

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

Petition No.: 06-003-11-1-4-00210
Petitioner: Laura's FLP
Respondent: Boone County Assessor
Parcel No.: 003-09410-01
Assessment Year: 2011

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

Procedural History

1. Laura Lei, on behalf of the Petitioner, appealed the Petitioner's property's 2011 assessment with the Boone County Property Tax Assessment Board of Appeals (the PTABOA) by letter dated August 31, 2011.
2. The PTABOA issued a notice of its decision on October 12, 2011.
3. Paul Roland, the Petitioner's attorney, filed a Form 131 petition with the Board on November 22, 2011. The Petitioner elected to have its case heard according to the Board's small claims procedures.
4. The Board issued a notice of hearing to the parties dated October 26, 2012.
5. The Board held an administrative hearing on November 29, 2012, before the duly appointed Administrative Law Judge (the ALJ) Dalene McMillen.
6. The following persons were present and sworn in at hearing:
 - a. For Petitioner:¹ Laura Lei, Partner, Laura's FLP
 - b. For Respondent: Lisa Garoffolo, Boone County Assessor
Peggy Lewis, PTABOA Member
Dan Spiker, Government Utilities Technology Service

¹ Mr. Paul Roland appeared as counsel for the Petitioner.

Facts

7. The property under appeal is a mobile home park with thirty-one sites located at 9111 East 600 South, Zionsville, in Boone County.
8. The ALJ did not conduct an on-site inspection of the property under appeal.
9. For 2011, the PTABOA determined the assessed value of the property to be \$245,000 for the land and \$43,700 for the improvements, for a total assessed value of \$288,700.
10. The Petitioner's representative requested a total assessed value of \$4,000.²

Issue

11. Summary of the Petitioner's contentions in support of an alleged error in its property's assessment:
 - a. The Petitioner's representative testified that the subject property is a mobile home park with 31 sites constructed in 1962. *Lei testimony*. According to Ms. Lei, the Petitioner purchased the mobile home park in 2011. *Id.*
 - b. The Petitioner's counsel argues that the assessor erred in assessing the value of the Petitioner's property. *Roland argument*. According to Mr. Roland, the property's Notice of Assessment indicated that the subject property was being assessed for land and structures, when in fact there are no "structures" located on the property owned by the Petitioner. *Id.* Ms. Lei admitted, however, that the park has gravel roads and each mobile home site has a pad for the mobile home to sit on and electric, water and sewer hook ups. *Lei testimony*.
 - c. Ms. Lei contends that only the land should be valued. *Lei testimony*. Ms. Lei argues that the assessor should only assess improvements located "on top of the land." *Id.* For example, buildings that are attached to the land. *Id.* According to Ms. Lei, the assessor has incorrectly classified REMC utility lines and water lines located underneath the ground as improvements on the Petitioner's property because the utility lines and water lines is included in the Petitioner's land assessment. *Id.* Thus, Ms. Lei argues, the Petitioner is being assessed twice for the utility and water lines. *Id.*
 - d. Alternatively, Ms. Lei argues that if an improvement value applies to the Petitioner's assessment, then the grade of the improvements is incorrectly applied. *Lei testimony*.

² At the hearing, Ms. Lei requested that the land be assessed for less than \$100,000 and for the improvement assessment to be removed. *Lei testimony*.

According to Ms. Lei, the mobile home park does not have street paving or gas service. *Id.* The individual mobile home sites can rent propane gas. *Id.* Further, Ms. Lei testified, the patio and walks are installed and belong to the individual mobile home owners. *Id.* Thus, Ms. Lei argues because these amenities are not provided or available, the mobile home sites should be a grade “E” rather than grade “D.” *Id.* In response to questioning, however, Ms. Lei admitted that the patios and walks become the property of the Petitioner when the owners move out of the park. *Lei testimony.*

