

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions

Petition No.: 77-013-02-1-6-00001
Petitioner: Leslie & Nancy Pearson
Respondent: Jackson Township Assessor (Sullivan County)
Parcel No.: 013-008-04-000-026.002
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 with the Sullivan County Property Tax Assessment Board of Appeals (PTABOA) by written document dated July 22, 2003.
2. The PTABOA's Notification of Final Assessment Determination (Form 115) was mailed to the Petitioner on October 9, 2003.
3. The Petitioner filed an appeal to the Board by filing a Form 131 with the county assessor on November 7, 2003.
4. The Board issued a notice of hearing to the parties dated November 20, 2003.
5. The Board held an administrative hearing on January 7, 2004 before the duly appointed Administrative Law Judge (ALJ) Rick Barter.
6. Persons present and sworn in at the hearing:
 - a. For the Petitioner: Leslie Pearson, Taxpayer
 - b. For the Respondent: Vicki L. Talpas, Sullivan County Assessor

Facts

7. The property is classified as residential mobile/manufactured home, as is shown on the property record card (PRC) for Parcel No. 013-008-04-000-026.002.
8. The ALJ did not conduct an on-site inspection of the subject property.
9. The Assessed Values of the subject property as determined by the Sullivan County PTABOA are:

Land: \$11,800	Improvements: \$26,500	Total: \$38,300
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10. The Assessed Values requested by the Petitioner are:

Land: \$11,800	Improvements: \$21,100	Total: \$32,900
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Issue

11. Summary of Petitioner's contentions in support of alleged error in assessment:
 - a. The assessed value of the subject mobile home is excessive and incorrect for the 2002 assessment year;
 - b. The assessed value exceeds both the "Kelly Blue Book" value as well as the price the home was purchased for on May 24, 2000;
 - c. The copy of the Bill of Sale for the mobile home shows a purchase price of \$14,075 that included appliances (range, range hood, refrigerator, washer, dryer);
 - d. The copies of two (2) pages from the "Kelly Blue Book" shows the home's retail value to be less than the assessed value;
 - e. Petitioner owns another mobile home in another county (Owen). This mobile home is smaller and three (3) years newer and is valued less than the subject;
 - f. Petitioner feels the subject mobile home is worth between \$12,000 and \$14,000;
 - g. Mobile home was purchased three (3) years ago for \$32,000; and
 - h. Only the assessed value on the mobile home is in question and not the assessed values of the other improvements or the land.
12. Summary of Respondent's contentions in support of the assessment:
 - a. The subject mobile home was properly assessed according to the 2002 Real Property Assessment Manual and Guidelines specified in the DLGF's rules for annually assessed mobile homes (50 IAC 3.2);
 - b. All annually assessed mobile homes in Sullivan County were assessed according to state guidelines and publications;
 - c. The trustee made a change to the subject mobile home. The trustee applied the lowest grade possible (C-2) and changed the condition rating (fair);
 - d. Due to the changes made the PTABOA felt that nothing more could be done.

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# 5831.
 - c. Exhibits:
 - Petitioner Exhibit 1 – Bill of Sale
 - Petitioner Exhibit 2 – Photograph of subject structure
 - Petitioner Exhibit 3 - Subject PRC
 - Petitioner Exhibit 4 – Copies of pages from “national publication”

 - Respondent Exhibit 1 – Copies of Form 130 and Form 115
 - Respondent Exhibit 2 – Authorization Statement

 - Board Exhibit A – Form 131
 - Board Exhibit B – Notice of Hearing on Petition
 - d. These Findings and Conclusions.

