

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

**Petition No.:** 12-012-13-1-1-00001  
**Petitioner:** Phyllis J. (Riggle) Hoover  
**Respondent:** Clinton County Assessor  
**Parcel No.:** 12-06-05-300-004.000-012  
**Assessment Year:** 2013

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

**Procedural History**

1. Phyllis Hoover appealed her 2013 assessment to the Clinton County Property Tax Assessment Board of Appeals (“PTABOA”). She then filed a Form 131 petition with the Board. She elected to have her appeal heard under our small claims procedures.
2. On November 17, 2015, our designated administrative law judge, Dalene McMillen (“ALJ”), held a hearing on Ms. Hoover’s petition. Neither she nor the Board inspected the property.
3. Ms. Hoover and Clinton County Assessor Dana Myers testified under oath.

**Facts**

4. The property under appeal contains a single-family home with a barn and lean-to located at 6101 North County Road 300 West in Frankfort.
5. The PTABOA determined the following values:  
  
Land: \$38,900            Improvements: \$30,500            Total: \$69,400.
6. The Assessor also issued two Form 113 Notice(s) of Assessment by Assessing Official purporting to lower the assessment to \$64,000. She issued the first Form 113 notice on March 7, 2014—the same day the PTABOA’s Form 115 determination was signed.<sup>1</sup> She issued the second Form 113 determination on August 27, 2014.<sup>2</sup> *See Resp’t Exs. R5, R8.*

---

<sup>1</sup> Although the Form 115 determination was signed on March 7, 2014, the Assessor did not mail the determination until March 19, 2014. *Hoover testimony; see also, Bd. Ex. A.*

<sup>2</sup> The Assessor did not explain the authority under which she purported to change an assessment that was the subject of an existing appeal. We therefore treat the PTABOA’s determination, rather than the Assessor’s Form 113

7. Ms. Hoovler requested the following assessment:

Land: \$38,715      Improvements: \$25,100      Total: \$63,815.

**Record**

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

a. A digital recording of the hearing,

b. Exhibits:

- |                            |  |
|----------------------------|--|
| Petitioner Exhibit 1:      | Aerial map of the subject property,  |
| Petitioner Exhibit 2:      | Plat map of Owen Township,   |
| Petitioner Exhibit 3:      | Indiana Constitution, Article 10, Section 1,   |
| Petitioner Exhibit 4:      | Assessor Operations Manual, p. 7,  |
| Petitioner Exhibit 5:      | Assessor Operations Manual, p. 14,   |
| Petitioner Exhibit 5A:     | Assessor Operations Manual, p. 15,   |
| Petitioner Exhibit 6:      | Ind. Code § 6-1.1-37-2,  |
| Petitioner Exhibit 7:      | Ind. Code § 6-1.1-37-1,  |
| Petitioner Exhibit 7A:     | Assessor Operations Manual, p. 10,   |
| Petitioner Exhibit 8:      | Form 11 Notice of Assessment of Land and Improvement, dated September 27, 2013,                  |
| Petitioner Exhibit 9:      | First page of 2013 property record card (“PRC”) for the subject property, dated August 19, 2013, |
| Petitioner Exhibit 9A:     | Second page of 2013 subject property’s PRC,  |
| Petitioner Exhibit 10:     | Ms. Hoovler’s summary of corrections the Assessor failed to make,                                |
| Petitioner Exhibit 11-11B: | Form 130 petition, pp. 1-3, dated October 4, 2013,   |
| Petitioner Exhibit 12:     | “Assessments for Landowners Within 1 mile of My Property,”                                       |
| Petitioner Exhibit 13:     | “2013/ pay 2014 comparison document,”  |
| Petitioner Exhibit 14:     | Second page of October 11, 2013, subject PRC,  |
| Petitioner Exhibit 15:     | Second page of December 20, 2013, subject PRC,   |
| Petitioner Exhibit 16:     | Assessment information from Beacon Schneider website, dated February 11, 2014,                   |
| Petitioner Exhibit 17:     | “Procedure for Appeal of Assessment,”  |
| Petitioner Exhibit 18:     | PTABOA minutes from February 28, 2014,   |
| Petitioner Exhibit 19-19B: | Form 115 determination, dated March 7, 2014,   |

---

notices, as the assessment of record. The outcome is the same either way. As explained below, Ms. Hoovler agreed to the improvement value underlying the Form 113 notices, and the Assessor conceded to the land value, which is even less than what Ms. Hoovler sought.

