

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

**Petition:** 84-005-02-1-5-00011  
**Petitioners:** Daniel T. & Carolyn J. Ives  
**Respondent:** Honey Creek Township Assessor (Vigo County)  
**Parcel:** 119-09-02-226-004  
**Assessment Year:** 2002

The Indiana Board of Tax Review (Board) issues this determination in the above matter. The Board finds and concludes as follows:

**Procedural History**

1. Petitioners initiated an assessment appeal with the Vigo County Property Tax Assessment Board of Appeals (PTABOA) by written document dated October 24, 2003.
2. The decision of the PTABOA is dated July 26, 2004.
3. Petitioners filed an appeal to the Board by filing a Form 131 with the county assessor on August 25, 2004. Petitioners elected to have the case heard according to small claim procedures.
4. The Board issued a Notice of Hearing to the parties dated February 1, 2005.
5. The Board held an administrative hearing on March 9, 2005, before the duly appointed Administrative Law Judge Rick Barter.
6. The persons present and sworn as witnesses at the hearing were:  
Carolyn J. Ives, Petitioner,  
Jenny Becker, Vigo County Assessor's Representative,  
Shari Arvin, Vigo County Assessor's Representative  
Susan McCarty, Vigo County Assessor's Representative

**Facts**

7. The property is classified as 0.12 acre of residential excess acreage. There are no improvements on the parcel.
8. The Administrative Law Judge did not conduct an inspection of the property.

9. The assessed value of the property as determined by the Vigo County PTABOA is:
- |            |                  |              |
|------------|------------------|--------------|
| Land \$800 | Improvements \$0 | Total \$800. |
|------------|------------------|--------------|
10. The assessed value requested by Petitioners is:
- |                     |                  |                       |
|---------------------|------------------|-----------------------|
| Land \$100 to \$300 | Improvements \$0 | Total \$100 to \$300. |
|---------------------|------------------|-----------------------|

### **Issues**

11. Summary of Petitioners' contentions in support of alleged error in assessment:
- a) This parcel includes utilities easements and serves as a point of ingress and egress. Its use may not be changed. No improvement can be built on it. The parcel should be deeded when the adjacent property is sold. This parcel has no market value. It should be assessed with a negative influence factor based on its shape or size restrictions of 80% - 90%. *Ives testimony; Petitioners Exhibit 2.*
  - b) Prior to the 2002 reassessment, this parcel had a nominal value and the tax was minimal at \$1 and then \$2 per year. At the Form 130 PTABOA hearing, the county officials lowered the assessed value to \$800. That revised value should receive the proposed negative influence factor. *Id.*
12. Summary of Respondent's contentions in support of the assessment:
- a) The subject property is currently valued as residential excess acreage at \$828 for the 0.12 acre parcel. The residential excess acreage rate is \$6,900. The lowering of the rate by the PTABOA, after the Form 130 hearing, accounted for restrictions on the property. No additional influence factor is warranted. *Becker testimony; Respondent Exhibit 1.*
  - b) The residential excess acreage rates do not contain costs for well and septic systems, or other improvements to the land. Therefore, the parcel is appropriately valued as being unimproved. *Id.*

### **Record**

13. The official record for this matter is made up of the following:
- a) The Petition,
  - b) The tape recording of the hearing labeled IBTR 6192,
  - c) Petitioners Exhibit 1: Copy of Form 115,  
Petitioners Exhibit 2: Copy of Form 131,  
Petitioners Exhibit 3: Copies of four photographs of parcel #119-09-02-226-006.<sup>1</sup>

---

<sup>1</sup> The Petitioners' exhibit coversheet indicates this exhibit pertains only to a related appeal, petition #84-005-02-1-5-00010.

Petitioners Exhibit 4: Copy of a photograph of the lane,  
Petitioners Exhibit 5: Petitioners' sketch of subject and adjacent parcels,  
Petitioners Exhibit 6: Vigo County plat map with subject outlined,  
Respondent Exhibit 1: Summary of Respondent's contentions,  
Respondent Exhibit 2: Copy of Form 115,  
Respondent Exhibit 3: Property record card for parcel #119-09-02-226-004,  
Respondent Exhibit 4: Copy of Form 130 appeal to PTABOA,  
Board Exhibit A: Form 131,  
Board Exhibit B: Notice of Hearing,  
Board Exhibit C: Notice of County Assessor representation,

d) These Findings and Conclusions.

### Analysis

14. The most applicable governing 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. Washington 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.

15. Petitioners did not provide sufficient evidence to support their contentions. This conclusion was arrived at because:

- a) An influence factor refers to a “multiplier that is applied to the value of land to account for characteristics of a particular parcel of land that are peculiar to that parcel. The factor may be positive or negative and is expressed as a percentage.” REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002—VERSION A, glossary at 10.

- b) To establish a prima facie case that an influence factor is warranted Petitioners must present evidence that would support the application of a negative influence factor, and present a quantification of the influence factor. *Phelps Dodge v. State Bd. of Tax Comm'rs*, 705 N.E.2d 1099, 1105-1106 (Ind. Tax Ct. 1999).
- c) Assuming *arguendo* that Petitioners presented evidence to support some negative influence factor, they failed to meet their burden of tying those causes to an actual loss in value and properly quantifying the influence factor they seek. Petitioners presented no explanation of how they concluded the property should receive a negative influence factor of 80% or 90%. Similarly, Petitioners presented no market evidence supporting their contention on the Form 131 petition that the value of the parcel should be "\$100 to \$300."
- d) Unsubstantiated conclusory statements do not constitute probative evidence. *Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).
- e) In prior years, this parcel was assessed for only a nominal amount. In Indiana, however, each tax year stands alone. *Glass Wholesalers, Inc. v. State Bd. of Tax Comm'rs*, 568 N.E.2d 1116, 1124 (Ind. Tax Ct. 1991). Evidence of a prior year's assessment is not probative of error in the 2002 reassessment.
- f) Petitioners failed to quantify whatever negative influence exists regarding this parcel. Therefore they failed to satisfy the *Phelps Dodge* test.
- g) For all the reasons listed above, there will be no change to this assessment.

### **Conclusions**

16. 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 determines that the assessment should not be changed.

ISSUED: \_\_\_\_\_

\_\_\_\_\_  
Commissioner,  
Indiana Board of Tax Review

**- 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.** You must name in the petition and in the petition's caption the persons who were parties to any proceeding that led to the agency action under Indiana Tax Court Rule 4(B)(2), Indiana Trial Rule 10(A), and Indiana Code §§ 4-21.5-5-7(b)(4), 6-1.1-15-5(b). The Tax Court Rules provide a sample petition for judicial review. The Indiana Tax Court Rules are available on the Internet at <http://www.in.gov/judiciary/rules/tax/index.html>. The Indiana Trial Rules are available on the Internet at [http://www.in.gov/judiciary/rules/trial\\_proc/index.html](http://www.in.gov/judiciary/rules/trial_proc/index.html). The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code>.