

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

**Petition:** 89-001-11-1-5-00034  
**Petitioners:** Vicki and Wendell Hedges  
**Respondent:** Wayne County Assessor  
**Parcel:** 89-12-14-000-407.000-001  
**Assessment Year:** 2011

The Indiana Board of Tax Review (Board) issues this determination in the above matter, finding and concluding as follows:

**Procedural History**

1. The Petitioners initiated an assessment appeal with the County Property Tax Assessment Board of Appeals (PTABOA) by filing a Form 130 dated October 10, 2011, and another Form 130 dated October 14, 2011.
2. The PTABOA mailed notice of its decision regarding the 2011 assessment on November 21, 2011.
3. The Petitioners appealed to the Board by filing a Form 131 petition on Monday, January 9, 2012. They elected to have this case heard according to small claims procedures.<sup>1</sup>
4. Administrative Law Judge Paul Stultz held the Board's administrative hearing on April 3, 2013. He did not inspect the property.
5. Vicki Hedges, Wendell Hedges, and County Assessor Michael Statzer appeared *pro se*. All three individuals were sworn as witnesses.

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<sup>1</sup> This Form 131 is somewhat ambiguous about the year of assessment that the Petitioners intended to appeal. Perhaps some of the confusion comes from the system where property is assessed as of March 1 every year and the taxes based on that assessment are payable in May and November of the following year. In Section I the Petitioners stated the assessment year under appeal is March 1, 2009-2010 and 2010-2011. In Section III the Petitioners stated the property is currently assessed at \$22,000 for land and \$88,500 for improvements (total assessed value of \$110,500). And the explanation in Section III refers to 2009-2010, 2010-2011, as well as 2011. The Property Record Card shows the stated assessment amounts are the assessed values recorded for 2011, but they are not the assessed values recorded for 2010 or 2009. Attachments to the Form 131 include copies of two Form 115s, which are notifications of PTABOA determinations for the assessments as of March 1, 2011, and March 1, 2009. The assessment values on the Form 131 match the PTABOA determination for 2011, but they do not match the numbers for 2009. Most significantly, the Form 115 for the 2011 assessment shows it was mailed on November 21, 2011, which makes the Form 131 timely for appealing that determination. In contrast, the Form 115 for the 2009 assessment shows it was mailed on November 5, 2010, which makes this Form 131 not timely for appealing that determination. The record is not clear regarding the 2010 assessment. In this case the Board regards the Form 131 as pertaining only to the 2011 assessment—further explanation is contained in the analysis section of this determination.

## Facts

6. The subject property is located at 5646 Willow Grove Road in or near Centerville.
7. The PTABOA determined the assessed value for 2011 is \$22,000 for land and \$88,500 for improvements (total assessed value of \$110,500).

## Contentions

8. Summary of the Petitioners' case:
  - a. The assessed value for 2011 is correct. This case really is about the incorrect tax bills for 2009 and 2010. *W. Hedges testimony.*
  - b. The subject property has an old barn that the Petitioners have been converting into a home. This process has taken longer than expected because the Petitioners have encountered various financial difficulties along the way. *W. Hedges testimony.*
  - c. When the PTABOA heard the 2009 and 2010 appeals it took the issue of back taxes under advisement. The County Assessor did not get back with us. The Assessor now contends it is too late to appeal those assessments. The Petitioners filed this case to resolve issues relating to the 2009 and 2010 assessments. *W. Hedges testimony.*
  - d. The 2009 and 2010 assessments were wrong because the mobile home where the Petitioners had lived temporarily during construction was gutted and no longer livable. In addition, the barn was assessed incorrectly as a house. These errors created a tax bill overcharging the Petitioners by \$2,888. The added \$1,444 amounts for each installment on the 2011 tax bill have not been explained. *W. Hedges testimony; Pet'r Ex. A at 3.*
  - e. For 2009 and 2010, the Respondent retroactively doubled the assessed value of the mobile home to \$15,700 and the home (barn) was assessed at \$130,000. *W. Hedges testimony.*
  - f. The barn was assessed as a home for the 2005 assessment, but it was changed to a barn as a result of the petition to the PTABOA. The mobile home was changed to poor/economy condition as a result of a petition to the PTABOA for the 2010 assessment year. *W. Hedges testimony; Pet'r Ex. A at 11.*
  - g. The Respondent reassessed the property as two home sites and back dated the tax to 2009 and 2010 for a total tax of \$3,644. *W. Hedges testimony; Pet'r Ex. A at 16.*
  - h. Appraiser Tom Dickman appraised the property in April 2011 and concluded the mobile home had no value. In November 2011 the PTABOA reassessed the

property to agree with the appraisal for the 2011 assessment. *W. Hedges testimony; Pet'r Ex. A at 24-26.*

