

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

Petition #: 83-001-02-1-5-00011
Petitioner: O'Neal Minnie Revocable Trust c/o Donna Gisolo Christenberry, Trustee
Respondent: Clinton Township Assessor (Vermillion County)
Parcel #: 001015000200
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 Petitioner initiated an assessment appeal with the Vermillion County Property Tax Assessment Board of Appeals (PTABOA) by written document dated February 5, 2004.¹
2. The Petitioner was sent the PTABOA's decision on June 28, 2004.
3. The Petitioner initiated an appeal to the Board by filing a Form 131 with the county assessor on July 27, 2004. The Petitioner elected to have this case heard in small claims.
4. The Board issued a notice of hearing to the parties dated November 24, 2004.
5. The Board held an administrative hearing on January 4, 2005, in Newport, Indiana before the duly appointed Administrative Law Judge (ALJ) Joan L. Rennick.
6. Persons present and sworn in at hearing:
 - a) For Petitioner: Donna Gisolo Christenberry, Trustee of the Minnie O'Neal Trust
 - b) For Respondent: Patricia L. Richey, Clinton Township Assessor
Kim Major, Vermillion County Assessor

Facts

7. The property is classified as residential, as is shown on the property record card (PRC) for Parcel #001015000200.

¹ The Petitioner's Form 130 does not appear to bear a file stamp indicating the date of filing. However, the parties agreed that the correct filing date was February 5, 2004.

8. The ALJ did not conduct an inspection of the property.
9. Assessed Values of subject property as determined by the Vermillion County PTABOA:
Land \$14,500 Improvements \$21,500 Total \$36,000
10. Assessed Value requested by Petitioner per the Form 131 petition:
Land \$7,500 Improvements \$15,740 Total \$23,240

Issues

11. Summary of Petitioner's contentions in support of alleged error in assessment:
 - a) The assessed value of the subject property is higher than the determined market value. *Christenberry testimony.*
 - b) The Petitioner submitted an appraisal prepared by Douglas E. Waters ("1999 Appraisal") on November 20, 1999. The 1999 Appraisal estimated the fair market value of the subject property as of November 3, 1999 as being in the total amount of \$23,000. *Petitioner Exhibits 5-6.* The 1999 Appraisal estimated the site value as being in the amount of \$7,500, as compared to its assessed value of \$14,500. *Christenberry testimony; Petitioner Exhibits 5-6.* The 1999 Appraisal further estimated the market value of the improvement after depreciation was applied to be \$15,740.
 - c) The Petitioners also submitted an appraisal performed by Douglas E. Waters on April 4, 2003 ("2003 Appraisal"). *Christenberry testimony; Petitioner Exhibits 7-8.* The 2003 Appraisal estimated the market value of the subject property as of December 23, 2002 as being in the total amount of \$22,000. *Id.* The 2003 Appraisal estimated the site value as \$7,500, the same amount reflected in the 1999 Appraisal. *Id.* The 2003 Appraisal determined the market value of the improvement after depreciation was applied to be \$16,720. *Id.*
 - d) The appraiser noted that the subject property lacked air conditioning and central heating. *Christenberry testimony; Petitioner Exhibit 5.*
 - e) The appraisals addressed the entire 1.12 acres of property owned by the Petitioner, which includes a parcel adjacent to the subject property. *Christenberry testimony; Petitioner Exhibits 5-8.* The subject parcel itself is only about one acre. The Petitioner has not appealed the assessment of the adjacent parcel, which is assessed in the amount of \$200. *Christenberry testimony.*
 - f) Based on the 1999 Appraisal and supported by the 2003 Appraisal, the land should be \$7,500 and the improvements \$15,740. *Christenberry argument.*

12. Summary of Respondents contentions in support of the assessment:

- a) The Respondents agreed with “the appraisal.” *Richey testimony; Major testimony.*

Record

13. 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 # 6045.
- c) Exhibits:
Petitioner Exhibit 1: PRC for subject property
Petitioner Exhibit 2: Photos of subject property
Petitioner Exhibit 3: Form 115 issued by the PTABOA
Petitioner Exhibit 4: Form 131
Petitioner Exhibit 5: 1999 appraisal on the subject property
Petitioner Exhibit 6: 1999 market data on Comparables 1, 2, and 3
Petitioner Exhibit 7: 2002 appraisal of subject property
Petitioner Exhibit 8: 2002 market data on Comparables 1, 2, and 3

Respondent Exhibit: None submitted

Board Exhibit A – Form 131 Petition
Board Exhibit B – Notice of Hearing on Petition
- 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. Wash. 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. The Petitioner provided sufficient evidence to support her contentions. This conclusion was arrived at because:

- a) The Petitioner submitted two appraisals. The 1999 Appraisal estimated the market value of the subject property to be \$23,000 as of November 3, 1999. The 2003 Appraisal estimated the market value of the subject property to be \$22,000 as of December 23, 2002.
- b) The Respondent conceded that she agreed with the market value as set forth in "the appraisal." *Richey testimony*. While the Respondent did not specify the appraisal to which she was referring, the Board infers that it was the 1999 Appraisal. The Board reaches this conclusion for two reasons: (1) the Petitioner relied primarily upon the 1999 Appraisal in her argument; and (2) the 1999 Appraisal estimates the value of the subject property as of a date much closer the relevant valuation date of January 1, 1999, than does the 2003 Appraisal.
- c) Given the agreement of the parties concerning the market value of the subject property, the Board determines that the Petitioner has adequately demonstrated that the current assessment is incorrect, and that the correct assessment is in the amount of \$23,000 for land and improvements.

Conclusion

16. The Petitioner made a prima facie case. At the hearing, the Respondents agreed with the Petitioner's requested values. The Board finds in favor of Petitioner.

Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should be changed to a total of \$23,000 for land and improvements.

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.