

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

Petition: 41-009-02-1-4-00013
Petitioner: Camelot Company LLC
Respondent: Franklin Township Assessor (Johnson County)
Parcel: 5100-15-32-039/00
Assessment Year: 2002

The Indiana Board of Tax Review (the Board) issues this determination in the above matter. The Board finds and concludes as follows:

Procedural History

1. The Petitioner initiated an assessment appeal with the Johnson County Property Tax Assessment Board of Appeals (PTABOA) by filing Form 130 dated July 10, 2003.
2. On October 10, 2003, the PTABOA mailed notice of the decision to Petitioner.
3. The Petitioner appealed to the Board by filing a Form 131 with the county assessor on November 7, 2003. The Petitioner elected to have this case heard as a small claim.
4. The Board issued a notice of hearing to the parties dated January 5, 2005.
5. The Board held an administrative hearing on March 8, 2005, before the duly appointed Administrative Law Judge Paul Stultz.
6. Persons present and sworn as witnesses at the hearing:
 - a) For Petitioner – Milo Smith, tax representative,
 - b) For Respondent – Mark Alexander, Johnson County Deputy Assessor.

Facts

7. The property is classified as a commercial convenient food mart. *Petitioner Exhibit 3.*
8. The Administrative Law Judge did not conduct an inspection of the property.

9. Assessed value of subject property as determined by the Johnson County PTABOA is:
Land \$27,100 Improvements \$289,900 Total \$317,000.

10. Assessed value requested by the Petitioner is:
Land \$27,100 Improvements \$266,900 Total \$294,000.

Issue

11. Summary of the Petitioner's contentions in support of alleged error in assessment:

- a) The detached steel canopy was incorrectly assessed. The canopy should have been assessed at a base rate of \$16.40 per square foot. The canopy is currently assessed at a base rate of \$20.75, which is for good quality. *Smith testimony; Petitioner Exhibit 1.*
- b) Detached steel canopies of average quality installation are valued at \$16.40 per square foot. Detached steel canopies of good quality installation are valued at \$20.75. *Petitioner Exhibit 5*, citing the REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 - VERSION A (GUIDELINES), app. G at 43 (incorporated by reference at 50 IAC 2.3-1-2).
- c) The Petitioner contended the Respondent assigned a grade of "C" to the canopy on the property record card, thereby indicating it was built with average quality materials and workmanship. Accordingly, the rate of \$16.40 is appropriate. GUIDELINES, app. G at 43; *Smith testimony; Petitioner Exhibits 1, 5.*
- d) The Petitioner acknowledged that quality grade factors do not apply to the canopy cost schedule. *Smith testimony.*

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

- a) The canopy was assessed at a base rate of \$20.75 because the Franklin Township Assessor determined the features are consistent with good quality installation. *Alexander testimony.*
- b) The canopy was assigned "C" grade on the property record card merely to prevent the software from factoring an increase into the base rate. *Alexander testimony.*
- c) The parties clarified for the record that Petitioner and Respondent both agreed grade factors do not apply to canopies when using the Special Use Commercial Property Cost Schedule. GUIDELINES, ch. 8 at 6; *Alexander testimony; Smith testimony.*

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 5678,
 - c) Exhibits:
 - Petitioner Exhibit 1 – Summary of contentions,
 - Petitioner Exhibit 2 – Opinion by Timothy Vrana, Attorney,¹
 - Petitioner Exhibit 3 – Subject property record card,
 - Petitioner Exhibit 4 – Copy of the 2002 REAL PROPERTY ASSESSMENT MANUAL at 18 (incorporated by reference at 50 IAC 2.2-1-2),
 - Petitioner Exhibit 5 – Copy of GUIDELINES, app. G at 43 (Commercial and Industrial Cost Schedules),
 - Petitioner Exhibit 6 – Copy of GUIDELINES, app. E at 8 (Commercial and Industrial Grade),
 - Petitioner Exhibit 7 – Copy of GUIDELINES, app. E at 6 (Commercial and Industrial Grade Factor Percentages),
 - Petitioner Exhibit 8 – Proposed revised property record card,
 - Respondent Exhibit 1 – Letter authorizing Mark Alexander to represent Franklin Township at the hearing,
 - 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) (“[I]t is

¹ This legal opinion contended that local officials were required to assess the canopy using the cost schedule contained in the GUIDELINES, rather than an alternative methodology. However, the Petitioner’s evidence establishes the canopy was, in fact, assessed using the GUIDELINES’ cost schedule. *Petitioner Exhibits 3 & 5*. Accordingly, this contention is moot.

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 its contentions. This conclusion was arrived at because:
- a) The canopy was assessed as good quality. Petitioner contended the canopy is only average quality.
 - b) An average quality detached steel canopy is described as "[c]orrugated metal or steel decking with light metal supports, average quality lighting and average finished soffit." GUIDELINES, ch. 8 at 6.
 - c) A good quality detached steel canopy is described as "[c]orrugated metal or steel decking [with] steel supports, good quality lighting and finished soffit." *Id.*
 - d) In support of its position, Petitioner presented a copy of the current property record card that indicates the canopy was listed with a "C" grade. Petitioner contended average quality and "C" grade are synonymous. Petitioner concluded the property record card established that local assessing officials determined the canopy was constructed with average quality materials and workmanship.
 - e) The record establishes, however, that both parties were aware the Guidelines prohibit application of a grade factor to the canopy. GUIDELINES, ch. 8 at 6.² Accordingly, the mere presence of a grade classification on a property record card is insufficient to establish a prima facie case of error regarding the current determination of the quality of the canopy.
 - f) Assuming, arguendo, that the property record card established a prima facie case, Respondent successfully rebutted that evidence. Respondent testified the grade of "C" did not represent the quality of the canopy. Instead, the grade was entered into a computer field solely to prevent the software program from erroneously applying an inappropriate grade factor adjustment.
 - g) Petitioner presented no additional evidence to establish the correct quality rating of the canopy. Petitioner presented no photographs of the canopy, no evidence of how comparable canopies had been assessed, no discussion of the quality of the

² "Note: Quality grade factors are not applied to the canopies...due to the fact that they are priced according to quality from the pricing schedules." GUIDELINES, ch. 8 at 6.

materials and workmanship used in the construction of the canopy, and no market data concerning the actual construction cost of the canopy.

h) Petitioner failed to demonstrate error in the assessment of the canopy.

Conclusion

16. The Petitioner failed to make a prima facie case. The Board finds in favor of the Respondent. There is no change in the assessment as a result of this issue.

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>.