

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

Petition #: 59-009-04-1-5-00001
Petitioner: Roger Crandall
Respondent: Orleans Township Assessor (Orange County)
Parcel #: 009003024000
Assessment Year: 2004

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 Orange County Property Tax Assessment Board of Appeals (the PTABOA) by written document dated April 15, 2004.
2. Notice of the PTABOA's decision was mailed to the Petitioner on July 26, 2004.
3. The Petitioner filed an appeal to the Board by filing a Form 131 with the county assessor on August 20, 2004. The Petitioner elected to have this case heard in small claims.
4. The Board issued a notice of hearing to the parties dated June 29, 2005.
5. The Board held an administrative hearing on August 30, 2005, before the duly appointed Administrative Law Judge (the ALJ) Jennifer Bippus.
6. Persons present and sworn in at hearing:
 - a) For Petitioner: Roger Crandall, Taxpayer
Jo Donna Crandall, Taxpayer
 - b) For Respondent: Linda J. Reynolds, Orange County Assessor

Facts

7. The property identified as Parcel # 009003024000 is a single family residential dwelling located at 3319 E 500 N, Orleans, Indiana.
8. The ALJ did not conduct an inspection of the property.

9. The PTABOA determined the assessed value of the subject property to be \$8,400 for the land and \$229,500 for the improvements for a total assessed value of \$237,900.
10. The Petitioner requested an assessed value of \$8,500 for the land and \$153,239 for the improvements for a total assessed value of \$161,739.

Issues

11. Summary of Petitioner's contentions in support of alleged error in assessment:
 - a) The Petitioner contends the grade of the subject property at B+2 causes the value of the subject property to be too high. *R. Crandall testimony.* According to the Petitioner, property record cards and photos of three purportedly comparable properties from the same neighborhood and about the same age as the subject property support the argument that his assessment was too high. *Id.*
 - b) The first allegedly comparable property (the Bryan Johnson Property) is three or four years old. According to the Petitioner, the house is located in a wooded area and is the largest house of all. The Petitioner testified that the Bryan Johnson Property is a two story house with a grade of B-1. *R. Crandall testimony; Pet'r Ex. 2.*
 - c) The second allegedly comparable property (the Robinson Property) is all brick with a small amount of vinyl. According to the Petitioner, the Robinson Property is a one story ranch home over basement. The Petitioner argued that the finished basement of this property has more square footage than the subject property, yet the value is lower than the subject property. Further, the Petitioner testified, the Robinson Property is about three years older than the subject property and is also graded a B-1. *R. Crandall testimony; Pet'r Ex. 2.*
 - d) The final allegedly comparable property submitted by the Petitioner, the Larry Johnson Property, is about three years older than the subject property. According to the Petitioner, the Larry Johnson Property is a vinyl two story house with a grade of C+2. The Petitioner argued that this home has more square footage than the subject property, yet the assessed value is lower than the subject property. *R. Crandall testimony; Pet'r Ex. 2.*
 - e) The Petitioner argued that his "comparable" properties are larger than the subject property, yet the subject property has the highest assessment. *R. Crandall testimony.* The Petitioner contended that the subject property has a total square foot price of \$55.64 while the comparables all have a total square foot price of less than \$40 per square foot. *R. Crandall testimony; Pet'r Ex. 4.*
 - f) The Petitioner also argued that the subject property was designed by the Petitioner and mainly constructed by the Petitioner. The subject property has stone, brick, and wood siding. When the subject property was built, the Petitioner started with the basement and took the pine siding and the kitchen out of the old house. The

Petitioner lived in the basement for 4 or 5 years while the upstairs was finished. *R. Crandall testimony.*

- g) Finally, the Petitioner argued that the subject property is over assessed because it is within forty feet of a barn and there are three other barns not too far away. According to the Petitioner, the value of the house should be lower because of the location of the barns. *R. Crandall testimony.*

12. Summary of Respondent's contentions in support of the assessment:

- a) The PTABOA looked at the comparables presented by the Petitioner. According to the Respondent, the differences in style, design, and quality of materials are reflected by the differences in the grades. *Reynolds testimony.* The Bryan Johnson Property is a 1 ½ story frame home with no basement finish, and no fireplace. *Id.* The Robinson Property is a one story, all brick, with a basement finish. The basement finish is priced as recreation room. The subject property basement is finished as normal living area with a kitchen and priced as full finished basement. The difference in the values is due to the finish type pricing. *Id.* According to the Respondent, the Petitioner's "comparables" are not comparable. *Id.* The Respondent concluded that the B+2 grade is appropriate for the subject property based on the design and construction materials used. *Id.*
- b) Further, the Respondent argued, the Petitioner's comparables were not sales. *Reynolds testimony.* According to the Respondent, the Petitioner presented no sales to back up his opinion of value. The Respondent contended that it is the Petitioner's duty to convince the PTABOA there is a need for a change in assessment. The Petitioner did not do so. *Reynolds testimony.*
- c) The Respondent also alleged that the property record card is correct, aside from the property having three bedrooms, instead of four. However, according to the Respondent, this change does not affect the value of the property. *Reynolds testimony.*
- d) Finally, the Respondent alleged that the Petitioner presented no evidence of the market value of his property. According to the Respondent, the PTABOA requested an appraisal from the Petitioner for the subject property, but the Petitioner failed to submit one. *Reynolds testimony.*

Record

13. The official record for this matter is made up of the following:

- a) The Petition,
- b) The recording of the hearing,

c) Exhibits:

- Petitioner Exhibit 1: Copy of the subject property record card,
- Petitioner Exhibit 2: Copies of three comparable property record cards,
- Petitioner Exhibit 3: Photographs of subject property and comparable properties,
- Petitioner Exhibit 4: Copy of Form 130, page 2,
- Petitioner Exhibit 5: Copy of Form 115, page 2.

