.
Petitioners' Exhibit 8: Aerial view of subject after railroad.
Petitioners' Exhibit 9: Copy of side-by-side plat drawing of subject before and after railroad easement in place.
Petitioners' Exhibit 10: Oversize sketch of subject with and without railroad right-of-way demonstrating point row over-planting.

Respondent's Exhibit 1: Written copy of summary of Form 130 testimony before Gibson County Property Tax Assessment Board of Appeals and Attachment A, a copy of DLGF "Overview of Agricultural Land Values" statement.

Respondent's Exhibit 2: Copies of six (6) property record cards of agricultural properties cited by Respondent as having similar characteristics.

Respondent's Exhibit 3: Copy of revised property record card for subject, showing railroad right-of-way removed from total assessment.

- f) These Findings and Conclusions.

Analysis

14. The most applicable governing cases are:

- 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 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 Petitioner's unsubstantiated conclusions do not constitute probative evidence. *Whitley Products, Inc. v. State Board of Tax Commissioners*, 704 N.E.2d 1113 (Ind. Tax 1998).

15. The Petitioners did not provide sufficient evidence to support their contentions. This conclusion was arrived at because:

- a) Petitioners calculated that one-fourth or 25% of the value of their land has been lost as a result of the railroad. This includes a higher cost to farm, decreased production, and decreased income potential. The Petitioners explained that the equipment currently used over populates every row meeting at an angle; this is detrimental because the process uses extra seed and fertilizer and it also creates harvesting problems. *Vinson testimony; Petitioners' Exhibit 10.*

- b) For the 2002 reassessment, a base rate of \$1,050 per acre has been established as the starting point in calculating the True Tax Value of agricultural land. When appropriate, this base rate may be adjusted to account for soil productivity. *Version A-Real Property Assessment Guideline (incorporated by reference in 50 IAC 2.3-1-2) (Guideline), Chapter 2, pages 100 and 106.*
- c) For agricultural land, influence factors (an adjustment to the base rate to account for characteristics peculiar to the parcel) may also be applied for specific land use types. For example, land classified as a forest (Type 21 land) receives a negative 100% influence factor. *Guideline, Glossary, page 10; Guideline, Chapter 2, pages 114-115.*
- d) There can be no influence factor applied to the property under appeal because the Petitioners did not identify a land use type that would warrant one of the automatic influence factors for agricultural land.
- e) Further, the area of land used for the right-of-way has been already deducted from the assessment. Additionally, the Petitioners testified they received lease payments for the easement, but did not establish that the lease payments did not offset any loss of value as a result of a decrease in crop production.
- f) While the affected farmland may be more difficult to farm, the Petitioners did not present any market evidence to demonstrate that the land lost 25% of its value as a result of the right-of-way. The Petitioners' conclusory statements do not constitute probative evidence. *Whitley Products, Inc. v. State Board of Tax Commissioners, 704 N.E.2d 1113 (Ind. Tax 1998).*
- g) The Petitioners acknowledged that their asking price for the subject property would be \$2,000 per acre. *Board Exhibit A, Form 131 petition, page 2.* The current assessed value is \$870 per acre.
- h) Accordingly, the Petitioners failed to make a prima facie case of error in the assessment.

Conclusion

16. The Petitioners did not make a prima facie case of error. The Board finds in favor of 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,
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.