

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

Petition #: 42-002-02-1-5-00001
Petitioners: James L. & Carol Sue Rabold
Respondent: Vincennes Township Assessor, Knox County
Parcel #: 022-012-CO40-102-012
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 Knox County Property Tax Assessment Board of Appeals (PTABOA) by written document dated November 24, 2003.
2. Notice of the decision of the PTABOA was issued on April 19, 2004.
3. The Petitioners filed an appeal to the Board by filing a Form 131 with the county assessor on April 23, 2004. Petitioners elected to have this case heard in small claims.
4. The Board issued a notice of hearing to the parties dated May 26, 2004.
5. The Board held an administrative hearing on August 17, 2004, before the duly appointed Administrative Law Judge Rick Barter.
6. Persons present and sworn in at hearing:

For Petitioner: James L Rabold, Taxpayer
Carol S. Rabold, Taxpayer

For Respondent: Rose Goodwin, Vincennes Township Assessor

Facts

7. The property is classified as improved residential, as is shown on the property record card for parcel #022-012-C040-102-012.

8. The Administrative Law Judge (ALJ) did not conduct an inspection of the property.
9. Assessed Value of subject property as determined by the Knox County PTABOA:
Land \$5,000 Improvements \$98,800 Total \$103,800
10. Assessed Value requested by Petitioners:
Land \$5,000 Improvements \$80,100 Total \$85,100

Issues

11. Summary of Petitioners' contentions in support of alleged error in assessment:
 - a. The assessed value is over-stated. Petitioners were considering selling this property until two prominent real estate people, Sue Thompson and Mary Clayton, told them it was only worth \$75,000. Petitioners claim they have done some improvements since those conversations and now think it would be worth approximately \$80,000 to \$85,000. *Rabold testimony.*
 - b. There are two additional land-only properties owned by Petitioners that "go along" with the subject; the assessed value of all three parcels is currently \$108,700. Petitioners claim \$90,000 is a more accurate value for all three. *Rabold testimony.*
 - c. Petitioners state that this is a nice home in a not-so-nice neighborhood. Houses around the subject are in very poor condition; they need work and that brings the market value of the subject down. Petitioners argue that if this property was in a better area the assessment would be accurate. *Rabold testimony Petitioner Exhibits 3-5.*
 - d. Petitioners also claim that two (2) houses across from the subject are worth \$20,000 to \$30,000 with junk cars in the back yard. *Rabold testimony. Petitioner Exhibits 4 & 5.*
12. Summary of Respondent's contentions in support of the assessment:
 - a. The assessed value as calculated using the DLGF manual is not over-stated.
 - b. The grade and condition as determined by the township assessor is correct. The condition of an improvement, according to the manual, is relative to the condition of other improvements in the neighborhood where it is located, and therefore would not be lowered by surrounding improvements of lesser conditions. *Goodwin testimony.*

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 #5834.
 - c. Exhibits:
Petitioner Exhibit 1: Notice from township that accompanied Form 11

- Petitioner Exhibit 2: Petitioner's statement
 - Petitioner Exhibit 3: Four photos of improvements at adjoining property
 - Petitioner Exhibit 4: Two photos of 1404-06 Bayou
 - Petitioner Exhibit 5: Two photos of 1422 Bayou
 - Petitioner Exhibit 6: Copy of Form 131 appeal
 - Respondent Exhibit 1: Copy of the subject property record card
- d. These Findings and Conclusions.

Analysis

14. The most applicable governing cases are:

- a. A Petitioner seeking review of a determination of the County Property Tax Assessment Board of Appeals (PTABOA) has the burden to establish a prima facie case proving, by a preponderance of the evidence, 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 Board of Tax Commissioners*, 694 N.E. 2d 1230 (Ind. Tax Ct. 1998); *North Park Cinemas, Inc. v. State Board of Tax Commissioners*, 689 N.E. 2d 765 (Ind. Tax Ct. 1997).
- b. 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.
- c. Conclusory statements do not qualify as probative evidence. *Whitley Products, Inc., v. State Board of Tax Commissioners* 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).

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

- a. Petitioners' testimony that the subject is worth "about \$90,000, we only insure it for \$90,000 is conclusory. The conversations Rabold alludes to as having occurred with "prominent real estate people" in which he was told the value of the subject is "about \$75,000" are conclusory and not supported by substantial evidence required to make a prima facie case. *Rabold testimony; Petitioner Exhibit 2*. Petitioners have not supported
- b. Petitioners' testimony that "we have \$80,000 to \$85,000 in this property now" provides a little information about the expenses occurred in renovating the property, but falls far short of carrying Petitioners' burden of proof.
- c. Petitioners also submitted photographs of nearby properties to illustrate their conditions. *Petitioners' Exhibits 3-5*. These photographs do show some undesirable qualities in neighboring properties. However, the Petitioners have failed to sufficiently explain the effect these conditions have on the market value of the property.

- d. Conclusory statements do not qualify as probative evidence. *Whitley Prods.*, 704 N.E.2d at 1119.
- e. Petitioners have provided little more than their personal opinion of the value of the property. Such evidence is not probative of the market value of the property and does not help the Board in determining whether the property's assessment is correct.
- f. As such, Petitioners failed to make a prima facie case. Because no prima facie case was made, Respondent was not required to rebut Petitioners' testimony.

Conclusion

16. The Petitioners failed to make a prima facie case. The Respondent was not required to rebut Petitioners' evidence. 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.