Analysis

14. The most applicable governing case law, rule provisions and interpretive memoranda are:
- a. *Heart City Chrysler v. State Bd. of Tax Comm'rs*, 714 N.E.2d 329 (Ind. Tax 1999): “The petitioner must sufficiently explain the connection between the evidence and petitioner’s assertion in order for it to be considered material to the facts. Conclusory statements are of no value to the State in its evaluation of the evidence.”
 - b. *State Bd. of Tax Comm'rs v. Indianapolis Racquet Club, Inc.*, 743 N.E.2d 247, 253 (Ind. 2001), and *Blackbird Farms Apartment, LP v. Dep't of Local Gov't Finance*, 765 N.E.2d 711 (Ind. Tax 2002): “The Petitioner must do two things: (1) prove the assessment is incorrect; and (2) prove that the specific assessment he seeks, is correct. In addition to demonstrating that the assessment is invalid, the petitioner also bears the burden of presenting sufficient probative evidence to show what assessment is correct.”

- c. Real Property Assessment Manual – Market Value defined:
The most probable price (in terms of money) which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:
 - a. The buyer and seller are typically motivated;
 - b. Both parties are well informed or advised and act in what they consider their best interests;
 - c. A reasonable time is allowed for exposure in the open market;
 - d. Payment is made in terms of cash or in terms of financial arrangements comparable thereto;
 - e. The price is unaffected by special financing or concessions.

- d. Real Property Assessment Manual - True Tax Value defined:
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, less that portion of use value representing subsistence housing for its owner.

- e. The Real Property Assessment Manual, Book 1, Chapter 4 – Version A, Mobile and Manufactured Homes (50 IAC 2.3)
Provides the guidelines for establishing the valuation of real property mobile and manufactured homes.

- f. 50 IAC 3.2 – DLGF rule for assessment of mobile homes
50 IAC 3.2-3-1
Sec. 1 (a) The township assessor of the township within which the mobile home is located shall assess the mobile home for taxation under this article.
(b) A mobile home shall be assessed as real property under 50 IAC 2.3 if the mobile home:
 - (1) is located on land owned by the owner of the mobile home; or
 - (2) is located on a permanent foundation even if the land under the mobile home is owned by someone other than the owner of the mobile home.
 (c) A mobile home shall be assessed annually in accordance with the personal property rule in effect January 15 if the mobile home is held for sale in the ordinary course of a trade or business.
(d) The township assessor shall assess mobile homes that do not meet the requirements of subsection (b) or (c), and all exterior features, yard structures, and improvements owned by the mobile home owner and located on the same parcel as the mobile home in accordance with 50 IAC 3.2-2.

- g. 50 IAC 3.2-4-1 Criteria for valuation of annually assessed mobile homes
 - (a) Township assessors shall use the standard of true tax value as set forth in the Real Property Assessment Manual for 2002 in the assessment of annually assessed mobile homes.
 - (b) All annually assessed mobile homes assessed after January 14, 2003, shall be assessed in accordance with the methodology that the county assessor has elected, in accordance with 50 IAC 2.3-1-1, for the assessment of real property mobile homes in the county in which the mobile home is assessed.
 - (c) If the county assessor has selected to assess real property mobile homes under the Real Property Assessment Guideline for 2002 – Version A, then the township assessor shall value annually assessed mobile homes in accordance with the guidelines for the assessment for real property mobile homes contained in the Real Property Assessment Guidelines for 2002 – Version A.
 - (d) If the county has selected to assess real property mobile homes under an assessment method other than that described in subsection (c) and the county assessor has obtained the approval of the Department of Local Government Finance in accordance with 50 IAC 2.3-1-1(f) for this assessment method, then each township assessor in the county shall use the alternative approved method for the assessment of annually assessed mobile homes.

- h. DLGF Memorandum to assessing officials, dated January 27, 2003, regarding Annually Assessed Mobile Homes
50 IAC 3.2 specifies that township assessors are to use the 2002 Real Property Manual and Guidelines in the assessment of annually assessed mobile homes. This memorandum further instructs assessors that if the owner of an annually assessed mobile home contacts the township assessor stating the true tax value is too high when compared to a nationally recognized pricing guide such as the NADA guide, the assessor or county PTABOA may adjust the value if there exists a better indication of true tax value than that produced by the schedules found in the 2002 Real Property Assessment Guidelines. However, the memorandum indicates the national value guides are based on averages and do not necessarily represent the value of any individual mobile home. Therefore, an appraisal or sale of the mobile home would be better evidence of value. Further, if an assessing official accepts the NADA Guide as sufficient evidence of value, they are instructed to simply enter the new value into a column of the Valuation Record section of the mobile home worksheet with an appropriate reason such as “appeal” or “market adjustment.”

