

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

Petition #: 18-001-02-1-5-00009
Petitioners: Sammie L. & Roxanna Slone
Respondent: Center Township Assessor (Delaware County)
Parcel #: 18-11-17-453-013.000-003
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 Delaware County Property Tax Assessment Board of Appeals (PTABOA) by written document dated April 17, 2003.
2. The notice of the decision of the PTABOA was signed on October 22, 2003.
3. The Petitioners filed an appeal to the Board by filing a Form 131 with the county assessor on November 18, 2003. The Petitioners elected to have this case heard in small claims.
4. The Board issued an initial notice of hearing to the parties dated December 16, 2003. A continuance was requested by Delaware County officials and the hearing was rescheduled. The rescheduled notice of hearing was sent to the parties on January 5, 2004.
5. The Board held an administrative hearing on March 25, 2004, before the duly appointed Administrative Law Judge Patti Kindler.
6. Persons present and sworn in at hearing:
 - a) For Petitioners: Roxanna Slone, Owner
 - b) For Respondent: Charles E. Ward, Authorized County PTABOA and Center Township Representative

Facts

7. The property is classified as a single family residential dwelling located at 2112 West 9th Street, Muncie, Indiana, as is shown on the property record card for parcel #18-11-17-453-013.000-003.

8. The Administrative Law Judge did not conduct an inspection of the property.
9. The Respondent submitted a witness and evidence list prior to the hearing. The Petitioners did not, but both parties agreed to waive the rules of submission of the lists and continue with the hearing.
10. Assessed Value of subject property as determined by the Delaware County PTABOA: Land \$5,500, Improvements \$59,700.
11. Assessed Value requested by Petitioners on the Form 131: Land \$5,500, Improvements \$50,000.

Issue

12. Summary of Petitioners' contentions in support of alleged error in assessment:
 - a) Petitioners contend the subject property's assessed value is overstated in comparison to other similar homes in the same neighborhood. Further, Petitioners argued the subject property record card defines the subject garage as a three-car garage, but it only has a two-car overhead door and a workshop area.
 - b) Petitioners argued that six (6) comparable ranch-type properties located just one block from the subject property have assessed values that are lower than the subject's assessed value. Petitioners testified they were familiar with the comparable properties, which are owned by family members.
 - c) The property record cards for the comparable properties and photographs were included in Petitioners' attachments and submissions. Petitioners gave a brief description of the comparable properties presented. The assessed values for the six comparable properties ranged from \$42,900 to \$62,200. *Board Exhibit 1 and Petitioners Exhibit 1, 2, 3.*
 - d) Petitioners contend the comparable properties, located at 1916 South Daly (assessed at \$49,100) and 2001 West 10th Street (assessed at \$62,200), are "almost exactly the same" as the subject property but have lower assessed values.
 - e) Petitioners assert the Respondent's comparable properties are not similar to the subject in style and design; the subject property is more comparable to the ranch homes on 10th Street.
 - f) Petitioners provided a copy of an appraisal with an indicated value of \$55,000 as of August 2001. The appraisal does not include the 12' x 20' garage workshop addition. The appraisal was ordered for refinance and was conducted in accordance with the Uniform Standards of Professional Appraisal Practice. *Board Exhibit A.*
 - g) Subsequent to the appraisal, a building permit was issued for an addition to the garage, with a construction cost of \$6,680. Petitioners assert the \$6,680 cost to construct the garage addition would not add that much to the selling price of the property; many buyers are not that interested in a garage workshop area. *Respondent Exhibit 11.*

- h) Petitioners agree with Respondent that the subject home is the nicest home in their neighborhood. However, Petitioners assert the subject property in its location on West 9th Street would not sell for its assessed value of \$65,000; the home would sell for \$50,000. An apartment building is located in front of the subject property and a cigarette store is located behind the subject property.
- i) On the Form 131, Petitioners contend the subject property should be valued at \$55,500. Petitioners testified at the hearing that the subject property would sell for \$50,000 if it were listed on the open market.

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

- a) Respondent asserts the subject property has been correctly assessed at \$65,200. The assessed value applied by Center Township is supported by the Petitioners' appraisal, building permit, and the Respondent's comparable grid with adjustments.
- b) Respondent contends the Petitioners' comparable properties consist of assessed values for the properties, not sale prices. Respondent further asserts the subject's assessed value and market value are higher than the neighboring properties because it is the newest and nicest home on the block.
- c) Respondent asserts the appraisal submitted by the Petitioners supports the assessed value applied to the property. A licensed fee appraiser estimated the value to be \$55,000 as of August 2, 2001. Subsequent to the appraisal, a garage/workshop addition was constructed with a purported value of \$6,680 according to the County Building Permit Application. *Respondent Exhibit 11.*
- d) The sum of the subject property's indicated value of \$55,000 in the fee appraisal and the \$6,680 garage addition equals approximately \$62,000. In addition to the garage addition, Respondent contends the kitchen was remodeled, which shows the assessment applied to the property at \$65,200 is in the same ballpark as the Petitioners' fee appraisal.
- e) Respondent asserts appraisals, in accordance with appraisal standards, are considered a valid estimate of value if they are within 5-10% of each other, as are the values applied by Center Township and the Petitioners' appraisal. Therefore, the Township's assessment is fair.
- f) Respondent submitted three property record cards and an adjustment grid for three sales he asserts are comparable to the subject property. The adjustment grid indicates a sales range from \$58.56 to \$61.83 per square foot after adjustments made for differences from the subject. Respondent contends the subject property is assessed at \$51.80 per square foot, which falls into the pre-adjusted range based on actual sales of \$48.78 to \$61.16. *Respondent Exhibit 10.*
- g) The garage is assessed as a three-car garage due to assessing terminology; the Respondent asserts there is no other terminology for valuing the new unfinished workshop addition, which is attached and open to the garage area.