- e. Finally, the Petitioner’s counsel argues that if the mobile home park schedule found in Appendix G of the REAL PROPERTY ASSESSMENT GUIDELINES – VERSION A (Guidelines) applies in this case, then the assessor erred in applying the depreciation. *Roland argument.* According to Mr. Roland, the application of 50% depreciation to the mobile home park from 1962 to 2010 is “unreasonable.” *Id.* Mr. Roland argues that by the assessor not changing the depreciation on the mobile home park for several years it implies that no depreciation is actually being applied in 2010. *Id.*

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

- a. The Respondent’s witness, Mr. Spiker testified that mobile homes are assessed “per site” and those site costs include such items as engineering, site grading, street paving, sewer hook-ups, water hook-ups, roadways, patios, walks, and pads for the mobile homes to sit on. *Spiker testimony.* According to Mr. Spiker, based on aerial photographs of the Petitioner’s mobile home park, engineering and site grading, roadways, patios and walks can be seen. *Id.* Thus, Mr. Spiker argues, contrary to the Petitioner’s representative’s argument, the mobile home park has “improvements” that were properly assessed. *Id.*
- b. Mr. Spiker contends that the property under appeal was correctly assessed for the 2011 assessment year. *Spiker testimony.* According to Mr. Spiker, the mobile home park has been valued in accordance with the instructions set forth in the Guidelines. *Id.* Mr. Spiker testified that after inspecting the mobile home park, the assessor determined that the subject property was a low cost mobile home park with limited features. *Id.* Therefore, the assessor assigned the park a “D” grade, which was valued from \$3,190 to \$4,130 per site on the cost tables. *Id.* Because the assessor found the Petitioner’s mobile home park to be on the low end of the “D” grade range, she assessed the park at \$3,190 per site for the park’s 31 sites. *Id.* The assessor then applied a 50% depreciation based on the schedule in the Guidelines to arrive at a value of \$42,030. *Spiker testimony; Respondent Exhibit 2.* Finally, the assessor applied a trending factor of 1.04 to arrive at a value of \$43,700 for the improvements on the site. *Id.*

13. The official record for this matter is made up of the following:

- a. The Form 131 petition and related attachments.

b. The digital recording of the hearing.

c. Exhibits:³

- Respondent Exhibit 1 – Boone County appeal worksheet,
 - Respondent Exhibit 2 – Property record card for the subject property,
 - Respondent Exhibit 3 – Aerial photograph of the subject property,
 - Respondent Exhibit 4 – Form 114, Notice of Hearing on Petition – Real Property by County Property Tax Assessment Board of Appeals,
 - Respondent Exhibit 5 – GUIDELINES, Appendix G, page 39 – Mobile Home Parks; aerial photograph of the subject property; and plat map of the subject property,
 - Respondent Exhibit 6 – Form 115, Notification of Final Assessment Determination,
 - Respondent Exhibit 7 – Letter from Paul G. Roland to Ms. Lisa Garoffolo, dated November 22, 2011, and Form 131, Petition to the Indiana Board of Tax Review for Review of Assessment,
 - Respondent Exhibit 8 – Indiana Board of Tax Review Notice of Hearing on Petition,
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- Board Exhibit A – Form 131 petition with attachments,
 - Board Exhibit B – Notice of Hearing,
 - Board Exhibit C – Hearing sign-in sheet,

d. These Findings and Conclusions.

Burden of Proof

14. Generally, a taxpayer seeking review of an assessing official's determination has the burden of proving that its property's assessment is wrong and what its correct assessment should 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). Pursuant to Indiana Code § 6-1.1-15-17.2, however, the burden shifts to the assessor in cases where the assessment under appeal has increased by more than 5% over the previous year's assessment. Here, because the property's assessed value did not increase more than 5% over its previous year's assessment, the Petitioner retains the burden of proof.

Analysis

15. The Petitioner's representative failed to provide sufficient evidence to establish a prima facie case for a reduction in the assessed value of the Petitioner's property for 2011. The Board reached this decision for the following reasons:

³ The Petitioner did not submit any exhibits.

