

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

**Petition #:** 48-033-02-1-5-00005  
**Petitioner:** Rosemary Adams  
**Respondent:** Union Township Assessor (Madison County)  
**Parcel #:** 151500201046  
**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 Madison County Property Tax Assessment Board of Appeals (“PTABOA”) by written document.
2. The PTABOA’s Notice of Final Assessment Determination was mailed to the Petitioner on Mach 24, 2004.
3. The Petitioner filed an appeal to the Board by filing a Form 131 with the county assessor on April 22, 2004. The Petitioner elected to have this case heard in small claims.
4. The Board issued a notice of hearing to the parties dated January 14, 2005.
5. The Board held an administrative hearing on April 26, 2005, before the duly appointed Administrative Law Judge (ALJ) Debra Eads.
6. Persons present and sworn in at hearing:
  - a) For Petitioner: Betty Swift, Power of Attorney (sister-in-law of the Petitioner)
  - b) For Respondent: Cheryl Heath, Chief Deputy County Assessor  
Lloyd Brumback, Deputy County Assessor

## Facts

7. The property is classified as residential, as is shown on the property record card (PRC) for parcel # 151500201046.
8. The ALJ did not conduct an inspection of the property.
9. Assessed Values of subject property as determined by the Madison County PTABOA:  
Land \$19,300      Improvements \$7,300
10. Assessed Values requested by Petitioner per the Form 131 petition:  
Land \$7,670      Improvements \$7,300

## Issues

11. Summary of Petitioner's contentions in support of alleged error in assessment:
  - a) A one (1) acre portion of the subject property is associated with a pole barn. *Swift testimony; Petitioner Exhibit 1.* That portion of the property is entitled to a negative influence factor of 40%. *Swift argument.*
  - b) The Sly Fork legal drain runs inside the eastern border of the subject property. *Swift testimony; Petitioner Exhibits 6, 8.* The portion of that drain located on the subject property is 785 feet long and approximately 60 feet wide. *Swift testimony.* The Petitioner submitted a plat map showing the length of the drain. *Id.; Petitioner Exhibit 7.* The Petitioner's brother told her that he estimates the width of the drain to be 60 feet. *Swift testimony.*
  - c) The current assessment values the Sly Fork legal drain as tillable cropland. The Real Property Assessment Guidelines for 2002 – Version A, however, provide that legal ditches should not be valued. *Swift testimony.*
  - d) The subject property is "...very rolling, highly erodible and in a flood plain." *Swift testimony; Petitioner Exhibits 2, 4-5.* This ground has flooded several times in the past 10 years. *Id.* As a result of those factors, the subject property is used as non-tillable grazing land rather than as crop production land. *Swift testimony; Petitioner Exhibit 3.* The remainder of the subject property therefore should be assessed as nontillable land and should receive a negative influence factor of 60%.
12. Summary of Respondent's contentions in support of the assessment:

The Respondent failed to submit any evidence in support of the assessment.

## 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 BTR # 6175.
- c) Exhibits:

Petitioner Exhibit 1: Aerial view of barn and lot

Petitioner Exhibit 2: Statement from Pat Manship, previous Madison County Surveyor, dated July 14, 2004

Petitioner Exhibit 3: Farm Service Administration (FSA) Report of Acreage, Farm and Tract Detail Listing

Petitioner Exhibits 4 and 5: Photographs of subject acreage

Petitioner Exhibit 6: Aerial view of farm and Sly Fork drain

Petitioner Exhibit 7: Letter from Brad Newman, current Madison County Surveyor, dated March 28, 2005

Petitioner Exhibit 8: Plat map showing parcel measurements including those of the subject – 15-0020-1-046

Petitioner Exhibit 9: Form 130 Petition, page 1

Petitioner Exhibit 10: Form 130 Petition, page 2

Petitioner Exhibit 11: Form 115, page 1

Petitioner Exhibit 12: Form 115, page 2

Petitioner Exhibit 13: Property tax card 1/2/03

Petitioner Exhibit 14: Summary of Findings

Respondent: No written evidence 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. Washington Twp. Assessor*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004) (“[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 Petitioner’s evidence. *See American United Life Ins. 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 did provide sufficient evidence to support her contentions. This conclusion was arrived at because:

- a) The Real Property Assessment Guidelines for 2002 – Version A (“Assessment Guidelines”) direct local assessing officials to classify agricultural land based upon certain physical characteristics affecting the use of the land. *See REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 – VERSION A* ch. 2 at 102-06 (incorporated by reference at 50 IAC 2.3-1-2). The Assessment Guidelines also specify influence factors to be applied to several of those classifications. *Id.*
- b) The following three of those classifications are relevant to this appeal:

Type 5 – Nontillable land – Land covered with brush or scattered trees with less than 50% canopy cover, or permanent pasture land with natural impediments that deter the use of the land for crop production. A 60% influence factor deduction applies to nontillable land.

Type 71 – Land used for farm buildings and barn lots. This land use subtype does not include homesites. The value is determined using the appropriate soil map productivity factor and a 40% influence factor deduction.

Type 81 – Legal ditch. The area used and occupied as part of a legal drainage ditch is considered to have no value and is deducted from the total parcel acreage. This area also includes the area adjacent to the ditch that cannot be farmed because of the need for access to the ditch.

GUIDELINES at 104-05.

- c) The undisputed evidence established that the subject property contains a drainage ditch – the Sly Fork drain. *Swift testimony; Petitioner Exhibits 6-8*. The Petitioner presented a plat map showing that the drain is 785 feet long. *Petitioner*

*Exhibit 8.* Betty Swift also testified that her brother, who farmed along the drain, estimated it to be 60 feet wide. *Swift testimony.* This is sufficient to support an inference that 1.08 acres of the subject property contains a legal drainage ditch. As set forth above, the Assessment Guidelines indicate that such land has no value and call for the land to be deducted from the parcel's total acreage. The Petitioner therefore made a prima facie case that 1.08 acres should be deducted from the portion of the subject property currently valued as tillable cropland.

- d) The Petitioner also established that the subject property contains a pole barn. Betty Swift testified that approximately one acre of the subject property was associated with the barn. *Swift testimony.* The Petitioner therefore established a prima facie case that one acre of the subject property that is currently valued as tillable cropland should be classified as Type 71 land and should receive a negative influence factor of 40%.
- e) Finally, the Petitioner established that the subject property can be used only as pasture land due to its rolling topography, erodibility and location in a flood plain. Consequently, the Petitioner established a prima facie case that the remainder of the subject property not classified as Type 81 or Type 71 land should be classified as Type 5 – nontillable cropland with the application of a negative influence factor of 60%.
- f) The Respondent did not present any evidence to rebut or impeach the Petitioner's evidence on the above discussed issues. The preponderance of the evidence therefore supports the Petitioner's request for a change in assessment.

### **Conclusions**

16. The Petitioner made a prima facie case. The Respondent did not rebut the Petitioner's evidence. The Board finds in favor of the 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 in the following manner:

- a) 1.00 acre of the subject property should be classified as Type 71 land with a negative influence factor of 40%.
- b) 1.08 acres of the subject property should be classified as Type 81 land and should be deducted from subject parcel's acreage. No value should be assigned to that portion of the land.
- c) The remainder of the subject property should be classified as Type 5 – Nontillable Land with a negative influence factor of 60%.

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.** 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>.