

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

Petition #: 49-900-02-1-5-02461
Petitioners: Ronald & Cynthia Abner
Respondent: Wayne Township Assessor (Marion County)
Parcel #: 9000983
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 Petitioners initiated an assessment appeal with the Marion County Property Tax Assessment Board of Appeals (PTABOA) by written document dated June 24, 2003.
2. The Petitioners received notice of the decision of the PTABOA on December 19, 2003.
3. The Petitioners filed an appeal to the Board by filing a Form 131 with the county assessor on January 15, 2004. Petitioners elected to have this case heard in small claims.
4. The Board issued a notice of hearing to the parties dated January 28, 2004.
5. The Board held an administrative hearing on March 31, 2004, before the duly appointed Administrative Law Judge Paul Stultz.
6. Persons present and sworn in at hearing:
 - a) For Petitioners: Ronald Abner, taxpayer
 - b) For Respondent: Tara Acton – Deputy Wayne Twp. Assessor
Michael Thompson – Deputy Wayne Twp. Assessor

Facts

7. The property is classified as residential, as is demonstrate on the property record card for parcel #9000983.
8. The Administrative Law Judge (ALJ) did not conduct an inspection of the property.

9. Assessed Value of subject property as determined by the Marion County PTABOA:

Land \$8,400, Improvements \$1,200

10. Petitioners did not request a specific value for land or improvements.

Issue

11. Summary of Petitioners' contentions in support of alleged error in assessment:

- a) Petitioners contended the assessed value for this parcel was inaccurate.
- b) Petitioners did not testify or raise any contentions concerning this parcel.
- c) Parcel's only improvement is asphalt.

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

- a) Respondent contended the assessment was correct.
- b) Respondent did not testify or raise any contentions concerning this parcel.

Record

13. 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 #3344 and #3346.
- c) Exhibits:

Petitioners Exhibits: *see* Attachment A attached to Findings.

Respondent Exhibits: *see* Attachment B attached to Findings.

Board Exhibits:

Board Ex. A – Form 131 Petition

Board Ex. B – Notice of Hearing on Petition Small Claims

Board Ex. C – Written request by Petitioners to hear four petitions at the same time

Board Ex. D – Certificate of Service prepared by Petitioners

- d) These Findings and Conclusions.

Analysis

13. The most applicable governing law:

- a. 50 IAC 2.3 -1-1(b) "All real property assessed after February 28, 2002, must be assessed in accordance with the 2002 Real Property Assessment Manual, incorporated by reference under section 2 of this rule."
- b. 50 IAC 2.3 -1-1(d) "The purpose of this rule is to accurately determine "True Tax Value" as defined in the 2002 Real Property Assessment Manual, not to mandate that any specific assessment method be followed."

- c. 2002 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference by 50 IAC 2.3-1-2): “True tax value is defined 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.”
 - d. 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).
 - e. 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).
14. The Petitioners did not provide sufficient evidence to support the Petitioners’ contentions. This conclusion was arrived at because:
- a) Petitioners argued this parcel in connection with another parcel also under appeal. The other parcel was appealed under Petition Number 49-900-02-1-5-02464.
 - b) The Petitioners did not explain the connection between the evidence presented and the alleged error in the assessment for the subject parcel. Petitioners’ comments related only to the property appealed under Petition No. 49-900-02-1-5-02464.
 - c) As stated in Finding of Fact ¶ 11 above, Petitioners contended the assessed value for this parcel was inaccurate, but Petitioners did not testify or raise any specific contentions relating to this parcel.
 - d) The Petitioners did not present probative evidence to establish a prima facie case showing the assessment of the subject property was in error. Furthermore, the Petitioners did not present probative evidence indicating what the correct assessment should be.

Other Findings

15. Respondents objected to Petitioners entering into evidence Petitioners’ Exhibit 3. This exhibit contains a two page statement entitled “Rebuttal,” a Property Record Card of residence 15 S. Rebecca with photo attached, two photos of residence 33 S. Myron, and one photo of residence 17 S. Lynhurst.
16. The Board determined the following:
- a. Respondents were given proper notice that Mr. Abner was going to testify. Respondents did not demonstrate that they were harmed by Petitioners’ reading testimony from a script.
 - b. Respondents did not demonstrate that they were harmed by a copy of a Property Record Card for 15 South Rebecca that was obtained from Respondents’ office.
 - c. Respondents did not demonstrate that they were harmed by photos of other homes in the subject neighborhood.

17. The Board considered the Respondents' objection and found the Respondents were not harmed by Petitioners entering Petitioners' Exhibit 3 as evidence. Accordingly, the Board considered Petitioners' Exhibit 3 in making its determination.

Conclusion

18. The Petitioners 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 assessment 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.