The Respondent presented no exhibits.

- Board Exhibit A: Form 131 petition,
- Board Exhibit B: Notice of Hearing,
- Board Exhibit C: Notice of County Assessor Representation,
- Board Exhibit D: Hearing Sign In Sheet.

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 Township 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 Township 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 did not provide sufficient evidence to support his contentions. This conclusion was arrived at because:
- a) The Petitioner contends that the current grade of B+2 causes the assessment of the subject property to be too high.

- b) Under Indiana's true tax value system, improvements are assigned various grades based upon their design and the quality of their materials and workmanship. *Sollers Pointe Co. v. Dep't of Local Gov't Fin.*, 790 N.E.2d 185, 190 (Ind. Tax Ct. 2003). Construction quality and the resultant quality grade assigned is a composite characteristic, which describes the cumulative effects of workmanship, the costliness of materials, and the individuality of design used in constructing an improvement. GUIDELINES, app. A at 3. The Guidelines provide quality grade specification tables to assist in the determination of appropriate quality grades. *Id.* at 9. The descriptions in those tables are intentionally general and emphasize the most prominent elements dwelling units within a particular grade. *Id.* Although the construction quality of individual components of an improvement may vary, the overall construction quality tends to be consistent for the entire residence. *Id.*
- c) The Guidelines presume that neighborhoods tend to have improvements of the same or similar quality of construction, which narrows the range of grades assigned to a particular neighborhood. *Id.* at 6. Consequently, assessors are directed to begin from an assumption that the particular improvement being valued has the same quality grade as the base quality grade established for the neighborhood. *Id.* However, the Assessment Guidelines also recognize that some improvements in a neighborhood may have construction characteristics that deviate from the base quality grade specifications. In order to assign a quality grade to those properties, the Assessment Guidelines call for the assessor to weigh the components that deviate from the base quality grade selected for the neighborhood to determine whether an intermediate quality grade, or an entirely higher or lower full quality grade, is appropriate. GUIDELINES, app. A at 6.
- d) Here, the Petitioner did not explain why the grade of B+2 was incorrect, nor did the Petitioner state what the correct grade should be. The Petitioner merely concludes the grade is the reason the value of the subject property is too high. In support of his argument, the Petitioner submitted property record cards and photographs of three neighboring properties. The Petitioner merely testified as to the size of the "comparable" property and as to whether it was brick or had siding.
- e) When a taxpayer contests the grade assigned to an improvement, it must offer probative evidence concerning the alleged assessment error. *See Herb v. State Board of Tax Commissioners*, 656 N.E.2d 890, 894 (Ind. Tax Ct. 1995); *Whitley Prods. Inc. v. State Board of Tax Commissioners*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998); and *Kemp v. State Board of Tax Commissioners*, 726 N.E.2d 395, 400 (Ind. Tax Ct. 2000). Petitioner's conclusory statements that other properties with more living space are assessed lower than his property do not constitute probative evidence concerning the grading of the subject improvement. *See Whitley Prods.*, 704 N.E.2d at 1119. Furthermore, Petitioner's references to photographs or property record cards, without explanation, do not qualify as probative evidence. *See Heart City Chrysler v. State Bd. of Tax Comm'rs*, 714 N.E.2d 329, 333 (Ind. Tax Ct. 1999); *Kemp*, 726 N.E.2d at 400.

- f) The Petitioner simply presented no evidence to this Board of the “comparability” of the properties or of any error in the grade of the subject property. *Se, Sollers Pointe*, 790 N.E.2d at 191 (stating that to make a prima facie case on grade, a taxpayer can offer “specific evidence tied to the descriptions of the various grade classifications”); *see also, Grider v. Dep’t of Local Gov’t Fin.* 799 N.E.2d 1239, 1242 (Ind. Tax Ct. 2003). Moreover, a cursory glance at Petitioner’s photographs is sufficient proof to this Board that Petitioner’s “comparables” are not of a grade comparable to the subject property. The Board, therefore, finds that the Petitioner has failed to raise a prima facie case that its assessment was incorrect.
- g) Where the taxpayer fails to provide the Board with probative evidence supporting its position on the grade issue, the Respondent’s duty to support the assessment with substantial evidence is not triggered. *See Whitley Prods.*, 704 N.E.2d at 1119-20.

Conclusion

- 16. The Petitioner failed to make a prima facie case. The Board finds in favor of the 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. 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>. The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>.