9. Summary of the Respondent's case:
  - a. An appraisal of the subject property values it at \$110,000 as of April 18, 2011. No adjustment for time is necessary. The assessment for 2011 should be \$110,000. *Statzer testimony; Resp't Ex. A, B.*
  - b. The appeal is for the 2011 assessment. *Statzer testimony.*

### **Record**

10. The official record contains the following:
  - a. The Form 131 Petition and all attachments,
  - b. A digital recording of the hearing,
  - c. Petitioner Exhibit A,
    - Page 1 – Form 131, page 1,
    - Page 2 – Form 130, page 1,
    - Page 3 – Tax bill for 2011 spring and fall installments,
    - Page 4 – Property tax information notice,
    - Pages 5, 6 – Property record card (PRC),
    - Page 7 – Wayne County Assessment review dated August 24, 2010,
    - Pages 8, 9, 10 – Correction of error dated November 3, 2010,
    - Page 11 – Subject PRC for 2010 (page 1 of 5),
    - Pages 12, 13, 14 – Correction of error dated January 4, 2011,
    - Pages 15, 16 – Correction of error tax (“Parcel Info”),
    - Pages 17 through 21 – Written statement presented at PTABOA hearing,
    - Pages 22, 23 – Statement of escrow account,
    - Pages 24, 25, 26 – Form 115 for assessment year 2011,
    - Pages 27, 28 – Subject PRC for 2011,
  - Petitioner Exhibit B,
    - Page 29 – Subject PRC for 2008,
    - Page 30 – Wells Fargo monthly statement dated May 4, 2011,
    - Page 31 – Wells Fargo monthly statement dated November 7, 2011,
    - Page 32 – Form 130 page 1 dated April 22, 2010,
    - Page 33 – Form 130 page 1 dated October 10, 2011,
    - Page 34 – Master Plumbing & Design invoice dated July 19, 2010,
    - Page 35 – Brooks Plumbing invoice dated August 5, 2010,
    - Page 36 – Copy of four photographs,
    - Page 37 – Copy of two photographs,
    - Pages 38, 39 – Not included in exhibits,
    - Pages 40 though 44 – Written statement,

Respondent Exhibit A – Appraisal,  
Respondent Exhibit B – PRC for the subject property,

Board Exhibit A – Form 131 Petition,  
Board Exhibit B – Notices of Hearing,  
Board Exhibit C – Hearing Sign-In Sheet,

d. These Findings and Conclusions.

### **Burden**

11. Generally, a taxpayer seeking review of an assessing official's determination has the burden of proving that a property's assessment is wrong and what its correct assessment should 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). Nevertheless, the Indiana General Assembly enacted a statute that in some cases shifts the burden of proof:

This section applies to any review or appeal of an assessment under this chapter if the assessment that is the subject of the review or appeal increased the assessed value of the assessed property by more than five percent (5%) over the assessed value determined by the county assessor or township assessor (if any) for the immediately preceding assessment date for the same property. The county assessor or township assessor making the assessment has the burden of proving that the assessment is correct in any review or appeal under this chapter and in any appeals taken to the Indiana board of tax review or to the Indiana tax court.

Ind. Code § 6-1.1-15-17.2.

12. The Respondent admitted the 2011 assessed value was more than a 5% increase over the prior year's assessment. According to Ind. Code § 6-1.1-15-17.2, the Respondent has the burden to prove the 2011 assessed value is correct.