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 #5311.
- c) Exhibits:
 - Petitioners Exhibit 1: Garage view photograph of 2001 West 10th Street.
 - Petitioners Exhibit 2: Front view photograph of 2001 West 10th Street.
 - Petitioners Exhibit 3: Front view of 1916 South Daly Street.
 - Petitioners Exhibit 4: Rear view of subject garage/workshop addition.

 - Respondent Exhibit 1: Information regarding the subject property.
 - Respondent Exhibit 2: Definition of market value according to the International Association of Assessing Officers Property Assessment Valuation guide.
 - Respondent Exhibit 3: Photograph of the subject, street view.
 - Respondent Exhibit 4: Photograph of the subject, front view.
 - Respondent Exhibit 5: Subject property record card with current values.
 - Respondent Exhibit 6: Graph of sales for 1998-99 for the neighborhood.
 - Respondent Exhibit 7: Comparable 1 (2204 West 8th Street).
 - Respondent Exhibit 8: Comparable 2 (2229 West 8th Street).
 - Respondent Exhibit 9: Comparable 3 (1721 West 10th Street).
 - Respondent Exhibit 10: Comparable adjustment grid.
 - Respondent Exhibit 11: Building Permit for garage addition.
 - Respondent Exhibit 12: Subject property record card from 2001.

 - Board Exhibit 1: Form 131 petition with attachments including – Form 130, Form 115, Subject property record card (PRC) with photo, PRC and photo of house beside the subject property, PRCs (some with photos) of 6 comparable properties, photos of neighboring properties, and appraisal of subject property.
 - Board Exhibit 2: Notice of Hearing on Petition.
 - Board Exhibit 3: Notice of Hearing on Petition-Rescheduled.
- d) These Findings and Conclusions.

Analysis

15. The most applicable governing cases are:

- a) The Petitioner must submit ‘probative evidence’ that adequately demonstrates the alleged error. Mere allegations, unsupported by factual evidence, will not be considered sufficient to establish an alleged error. See *Whitley Products, Inc. v. State Bd. of Tax Comm’rs*, 704 N.E.2d 1113 (Ind. Tax 1998), and *Herb v. State Bd. of Tax Comm’rs*, 656 N.E.2d 890 (Ind. Tax 1995). [‘Probative evidence’ is evidence that serves to prove or disprove a fact.]

- b) 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. 'Conclusory statements' are of no value to the State in its evaluation of the evidence. See *Heart City Chrysler v. State Bd. of Tax Comm'rs*, 714 N.E.2d 329 (Ind. Tax 1999). ['Conclusory statements' are statements, allegations, or assertions that are unsupported by any detailed factual evidence.]

 - c) The Board will not change the determination of the County Property Tax Assessment Board of Appeals unless the Petitioner has established a 'prima facie case.' See *Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax 1998), and *North Park Cinemas, Inc. v. State Bd. of Tax Comm'rs*, 689 N.E.2d 765 (Ind. Tax 1997). [A 'prima facie case' is established when the Petitioner has presented enough probative and material (i.e. relevant) evidence for the Board (as the fact-finder) to conclude that the Petitioner's position is correct. The Petitioner has proven his position by a 'preponderance of the evidence' when the Petitioner's evidence is sufficiently persuasive to convince the State that it outweighs all evidence, and matters officially noticed in the proceeding, that is contrary to the Petitioner's position.]
16. The Petitioners did not provide sufficient evidence to support their contentions. This conclusion was arrived at because:
- a) The Petitioners submitted property record cards and photos for several properties they claimed are comparable to the subject property. The Petitioners asserted the comparables all have assessed values lower than the subject property. However, the Petitioners failed to explain how the assessed values of the comparable properties relate to the market value in use for the subject property. Also, the Petitioners did not account and adjust for differences between the comparable properties and the subject property. *Slone testimony; Board Exhibit A*
 - b) The Petitioners provided a copy of an appraisal with an indicated value of \$55,000 as of August 2001. The appraisal does not include the 12' x 20' garage workshop addition. The construction cost listed on the building permit for the garage addition is \$6,680. *Board Exhibit A; Respondent Exhibit 11.*
 - c) While the appraisal was not trended back to the January 1, 1999 assessment valuation date, the Respondent did not rebut the appraisal valuation date, or indicate that the value would be any different on the 1999 valuation date than reported on the appraisal. In fact, the Respondent stated that the appraisal value of \$55,000 plus another \$7,000 for the garage addition equals \$62,000; the county has it assessed at \$65,000, which is in the same ballpark. *Ward testimony.*
 - d) The Petitioners' appraisal lists a value of \$55,000 for the subject property prior to the garage workshop addition and kitchen remodeling. The Petitioners assert the cost of the garage addition would not contribute the full \$6,680 cost. However, the Petitioners did not provide any evidence to show the amount of contributory value the garage addition would add.

- e) The Petitioners requested a value of \$55,500 on the Form 131 petition. At the hearing the Petitioners stated that \$50,000 is what they could sell the subject property for on the open market. *Slone testimony; Board Exhibit A.* The Petitioners' request for either of the above values is contradicted by Petitioners' own appraisal, which lists the property value at \$55,000 prior to the garage addition and kitchen remodeling.
- f) The evidence presented by the Petitioners does not support either of the values requested by the Petitioners. In fact, the appraisal and building permit for the garage addition support the value determined by the Respondent.

Conclusion

17. The Petitioners failed to make a prima facie case. The Board finds in favor of the 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.