

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

Petition #: 39-010-02-1-4-00034
Petitioner: Robert Hughes
Respondent: Madison Township Assessor (Jefferson County)
Parcel: 0100085500
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 Jefferson County Property Tax Assessment Board of Appeals (PTABOA) by written document dated August 7, 2003.
2. The PTABOA mailed notice of its decision to the Petitioner on September 29, 2003.
3. The Petitioner appealed to the Board by filing a Form 131 with the County Assessor on October 22, 2003. Petitioner elected to have this case heard in small claims.
4. The Board issued a notice of hearing to the parties dated April 6, 2004.
5. The Board held an administrative hearing on June 30, 2004, before the duly appointed Administrative Law Judge Jennifer Bippus.
6. Persons present and sworn in at the hearing:
 - A. For Petitioner: Milo Smith, Petitioner’s representative
 - B. For Respondent: Don Thompson, Madison Township Assessor
Margaret Hoffman, Jefferson County Assessor
James Martin, Jefferson County PTABOA
George Thomas, Jefferson County PTABOA
Elbert Hinds, Jefferson County PTABOA

Facts

7. The property is classified industrial, as is shown on the property record card for parcel # 0100085500.
8. The Administrative Law Judge did not conduct an inspection of the property.
9. Assessed Value of subject property as determined by the Jefferson County PTABOA (2002 assessment year):

Land: \$37,500 Improvements: \$1,048,700
10. Assessed Value requested by Petitioner:

Land: \$37,500 Improvements: \$600,000

Contentions

11. Summary of Petitioner's contentions in support of alleged error in assessment is:
 - A. The subject building should not be valued from the General Commercial Industrial (GCI) pricing schedule but instead from the General Commercial Kit (GCK) pricing schedule. *Smith testimony.*
 - B. The subject property is pre-engineered and pre-designed. It is metal framed with exterior walls of light metal and is used for industrial purposes. The roof is low-pitched. *Smith testimony.*
 - C. The building is constructed of steel girts and purlins, metal siding and roofing, steel post and beam construction, and "X" bracing with tapered beams. Some of the photographs show liners for insulation, but part of the building has no wall or ceiling finish. *Smith testimony; Petitioner Exhibits 4, 5, 6, 7, and 8.*
 - D. Schedule A.4 of the Version A – Real Property Assessment Guideline is used to value light pre-engineered and pre-designed wood pole or metal-framed structures that are used for commercial and industrial purposes only. *Smith testimony; Petitioner Exhibit 10.*
 - E. Bateman Builders from Seymour, Indiana, submitted a letter stating that all of the buildings are Butler pre-engineered buildings assembled on site. Butler tags are visible on many of the buildings and this is a trade name for pre-engineered structures. *Smith testimony, Petitioner Ex. 11.*
 - F. There are some overhead cranes in the building, but all of them have round columns underneath them to support the roof structure in order to support the cranes. There are separate structures to support the cranes. *Smith testimony.*
 - G. The front office building is not being considered today and should remain assessed as GCI office. *Smith testimony.*

12. Summary of Respondent's contentions in support of the assessment is:
- A. All commercial buildings are pre-engineered. *Thompson testimony.*
 - B. The GCK schedule calls for light metal construction. The photographs show the expanse of the beams on the ceiling and equipment. There are several overhead cranes and all of this is not conducive to light pre-engineered structures. *Thompson testimony.*
 - C. The statement from Bateman Builders does not mean anything. *Thompson testimony.*
 - D. The building is an industrial building used for light manufacturing, with Type 3 walls and metal over metal framing. *Thompson testimony.*¹
 - E. It is pre-engineered, but the fact is contested that it is "light" pre-engineered. It is an industrial building and needs to be priced from the GCI schedule. *Thompson testimony.*
 - F. Respondent Exhibit 13 is a photograph of the overhead cranes. *Hoffman 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 # 5872.
 - C. Exhibits:
 - Petitioner Exhibit 1: Exterior photograph of the subject structure.
 - Petitioner Exhibit 2: Copy of the subject property record card.
 - Petitioner Exhibit 3: An exterior photograph of the subject structure showing the location of features contained in the photographs presented as subsequent Petitioner exhibits.
 - Petitioner Exhibits 4 through 8: Interior photographs of the structure.
 - Petitioner Exhibit 9: A copy of the Version A – Real Property Assessment Guideline, Chapter 6, page 13.
 - Petitioner Exhibit 10: A copy of Version A – Real Property Assessment Guideline, Chapter 6, page 9.
 - Petitioner Exhibit 11: Letter from Bateman Builders, Inc.

 - Respondent Exhibit 1: Map of Madison Clifty Drive.
 - Respondent Exhibit 2: Aerial view of subject parcel.
 - Respondent Exhibit 3: Department of Local Government Finance letter approving land values.