### **Analysis**

13. The parties disagree about the year under appeal. As previously noted in footnote 1, in this case the Petitioners attempted to raise issues related to 2009 and 2010 in addition to 2011. The Board concludes, however, that only the assessed valuation for 2011 is properly at issue in this case.
14. The Indiana Board of Tax Review is a creature of the legislature and has only the powers conferred by statute. *Whetzel v. Dep't of Local Gov't Fin.*, 761 N.E.2d 904, 908 (Ind. Tax Ct. 2002), *citing Matonovich v. State Bd. of Tax Comm'rs*, 705 N.E.2d 1093, 1096 (Ind. Tax Ct. 1999). Indiana Code § 6-1.5-4-1 gives the Board authority to determine

appeals concerning assessed valuation, exemptions, deductions, and credits. But it has no jurisdiction over tax bills generally.

15. Indiana Code § 6-1.1-15-3 states the basic requirements for obtaining review by the Indiana Board of Tax Review. For this case, the most pertinent parts of that statute are subsections (a) providing that a taxpayer may obtain review of an assessment or an exemption, and (d) providing that in order to obtain review by the Indiana Board of Tax Review the appeal must be filed within 45 days after the notice of the PTABOA's determination. Indiana Code § 6-1.1-15-2 (o) provides an alternative path to the Indiana Board of Tax Review if the PTABOA fails to hold a timely hearing on a petition or fails to issue a timely determination on a petition.
16. The Board's procedural rules at 52 IAC 2-3-1 help explain how time periods are determined. The day of the act, event, or default from which the designated period of time begins is not counted. The last day of the designated period is counted, but may not be a Saturday, Sunday, legal holiday, or day the office in which the act is to be done is closed during regular business hours. And if a document is served by mail, 3 days must be added to a period that commences upon service of that paper.
17. The record establishes that the PTABOA mailed its determination (Form 115) regarding the 2011 assessment on November 21, 2011, and the Petitioners filed this appeal on Monday, January 9, 2012. It was the last possible day, but this filing is timely for a review of the 2011 assessment.
18. While the Petitioners attempted to establish that the PTABOA took their 2009 appeal under advisement and never issued a determination, the record contains a Form 115 for the 2009 assessment that was mailed on November 5, 2010. Filing this case more than 14 months later does not satisfy the statutory time requirement. No other conclusions or determinations can be made regarding the 2009 assessment.
19. The record regarding the 2010 assessment is more ambiguous. In Section V of the Form 115 for 2011 there are statements indicating the 2009 assessment as well as the 2009 and 2010 tax bills were discussed and taken under advisement during the PTABOA hearing on November 17, 2011. The PTABOA determination was issued a few days later. But nothing in the record establishes when or if the Petitioners filed anything to start the appeal process for their 2010 assessment. Nothing in the record shows that the PTABOA failed to hold a timely hearing or issue a timely determination regarding the 2010 assessment and nothing in the record establishes that the PTABOA issued any decision regarding the 2010 assessment. Thus, in this case there simply is no basis for any determination about the 2010 assessment.
20. The Board concludes that here the Petitioners appealed only the 2011 assessment. In this case, the Board lacks jurisdiction over the 2009 or 2010 assessments or tax bills and it makes no conclusions regarding those matters. Furthermore, the determination for the 2011 assessment is simple because the parties both agree on what it should be.

21. Assessing officials primarily use the cost approach, but other evidence relevant to market value-in-use is permitted. Such evidence may include actual construction costs, sales information regarding the subject or comparable properties, appraisals, and any other information compiled in accordance with generally accepted appraisal principles.
22. The undisputed appraisal of the subject property is strong evidence for what the 2011 assessment should be.
23. Furthermore, the parties agree the assessed value should be \$110,000 as of March 1, 2011.

### **Final Determination**

In accordance with the above findings and conclusions, the 2011 assessment will be changed to \$110,000.

ISSUED: June 21, 2013

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Commissioner, Indiana Board of Tax Review

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- Appeal Rights -

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5, as amended effective July 1, 2007, by P.L. 219-2007, and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice. The Indiana Tax Court Rules are available on the Internet at <<http://www.in.gov/judiciary/rules/tax/index.html>>. The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>. P.L. 219-2007 (SEA 287) is available on the Internet at <<http://www.in.gov/legislative/bills/2007/SE/SE0287.1.html>>