

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

Petition #: 63-009-02-1-1-00017
Petitioner: Margaret Sue Sullivan
Respondent: Patoka Township Assessor (Pike County)
Parcel #: 009-00257-01
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 Pike County Property Tax Assessment Board of Appeals (PTABOA) by written document. Even though the documentation is not date stamped, the PTABOA agreed to hear the case and in doing so determined it to be timely filed.
2. The PTABOA's Notification of Final Assessment Determination (Form 115) was mailed to the Petitioner on January 7, 2004.
3. The Petitioner filed an appeal to the Board by filing a Form 131 with the county assessor on February 6, 2004. The Petitioner elected to have this case heard in small claims.
4. The Board issued a notice of hearing to the parties dated March 8, 2004.
5. The Board held an administrative hearing on March 28, 2004, before the duly appointed Administrative Law Judge (ALJ) Rick Barter.
6. Persons present and sworn in at hearing:
 - a) For Petitioner: Sue Sullivan
Jerry Sullivan
 - b) For Respondent: Paul A. Lake, PTABOA member
David A. Tisdale, PTABOA member
Sam Polen, PTABOA member
Wilma Jones, Pike County Assessor

Facts

7. The property is classified as agricultural with improvements, as is shown on the property record card (PRC) for parcel #009-00257-01.
8. The ALJ did not conduct an inspection of the property.
9. Assessed Values of subject property as determined by the Pike County PTABOA are:
Land \$1,600, Improvements \$3,200 Total \$4,800
10. Assessed Values requested by Petitioner as shown on the Form 131 are:
Land \$1,600, Improvements \$500 Total \$2,100

Issue

11. Summary of Petitioner's contentions in support of alleged error in assessment:
 - a) The land value is not under review in this appeal. The improvement under review is a corn crib or corn ear storage unit. It is not used because corn is no longer stored this way.
 - b) The roof and foundation are in very bad condition and the improvement should be torn down. However, it has sentimental value to the Petitioner.
12. Summary of Respondent's contentions in support of the assessment:
 - a) The improvement is appropriately assessed as a corn storage unit and at the assessed value dictated by the Manual.

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 #5836.
 - c) Exhibits:
 - Petitioner Exhibit 1 - Packet of information including: a cover letter; an exterior photograph of the improvement attached to the PRC; four (4) pages of copies of multiple photographs of the subject improvement; and a copy of pages 19 - 22 of Version A - Real Property Assessment Guideline for 2002
 - Petitioner Exhibit 2 - The originals and one set of duplicates of five (5) photographs of the exterior and interior of the subject improvement

Respondent's Exhibit 1 – A copy of the Form 130 petition that was filed but not date stamped

Respondent's Exhibit 2 – A copy of the Form 115 dated January 7, 2004

Respondent's Exhibit 3 – A copy of the subject PRC

Board Exhibit A – Form 131 petition

Board Exhibit B – Notice of Hearing on Petition

d) These Findings and Conclusions.

Analysis

14. The most applicable rules and governing cases are:

Real Property Assessment Guidelines for 2002 – Version A, Book 1 – Appendix B – Residential and Agricultural Depreciation, Table B-7
Lists the yard structure and the depreciation table to be used.

Real Property Assessment Guidelines for 2002 – Version A, Book 1 – Appendix B – Residential and Agricultural Depreciation, Table B-8
Lists the condition ratings to be assigned to yard structures, and gives an explanation of the characteristics of each.

Real Property Assessment Guidelines for 2002 – Version A, Book 1 – Appendix C, Schedule G.2 Farm Buildings and Structures, page 21 – Frame Corn Cribs.
Pricing schedules per square foot for Frame Corn Cribs – Free Standing and Drive-Thru Types.

Heart City Chrysler v. State Board of Tax Commissioners, 714 N.E. 2d 329, 333 (Ind. Tax Ct. 1999)

The petitioner must sufficiently explain the connection between the evidence and petitioner's assertion in order for it to be considered material to the facts.

Clark v. State Board of Tax Commissioners, 694 N.E. 2d 247, 1230 (Ind. Tax Ct. 1998); *North Park Cinemas v. State Board of Tax Commissioners*, 689 N.E. 2d 765 (Ind. Tax Ct. 1997)

The Board will not change the determination of the County Property Tax Assessment Board of Appeals 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.

15. The Petitioner did provide sufficient evidence to support the Petitioners' contentions. This conclusion was arrived at because:

a) The ear corn storage unit or drive-through frame corncrib is an out-dated structure and is no longer in use. In a modern farm operation corn is harvested and shelled

in the field therefore no longer requiring the use of the subject structure. *Jerry & Margaret Sullivan testimonies.*

- b) Real Property Assessment Guideline for 2002 – Version A, Book 1, page 19, Table B-8 states, in part: “Sound Value. Regardless of the physical condition of the structure, the economics of farming dictate this structure is no longer productive in the operation of the farm. Therefore, it has only minimal, or sound value, on the date of valuation.” *Petitioner’s Exhibit 1.*
- c) Real Property Assessment Guideline for 2002 – Version A, Book 1, Appendix C, Residential and Agricultural Cost Schedules, Schedule G-2 Farm Buildings and Structures, page 21 - Frame Corn Cribs, Drive-Thru Type pricing schedules, shows the “Sound value range” to be from \$100 to \$700. *Petitioner’s Exhibit 1.*
- d) The Petitioner’s evidence and testimony supported the contention that the drive-thru corn crib is unused, out-dated, no longer applicable to modern farming operations, and should be sound valued. *Jerry & Margaret Sullivan testimonies and Petitioner Exhibits 1 and 2.*
- e) In addition, the Petitioner stated a \$500 assessed value for the subject improvement seems appropriate in view of the testimony and evidence presented. *Jerry & Margaret Sullivan testimonies*
- f) A Petitioner’s responsibility in an appeal is to establish a prima facie case and, by a preponderance of the evidence prove there is an error in the assessment and to determine what assessment is correct. Should this be accomplished, the burden then would shift to the Respondent to support their assessment.
- g) In the case at bar, the Petitioner established a prima facie case and thus the Petitioner sustained its burden. The burden then shifted to the Respondent to rebut the Petitioner’s evidence by submitting substantial evidence that the assessment was correct or by demonstrating that the evidence the Petitioner presented was unreliable.
- h) The Respondent failed to address or to refute any of the testimony or evidence presented by the Petitioner. The Respondent only stated that the improvement in question was appropriately assessed according to the Manual issued by the State.

Conclusion

16. The Petitioner made a prima facie case. The Respondent did not rebut Petitioner’s evidence. The Board finds in favor of Petitioner to “sound value” the subject corn crib at \$500.

Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should 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.