¹ Wall type is a descriptive classification indicating the exterior wall construction material used for most of the use types. Wall type 3 consists of aluminum, metal, or steel siding on steel framing. *Version A – Real Property Assessment Guideline, Chapter 6, page 13.*

Respondent Exhibit 4: PTABOA approval of land base rates.
Respondent Exhibit 5: Neighborhood Valuation Form.
Respondent Exhibit 6: Neighborhood Value Method page.
Respondent Exhibit 7: Appraisals.
Respondent Exhibit 8: Property record cards of comparable properties.
Respondent Exhibit 9: Multiple Listing page of sold properties.
Respondent Exhibit 10: Multiple Listing page for sale properties.
Respondent Exhibit 11: Sales disclosure forms.
Respondent Exhibit 12: Property record card of the subject property.
Respondent Exhibit 13: Photographs of overhead crane.
Respondent Exhibit 14: A copy of Version A – Real Property Assessment Guideline, Chapter 6, pages 13 and 17, and Appendix D, page 23.

D. These findings and conclusions.

Analysis

14. The most applicable governing case 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 Comm’rs*, 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 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 pricing for kit buildings under the GCK schedule is reflective of the economical quality and low cost of materials used in the structure. “[K]it buildings are made of light weight and inexpensive materials and are fabricated at central manufacturing facilities and shipped to the construction site ready for fast and efficient assembly.” *Miller Structures Inc. v. State Board of Tax Commissioners*, 748 N.E. 2d 943, 949 (Ind. Tax Ct. 2001).
 - D. The Tax Court has stated that the key elements used to identify a kit building are, simply, the types of interior columns and roof beam supports used in the building. *Componx, Inc. v. State Board of Tax Commissioners*, 683 N.E.2d 1372, 1374 (Ind. Tax 1997). Kit buildings interior columns and roof beam supports may include cold cee channel supports, tapered columns, H-columns, and steel pole or post columns. *Miller Structures, Inc.*, 748 N.E.2d at 950. Consequently, “it should not be difficult for taxpayers to identify those characteristics in an improvement alleged to

[be a kit building].” *Whitley Products, Inc. v. State Board of Tax Commissioners*, 704 N.E. 2d 1113, 1121 (Ind. Tax 1998).

Issue

15. Petitioner provided sufficient evidence to support Petitioner’s contentions. This conclusion was arrived at because:
 - A. The Petitioner submitted several photographs of the interior and exterior of the building, showing metal-framed exterior walls, tapered interior columns, “X” bracing in the plane of the roof and in some areas the side walls. There are cee channels, steel girts and purlins, and a low roof pitch. *Smith testimony; Petitioner Exhibits 3 – 8.*
 - B. The Petitioner submitted a letter from Bateman Builders, Inc. stating that the buildings were Butler pre-engineered metal buildings brought to the site for assembly. *Smith testimony; Petitioner Exhibit 11.*
 - C. The Petitioner testified that the overhead cranes were supported by round columns underneath the crane and, although they are attached to the roof beams, they bear their own load. *Smith testimony.*
 - D. The Petitioner’s evidence is sufficient to establish a prima facie case in support of the Petitioner’s argument. *LDI Mfg. Co. v. State Board of Tax Commissioners*, 759 N.E.2d 685 (Ind. Tax 2001).

16. The Respondent did not provide sufficient evidence to rebut the Petitioner’s prima facie case. This conclusion was arrived at because:
 - A. The Respondent contended that the building is used for light manufacturing, with a Type 3 wall, metal over metal framing, and is not a “light” pre-engineered building. The Respondent contended that the GCK model calls for light metal or wood walls and that the structure has a large expanse of beams and several overhead cranes. Accordingly, the Respondent opined that the structure was correctly assessed from the GCI schedule. *Thompson testimony.*
 - B. However, the Respondent presented no evidence to refute the Petitioner’s prima facie case that the structure was a light pre-engineered building.
 - C. For example, the Respondent failed to demonstrate that the overhead cranes create a tolerance load greater than typically found in a standard kit building. *Morris v. State Board of Tax Commissioners*, 712 N.E.2d 1120 (Ind. Tax 1999). As discussed, testimony indicated these cranes are supported by independent load bearing columns.
 - D. The Respondent failed to explain the manner in which the beams in the building differ from those found in typical standard kit buildings. Further, the Respondent offered no evidence concerning the gauge of the walls to establish the construction is something other than a light, pre-engineered building. *Miller Structures, Inc.*, 748 N.E.2d at 951.
 - E. Conclusory statements that certain features of the structure are indications that the building is not light or pre-engineered do not constitute probative

evidence. *Whitley Products, Inc. v. State Board of Tax Commissioners*, 704 N.E.2d 113 (Ind. Tax 1998).

- F. The Respondent has failed to rebut the Petitioner's prima facie case of error in the assessment. The Board finds in favor of the Petitioner.

Conclusion

17. The Petitioner made a prima facie case. The Respondent failed to rebut the Petitioner's evidence. The Board finds in favor of the Petitioner on this issue.

Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines:

The subject structure should be valued using the GCK pricing schedule. Both parties to this appeal should meet to make the necessary changes to the assessment as it pertains to the GCK pricing schedule. These changes may include, but are not limited to, the physical depreciation applied and the grade and design factor.

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.