

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

Petitions #: 01-020-02-1-1-00003
Petitioners: Gene Max & Judith Hindenlang
Respondent: Washington Township Assessor (Adams County)
Parcels #: 006-080-0000-2700
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 Petitioners initiated an assessment appeal with the Adams County Property Tax Assessment Board of Appeals (“PTABOA”) by written document dated September 8, 2003.
2. Notice of the decision of the PTABOA was mailed on December 29, 2003.
3. The Petitioners filed an appeal to the Board by filing a Form 131 with the county assessor on January 29, 2004. Petitioners elected to have this case heard as a small claim.
4. The Board issued a notice of hearing to the parties dated October 5, 2004.
5. The Board held an administrative hearing on November 10, 2004, before the duly appointed Administrative Law Judge Patti Kindler.
6. Persons present and sworn as witnesses at the hearing:
 - a) For Petitioners: Gene Max Hindenlang, Taxpayer,
 - b) For Respondent: Rex W. King, St. Mary’s Township Assessor,
Judy Affolder, Adams County Assessor,
Jeffery L. Kiess, Appraisal Research.

Facts

7. The subject property is listed as 37.54 acres of vacant agricultural land as shown on the property record card.
8. The Administrative Law Judge did not conduct an inspection of the property.
9. Assessed value of the property as determined by the PTABOA is \$38,100 (land only).
10. Assessed value requested by Petitioners for the land is \$31,600¹.

Issue

11. Summary of Petitioners' contentions in support of alleged error in assessment:
 - a) The land value established for the subject property is excessive because the land value does not reflect the inferior crop yield. *Bd. Ex. A; Hindenlang testimony.*
 - b) The cash rent tenant who leased the subject property several years ago said that according to USDA records, the subject's yields are lower than neighboring farmland yields. A representative from the local USDA Agricultural Service Center (the "ASC") office said the subject farmland yields 94 bushels per acre for corn, 48 bushels per acre for beans, and 10 bushels per acre for wheat. The ASC representative indicated that the subject farm's corn yields are 16 bushels lower than the surrounding farms and that the wheat and soybean yields are 10 bushels lower than surrounding farms. *Hindenlang testimony.*
 - c) These suppressed yields lower the market value of this property. Realtors use the base USDA yields to market agricultural land. An auctioneer announces the USDA yields before auctioning farmland, which shows that yield rates are relative to market value. *Hindenlang testimony.*
 - d) The subject yields are 83 percent to 85 percent of neighboring farmland. Therefore, the land is less productive and the assessment should be lower than more productive farms. *Hindenlang testimony.*
12. Summary of Respondent's contentions in support of the assessment:
 - a) The subject land is valued according to soil type and productivity factors with adjustments applied for wooded and unusable areas, roads, and home-sites as shown on the property record cards. *Kiess testimony; Resp. Ex. 2.*

¹ On the Form 131 petition, the Petitioners state that the assessed value of the land should be 83 percent of the current assessed value, which amounts to \$31,623, or \$31,600 rounded to the nearest hundred dollars.

- b) The productivity of agricultural land is based on soil type. Based on studies performed by Purdue University, soil maps reflecting the soil types are generated for each county. The base rate for an acre of agricultural land is adjusted based upon the productivity determined from the soil maps. *Kiess testimony.*
- c) A memo issued by the DLGF, *Overview of Agricultural Land Values*, explains the method used to calculate agricultural land base rates. Those rates were adopted by the State and utilized by Adams County in assessing agricultural land. *Resp. Ex. 3; Kiess testimony.*
- d) For the 2002 General Reassessment, agricultural land values utilize the land's current market value in use, which is based on the productive capacity of the land, regardless of the land's potential or highest and best use. *Resp. Ex. 8.*
- e) The USDA yields are arbitrarily assigned and based on nonscientific theory. They are not necessarily a reflection of production. Some farmers can get more money from the government by not updating their yields. *Kiess testimony.*
- f) USDA yields are not the only factor to be considered for agricultural land value. Location, drainage and type of sale would be predominant factors in determining the land value. *Kiess testimony.*
- g) The terms "productivity" and "yield" are defined separately. The richest soil in the area will not produce high yields if the farmer doesn't rotate crops or apply the proper nutrients. *Affolder 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 STB 5332,
- c) Exhibits:
 - Petitioner Exhibits: None,
 - Respondent Exhibit 1: Form 130,
 - Respondent Exhibit 2: The property record card for the subject property,
 - Respondent Exhibit 3: *Overview of Agricultural Land Values*,
 - Respondent Exhibit 4: Notice of PTABOA hearing,
 - Respondent Exhibit 5: Form 115 Final Determination,
 - Respondent Exhibit 6: Form 131,
 - Respondent Exhibit 7: The Record of the PTABOA Hearing,
 - Respondent Exhibit 8: Copy of pages 99-100 from the Assessment Guidelines discussing valuation of agricultural farmland,

- c) These Findings and Conclusions.

Analysis

14. The most applicable governing rules and 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 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*, 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.
 - d) Agricultural land is valued using the soil type identified on the USDA soil map, the measured acreage, the productivity factor corresponding to the soil map, the state-wide established base rate of \$1,050, and an influence factor, if one applies. The final value is the sum of all the land types calculated using the above information.² REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 — VERSION A, ch. 2 at 114.
15. The Petitioners did not provide sufficient evidence to support their contentions. This conclusion was arrived at because:
- a) The Petitioners sought to have the value of their farm ground reduced because their crop yields are less than the USDA reported yields and less than the yields of neighboring farms. To support this challenge, the Petitioners offered statements such as the neighbors’ yields are higher, the “tenant cash-farmer said the yields were lower than other farms in the area”, or the lower yields adversely affect the market value of the farm ground.
 - b) The Petitioners had the burden of establishing a prima facie case through the presentation of evidence probative of the alleged error. *Meridian Towers*, 805

² There are seven categories of agricultural land use types; only the agricultural home-site is excluded from the application of a soil productivity factor.

N.E.2d at 478. The Petitioners fell short of this burden. The Petitioners' evidence consisted of conclusory statements that their crop yields were "less than the USDA" yields or were "lower than neighboring" farm yields. Conclusory statements that something is "this" and not "that" do not constitute probative evidence sufficient to establish a prima facie case. *Whitley Prods. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).

- c) The Petitioners failed to make a prima facie case regarding the valuation of their farm ground.

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.