- i. Assessment Division, DLGF Memorandum to assessing officials, dated July 2003, regarding Annually Assessed Mobile Homes
The true tax value of any property in Indiana, including annually assessed mobile homes, is to be equal to its market value-in-use as defined in the 2002 Real Property Manual. Therefore, if there exists a better indication of true tax value than that produced by the schedules in the 2002 Real Property Assessment

Guidelines that were used by the assessor, the assessor can adjust the value. The DLGF further states that the memorandum is not intended as a global authorization to use the NADA guide in lieu of the cost and depreciation tables contained in 50 IAC 3.2. The NADA guide is not a mass appraisal method. However, it is allowable to use the NADA guide to adjust the value of an individual mobile home upon appeal if the assessor found that the guide provided better evidence of value than 50 IAC 3.2.

- j. 50 IAC 2.3, Book 1, Appendix C – Residential and Agricultural Cost Schedules
Mobile and Manufactured Homes
Mobile home Cost Schedules
15. Petitioner provided sufficient evidence to support his contentions. This conclusion was arrived at because:
- a. The Petitioner submitted into evidence a Bill of Sale (Petitioner’s Exhibit 1) for the subject mobile home. The purchase of the property occurred on May 24, 2000, in Vermillion County for \$14,075. The Petitioner was not the purchaser of the mobile home on that date. The sale of the subject mobile home was made between a Mr. and Mrs. Kevin L. Stevenson, of Vermillion County, and a Mr. and Mrs. Raymond E. Kerns, of Sullivan County. The Petitioner indicated that this was an arms length transaction.
 - b. The Petitioner in turn stated that he purchased the mobile home for \$32,000 from the Kerns. One would reasonably assume that this purchase price included the 1.70 acres of land where the mobile home presently resides.
 - c. The Petitioner also submitted copies of two (2) pages that he testified were “from the Kelly Blue Book and show the home’s retail value.” *Pearson testimony*. Several values were highlighted. The Petitioner indicated that this is a nationally recognized publication. Such a publication, per the Department of Local Government Finance, is acceptable in adjusting the value (DLGF Memorandums, January 27, 2003 and July 2003) of an individual mobile home if the assessor found that the guide provided better evidence of value than that in 50 IAC 3.2.
 - d. The Respondent did not rebut any of the evidence submitted by the Petitioner but only stated that the “Manual” was used to determine the value shown on the PRC.

Conclusion

- 16. The Petitioner has established a prima facie case. The Respondent failed to rebut the evidence submitted by the Petitioner. The Board finds in favor of the Petitioner.
- 17. The Petitioner presented evidence showing that the mobile home was purchased in May 2000 for \$14,075. The valuation date is January 1, 1999. This purchase agreement is of some probative value because it deals with the subject mobile home and is close to the

valuation date. Also, the Petitioner's testimony leads us to believe that he paid \$32,000 for the mobile home, additional improvements and the land in 2003.

18. The Board finds that the evidence supports a value for the mobile home of \$14,075. When the uncontested value of the other improvements, valued at \$9,500 on the PRC, and the uncontested land value of \$11,800, are added to the \$14,075 value shown for the mobile home, the total assessment would be \$35,375.
19. The Petitioner on the Form 131 requested that the improvements be \$21,100 and the land \$11,800 for a total assessment of \$32,900. However, the Petitioner did not support the requested value. Hence, the Board will change the total improvement value to \$23,575 (\$14,075 + \$9,500), leave the land value at \$11,800, and make the determination that the total assessment be \$35,375.

In accordance with the above findings and conclusions IBTR now determines that the assessment should be changed.

ISSUED: May 5, 2004

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.