

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-037-02-1-5-00029
Petitioner:¹ Gerald D. Little
Respondent: Department of Local Government Finance
Parcel #: 010100100270008
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 informal hearing as described in Ind. Code § 6-1.1-4-33 was held in November 2003. The Department of Local Government Finance (DLGF) determined that the Petitioner’s property tax assessment for the subject property should be reduced (from a total assessment of \$166,800 to a total assessment of \$74,700) and notified the Petitioner on March 23, 2004.
2. The Petitioner filed a Form 139L on April 1, 2004, seeking a further reduction.
3. The Board issued a notice of hearing to the parties dated June 1, 2004.
4. A hearing was held on July 20, 2004, in Crown Point, Indiana, before Special Master Jennifer Bippus.

Facts

5. The subject property is located at: 13601 W. 225th Street, Lowell, Indiana.
6. The subject property is an improved agricultural property.

¹ The Form 139L petition identifies the property owner as Gerald D. Little. The property record card identifies the property owner as Little, Gerald D. & Dorothy A. et al. For convenience, the Board will refer to the property owner as Gerald D. Little.

7. The Special Master did not conduct an on-site visit of the property.

a) Assessed Value of subject property as determined by the DLGF:

Land: \$38,900 Improvements: \$35,800 Total: \$74,700

b) Assessed Value requested by Petitioner on the Form 139L:

Land: \$38,900 Improvements: \$18,400 Total: \$57,300

8. The following persons were present at the hearing:

For Petitioner: Gerald Little, Owner
 Dorothy Little, Owner

For Respondent: David M. Depp, Sr. Appraiser, Cole-Layer-Trumble Company,
 representing the DLGF.

9. Persons sworn in at hearing:

For Petitioner: Gerald Little, Owner
 Dorothy Little, Owner

For Respondent: David M. Depp, Sr. Appraiser, Cole-Layer-Trumble Company,
 representing the DLGF.

Issue

10. Summary of Petitioner's contentions in support of alleged error in assessment:

- a) The Petitioner contends that the farm buildings identified as 7 through 17 are obsolete, unusable and are assessed too high.
- b) The Petitioner presented six photographs of the subject buildings (*Petitioner's Exhibit 1*).
- c) The Petitioner testified that the buildings were old and asserted that the total value of buildings 7 through 17 should be \$2,500.

11. Summary of Respondent's contentions in support of assessment:

The Respondent presented photographs of the subject buildings and stated that they were valued from the 2002 Version A - Real Property Assessment Guidelines (Guidelines) and that the Guidelines do not allow for any obsolescence on this type of improvement. (*Respondent's Exhibit 3*).

Record

12. The official record for this matter is made up of the following:
- a) The Petition, and all subsequent pre-hearing submissions by either party.
 - b) The tape recording of the hearing labeled BTR #324.
 - c) Exhibits:
 - Petitioner Exhibit 1: Photographs of the subject agricultural buildings.
 - Respondent Exhibit 1: Copy of Form 139L.
 - Respondent Exhibit 2: Copy of property record card for the subject property.
 - Respondent Exhibit 3: Photographs of the subject agricultural buildings.
 - d) These Findings and Conclusions.

Analysis

13. The most applicable governing cases and regulations are:
- 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 DLGF 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 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. *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 1230 (Ind. Tax 1998).
14. The Petitioner did not provide sufficient evidence to support the Petitioner's contentions. This conclusion was arrived at because:
- a) The Petitioner submitted six photographs of the subject buildings and opined that the buildings were obsolete and not useable.
 - b) The photographs alone do not provide enough evidence to determine a value for the buildings. The Petitioner's conclusory statements do not constitute probative evidence. *Whitley Products, Inc. v. State Board of Tax Commissioners*, 704 N.E.2d 113 (Ind. Tax 1998).
 - c) The Petitioner presented no market evidence to demonstrate that the current assessment does not accurately account for the alleged deficiencies or that the requested total figure of \$57,300 is a more accurate True Tax Value than the current assessment. Further, the Petitioner presented no evidence of any comparable properties to demonstrate his property has been assessed differently than similarly

- situated properties. Finally, the Petitioner failed to introduce evidence of any error in the application of the Guidelines by the DLGF.
- d) The Petitioner failed to make a prima facie case of error in the assessment.

Conclusion

15. The Petitioner failed to make a prima facie case. The Board finds in favor of Respondent. There is no change to the assessed value of the subject property.

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.