- a. In Indiana, assessors value real property based on the property's market value-in-use, which the 2002 Real Property Assessment Manual defines 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." MANUAL at 2. Thus, a party's evidence in a tax appeal must be consistent with that standard. *Id.* A market-value-in-use appraisal prepared according to USPAP will often be probative. *Kooshtard Property VI v. White River Twp. Ass'r*, 836 N.E.2d 501,506 n. 6. (Ind. Tax Ct. 2005). A party may also offer actual construction costs, sales information for the subject property or comparable properties, and any other information compiled according to generally accepted appraisal principles. MANUAL at 5.
- b. Here, the Petitioner's representative argues it was an error to value improvements to the Petitioner's property. *Lei testimony*. According to Ms. Lei, the assessor should only assess improvements located "on top of the land." *Id.* The Guidelines state that mobile home parks shall be valued using commercial and industrial yard structures. GUIDELINES, ch. 7 at 2. According to the Guidelines, an assessor shall use the cost schedules to determine the base rate of mobile home parks per site. GUIDELINES, ch. 7 at 20. "Cost schedules for these structures are diverse and specific criteria are described to determine the base rate for each type." *Id.* Some of the site costs included in the Guidelines are engineering, site grading, patios, walks, sewers, water, electric, landscaping and recreation. *Id.* Barring probative evidence to the contrary, the Board finds that the method of valuing the mobile home park chosen by the assessor to value the Petitioner's mobile home park was reasonable.
- c. The Petitioner's representative also contends that the assessor erred when she applied the grade and failed to adjust the 50% depreciation on the Petitioner's mobile home park in 2011. *Lei testimony; Roland argument*. However, the Petitioner failed to show how the property was assessed for any year other than 2011. More importantly, a Petitioner fails to sufficiently rebut the presumption that an assessment is correct by simply contesting the method used to compute the assessment. *Eckerling v. Wayne Township Assessor*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006); *P/A Builders & Developers v. Jennings County Assessor*, 842 N.E.2d 899, 900 (Ind. Tax Ct. 2006) (recognizing that the current assessment system is a departure from the past practice in Indiana, stating that "under the old system, a property's assessed value was correct as long as the assessment regulations were applied correctly. The new system, in contrast, shifts the focus from mere methodology to determining whether the assessed value is *actually correct*.").
- d. Finally, the Petitioner's representative testified that the Petitioner purchased the subject property in 2011. *Lei testimony*. And, in fact, the property record card shows that the property sold on July 8, 2010, for \$609,141 and again on August 31, 2011, for \$440,000. *Respondent Exhibit 2*. Thus, even if the Petitioner's arguments could be seen as raising a prima facie case that the subject property was assessed too high,

that case was rebutted by the evidence that the property was purchased for a far higher amount than the property was assessed for in 2011.

- e. Where a Petitioner has not supported its claim with probative evidence, the Respondent's duty to support the assessment with substantial evidence is not triggered. *See Lacy Diversified Indus. v. Department of Local Government Finance*, 799 N.E.2d 1215, 1221-1222 (Ind. Tax Ct. 2003).

Conclusion

- 16. The Petitioner failed to establish a prima facie case that its property was over-valued for the March 1, 2011, assessment year. The Board finds in favor of the Respondent.

Final Determination

In accordance with the above findings of fact and conclusions of law, the Indiana Board of Tax Review determines that the assessed value of the Petitioner's property should not be changed.

ISSUED: February 26, 2013

Chairman,
Indiana Board of Tax Review

Commissioner,
Indiana Board of Tax Review

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 as amended effective July 1, 2007, by P.L. 219-2007, and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice. The Tax Court Rules are available on the Internet at <http://www.in.gov/judiciary/rules/tax/index.html>. The Indiana Code is available on the Internet at <http://www.in.gov/legislative/bills/2007/SE0287.1.html>.