

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

Petition #: 41-037-02-1-4-00017
Petitioner: KOOSHTARD PROPERTY VI, LLC
Respondent: WHITE RIVER TOWNSHIP ASSESSOR
Parcel 1130180102399
Assessment Year: 2002

The Indiana Board of Tax Review (IBTR) issues this determination in the above matter, and finds and concludes as follows:

Procedural History

1. The Petitioner initiated an assessment appeal with the Johnson County Property Tax Assessment Board of Appeals (PTABOA) by written document dated July 10, 2003.
2. Notice of the decision of the PTABOA was mailed to the Petitioner on October 10, 2003.
3. The Petitioner filed an appeal to the Indiana Board of Tax Review (IBTR) by filing a Form 131 with the county assessor on November 7, 2003. The Petitioner elected to have this case heard in small claims.
4. The IBTR issued a notice of hearing to the parties dated July 15, 2004.
5. The IBTR held an administrative hearing on August 19, 2004, before the duly appointed Administrative Law Judge Jennifer Bippus.
6. Persons present and sworn in at the hearing:
 - A. For Petitioner: Milo E. Smith, Petitioner's Representative.
 - B. For Respondent: Mark Alexander, Township Representative.

Facts

7. The property is classified as a commercial property as is shown on the property record card #1130180102399.

8. The Administrative Law Judge did not conduct an inspection of the property.
9. Assessed Value of subject property as determined by the Johnson County PTABOA:
Land \$0 Improvements \$195,400
10. Assessed Value requested by Petitioner:
Land \$0 Improvements: \$120,000

Contentions

11. Summary of Petitioner's contentions in support of alleged error in assessment is:
 - A. The Petitioner contended the year of construction of the structure is 1983. The building therefore has an actual age of sixteen years (1999 minus 1983). Based upon its Average condition rating assigned by the PTABOA, it has an effective age of seventeen years. This results in a depreciation percentage of thirty-seven percent (37%) rather than the current nine percent (9%). *Smith Testimony; Petitioner Exhibits 1 & 2.*
 - B. The footprint of the subject property has never changed and is the same as it was during the prior assessment. At the time of the 1995 reassessment, the effective age was not changed. *Smith Testimony.*
 - C. Although the property was remodeled in 1995, the condition should remain the same as it has always been, at Average, and the effective age should be computed from 1982. *Smith Testimony; Petitioner Exhibits 1, 4, 5, 6, 7, 8 & 9.*
12. Summary of Respondent's contentions in support of alleged error in assessment:
The effective year was changed to get closer to the sale value of \$1,127,302 in 2001. *Alexander Testimony.*

Record

13. 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 #5875.
 - C. Exhibits:
 - Petitioner Exhibit 1: Copy of the current property record card.
 - Petitioner Exhibit 2: Copy of prior property record card.
 - Petitioner Exhibit 3: Current copy of property record card without the subject building.
 - Petitioner Exhibit 4: Version A – Real Property Assessment Guideline, Appendix F, page 7.
 - Petitioner Exhibit 5: Version A – Real Property Assessment Guideline, Appendix F, page 5.

- Petitioner Exhibit 6: Version A – Real Property Assessment Guideline, Appendix F, page 24.
- Petitioner Exhibit 7: Version A – Real Property Assessment Guideline, Appendix F, page 25.
- Petitioner Exhibit 8: Version A – Real Property Assessment Guideline, Appendix F, page 31.
- Petitioner Exhibit 9: Proposed revised property record card.
- Petitioner Exhibit 10: Request to the Johnson County Assessor for copies of documentary evidence and a list of witnesses.
- Petitioner Exhibit 11: Request to the White River Township Assessor for copies of documentary evidence and a list of witnesses.
- Respondent Exhibit 1: Authorization for Mr. Alexander to represent the White River Township Assessor.

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 Commissioners*, 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 Commissioners*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998); *North Park Cinemas, Inc. v. State Bd. of Tax Commissioners*, 689 N.E.2d 765 (Ind. Tax Ct. 1997).
 - C. Actual age is defined as the number of years elapsed since the original construction up to the effective valuation date. Effective age is defined as the age of the structure as compared to other structures performing like functions. *Version A – Real Property Assessment Guideline, Glossary, pages 1 and 6.*
 - D. 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).
 - E. In Indiana, each year and assessment stands alone. *Glass Wholesalers, Inc. v. State Bd. of Tax Commissioners*, 568 N.E.2d 1116 (Ind. Tax Ct. 1991).

15. The Petitioner did not provide sufficient evidence to support Petitioner's contentions. This conclusion was arrived at because:
- A. The Petitioner contended the actual year of construction of the structure is 1983 and the effective year of construction is 1982. *Smith Testimony*.
 - B. In support of its position, the Petitioner presented only the prior property record card from the 1996 assessment showing the effective year of construction of the subject improvement as 1983. *Petitioner Exhibit 2*.
 - C. As the Petitioner correctly asserts, older property record cards may be used to determine the **actual** age of a structure.¹ *Version A – Real Property Assessment Guideline, Appendix F, page 5*. However, this portion of the Version A – Real Property Assessment Guideline does not indicate that prior property record cards may be used to determine **effective** age.
 - D. In Indiana, each year and assessment stands alone. Evidence of a prior determination of the effective age is therefore not probative. *Glass Wholesalers, Inc. v. State Bd. of Tax Commissioners*, 568 N.E.2d 1116 (Ind. Tax Ct. 1991).
 - E. Undisputed evidence indicated the building was remodeled in 1995. *Petitioner Exhibit 1*. The Petitioner failed to offer any evidence to support the contention that the economic life of a renovated building would not be extended, thereby changing the effective age. *Version A – Real Property Assessment Guideline, Appendix F, page 5*.
 - F. The Petitioner's argument failed to account for the renovation of the property. The Petitioner's unsupported 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 Petitioner did not meet his burden in establishing that the effective year of construction of the building is 1982.

Conclusions

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

¹ In this appeal, however, the parties do not dispute that the building was originally constructed in 1983 and therefore has an actual age of sixteen years (1999 minus 1983).

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.