

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

Petition #: 65-010-02-1-1-00013
Petitioners: Michael E. Hasting, *et al.*
Respondent: Point Township Assessor, Posey County
Parcel #: 011-00238-00
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 appeal with the Posey County Property Tax Assessment Board of Appeals (the "PTABOA") by written document dated November 3, 2003.
2. The Petitioner received notice of the decision of the PTABOA on March 15, 2004.
3. The Petitioner filed an appeal to the Board by filing a Form 131 with the county assessor on April 15, 2004. Petitioners elected to have this case heard in small claims.
4. The Board issued a notice of hearing to the parties dated Aug. 13, 2004.
5. The Board held an administrative hearing on September 14, 2004, before the duly appointed Administrative Law Judge Rick Barter (the "ALJ"). This is one of 13 petitions on 13 parcels, most adjoining, all owned by the same owner, in the same township and dealing with the same issues. The parties agreed to hear all 13 at one time and consider all issues jointly.
6. Persons present and sworn in at hearing:
 - a) For Petitioner: Michael E. Hasting, Petitioner
Carla D. Bishop, Tax Representative
 - b) For Respondent: Kristi D. Carroll, Posey County Assessor
Ginny Whipple, Appraisal Research Corp.

Facts

7. The property is classified as improved agricultural, as is shown on the property record card for parcel #011-00238-00. Total acreage is 34.25 acres, of which 32.25 acres Subtype 41, 1 acre is Type 71 and 1 acre is Type 11.
8. The correct surname of the owner of the subject is Michael E. Hasting. It was spelled incorrectly by the tax representative on the Form 131 Petition and as a result on all Indiana Board of Tax Review files and documents.
9. The ALJ did not conduct an inspection of the property.
10. Assessed Value of subject property as determined by the Posey County PTABOA:
Land \$38,600 Improvements \$8,600
11. Assessed Value requested by Petitioner:
Land \$10,500 Improvements \$8,600

Issue

12. Summary of Petitioner's contentions in support of alleged error in assessment:
 - a) A one-acre portion of the parcel that is priced as commercial is excessive to market value and not reflective of the market value for this land.
 - b) The greenhouse is just agricultural utility building and this acre should be assessed as agricultural land with the negative 40% influence factor.
 - c) There is an .83-acre public road right-of-way that has not been assessed properly.
13. Summary of Respondent's contentions in support of the assessment:
 - a) The commercial land values for Point Township were established for the 2002 reassessment by the appraisal firm of Bartlett Appraisers and the value assessed on this one-acre parcel reflects that value.

Record

14. 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 either party.
 - b) The tape recording of the hearing labeled BTR #5837.
 - c) Exhibits:
 - Petitioner Exhibit 1: Summary of issues
 - Petitioner Exhibit 2: Water level data for John T. Myers Locks & Dam
 - Petitioner Exhibit 3: Photographs of subject property during 1997 flood
 - Petitioner Exhibit 4: Photographs of subject property during 2004 flood

Petitioner Exhibit 5: Highlighted copy of Flood Hazard Boundary map
Petitioner Exhibit 6: Parcel grid and highlighted parcel maps of subject showing flood classification
Petitioner Exhibit 7: Real Property Assessment Guideline Page 113
Petitioner Exhibit 8: Real Property Assessment Guideline Page 115
Petitioner Exhibit 9: Summary of additional issue for Petitioners ending in -00009, -00011, and -00013
Petitioner Exhibit 10: Photograph of barnyard portions of Parcel 11-00232-00 on Petition ending -00011
Petitioner Exhibit 11: Photograph of wetland slough portions of Parcel 11-00220-00 on Petition ending -00011
Petitioner Exhibit 12: Photograph of portions of Parcel 011-00220-00 on Petition ending -00010
Petitioner Exhibit 13: Letter from Wilson Auction-Realty concerning value of Parcel 011-00238-00 on Petition ending -00013
Petitioner Exhibit 14: Photographs of portions of Parcel 011-00238-00 on Petition ending -00013
Petitioner Exhibit 15: Greg Knowles USDA FSA letter concerning Parcel 011-00220-00 on Petition ending -00011
Petitioner Exhibit 16: (a)-(m) Copies of Form 131s
Petitioner Exhibit 17: (a)-(c) Copies of amended Form 115s resulting from Form 130 appeal to Property Tax Assessment Board of Appeals

Respondent Exhibit 1: Cover letter from tax representative detailing attached evidence

Respondent Exhibit 2: Real Property Assessment Guideline Page 102

Respondent Exhibit 3: Real Property Assessment Guideline Page 103

Respondent Exhibit 4: Subject township map with three bridges near subject identified

d) These Findings and Conclusions.

Analysis

15. The most applicable governing statutes and cases are:

- a) 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).

- b) 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. Wash. 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”).
 - c) 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.
16. The Petitioners did not provide sufficient evidence to support his contentions. This conclusion was arrived at for the following reasons.
17. In order to make a prima facie case Petitioner is charged with bringing forth probative evidence that his current assessed value is incorrect and what the correct assessed value should be.
18. Petitioner has presented as evidence a document dated Aug. 25, 2004, signed by William Wilson of William Wilson Auction-Realty, Inc., which is titled “Letter of opinion of value of Real Estate belonging to Mike Hasting.” *Petitioner Exhibit 13*.
19. The Wilson document identifies the property in Point Township, Posey County, and describes the document’s purpose as “to determine the current fair market value of the property described herein[.]” *Petitioner Exhibit 13*.
20. The document states that the subject acre, located in the flood plain, according to state and federal records, has a fair market value of \$2,500. The document includes the statement, “[h]aving sold and appraised several thousands of acres in Point Township and using the Sales Comparison Approach to Value, it is my opinion that the current fair market value of the subject property, as of Aug. 27, 2004, is \$2,500.” *Petitioner Exhibit 13*.
21. While the document mentions Sales Comparison Approach to Value, it does not detail what, if any sales might have been considered. Apparently the author’s intent is that his extensive background in real estate in the township and county is sufficient to carry the argument.
22. In fact, during testimony the Petitioner stated that he is not aware of any sale of any commercial property in the township that could be compared. *Hasting testimony*.

23. While evidence that helps prove or establish market value may be considered in the appeal process, it must meet certain standards to be probative. *See* 2002 REAL PROPERTY ASSESSMENT MANUAL at 4, 5 (discussing probative value of fee appraisals and comparable sales approach). The document submitted does not meet the requirements of a full appraisal, is not prepared in accordance with USPAP and as such bears only limited weight in the consideration of the appeal. *See Pet'r Ex. 13*. Had the document demonstrated a sales comparison approach to value or even an income approach to value it would carry more weight.
24. While the document provides the author's professional opinion of value it can be considered little more than conclusory evidence since the opinion is not backed by substantial and probative evidence that establishes market value. *Whitley Products, Inc.*, 704 N.E.2d at 1119. The Board finds that Petitioner has not presented a prima facie case on this issue.

Conclusion

25. The Petitioner failed to make a prima facie case. 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 2002 assessment for this parcel 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.