Petitioner Exhibit 20: Form 113 Notice of Assessment by Assessing Official, dated March 7, 2014,

Petitioner Exhibit 21: Unsigned notice from Ms. Hoovler to the Assessor,

Petitioner Exhibit 22: Beacon Schneider aerial map with parcel information and handwritten notations,

Petitioner Exhibit 23: July 12, 2013, letter from Dana Myers to Ms. Hoovler,

Petitioner Exhibit 24: Beacon Schneider aerial map with parcel information, dated July 12, 2013,

Petitioner Exhibit 25-25A: “Summary of Exhibits Clinton County IBTR Hearing,”

Petitioner Exhibit 26: Guideline, ch. 2, p. 102,

Petitioner Exhibit 27: Guideline, ch. 2, p. 105,

Petitioner Exhibit 28: “Valuation Record Section of the Ag. Property Record Card,” Guideline, ch. 2 p. 105,

Petitioner Exhibit 29: Assessor’s calculation of the land assessment,

Petitioner Exhibit 30: Ms. Hoovler’s calculation of the land assessment,

Petitioner Exhibit 31: Second page of the subject PRC, dated September 1, 2015,

Petitioner Exhibit 32-32A: Subject PRC, dated February 21, 2014,

Petitioner Exhibit 33: Ms. Hoovler’s land assessment calculation with handwritten notes,

Petitioner Exhibit 34: Treasurer Form TS-1A “Taxpayer and Property Information,” dated April 21, 2014,

Petitioner Exhibit 35: Guideline, ch. 2, p. 95,

Petitioner Exhibit 36: Ms. Hoovler’s summary errors in Assessor’s land calculations, dated March 2015,

Petitioner Exhibit 37-37C: Ms. Hoovler’s real property parcel summary for Section 5 in Owen Township,

Petitioner Exhibit 38-38B: Form 33 Petition for Correction of Error pp. 1-2 and front page of subject PRC, dated February 23, 2013,

Petitioner Exhibit 39-39A: Form 133, pp. 1-2, dated March 20, 2015,

Petitioner Exhibit 40: First page of subject 2011 PRC, dated February 12, 2013,

Petitioner Exhibit 41: First page of subject 2012 PRC, dated February 12, 2013,

Petitioner Exhibit 42-42B: Form 115 determination, dated June 7, 2013,

Petitioner Exhibit 43: Summary of Ms. Hoovler’s evidence,

Respondent Exhibit R1: Summary of Exhibits,

Respondent Exhibit R2: Form 130 petition, dated October 4, 2013,

Respondent Exhibit R3: Form 115 determination, dated March 7, 2014,

Respondent Exhibit R4: PTABOA minutes, dated February 28, 2014,

Respondent Exhibit R5: Form 113 notice, dated March 7, 2014 and subject PRC for 2014 pay 2015 and 2015 pay 2016,

Respondent Exhibit R6: Form 11 notice, dated September 27, 2013,  
Respondent Exhibit R7: *Phyllis J. Hoovler (Riggle) v. Clinton County Assessor* (IBTR Aug. 22, 2014),  
Respondent Exhibit R8: Form 113 notice, dated August 27, 2014,  
Respondent Exhibit R9: January 15, 2014 letter from Ronald Niemesh, County Treasurer to Ms. Hoovler,  
Respondent Exhibit R10: January 23, 2014 letter from Ms. Hoovler to Ronald Niemesh,  
Respondent Exhibit R11: Subject 2013 PRC,  
Respondent Exhibit R12: Form 131 petition,  
Respondent Exhibit R13: Subject PRC showing Ms. Hoovler’s proposed land changes,  
Respondent Exhibit R14: 2013 pay 2014 Clinton County tax rates,  
Respondent Exhibit R15: Guideline, ch. 2, pp. 95-102, 117,  
Respondent Exhibit R16: 2012 Land Order prepared by Ad Valorem,  
Respondent Exhibit R17: 2018 Land Order prepared by Ad Valorem,  
Respondent Exhibit R18: Subject PRC showing rural residential pricing and Google Earth aerial map,

Board Exhibit A: Form 131 petition with attachments,  
Board Exhibit B: Hearing notice,  
Board Exhibit C: Hearing sign-in sheet,

c. These Findings and Conclusions.

### **Burden of Proof**

9. Generally, a taxpayer seeking review of an assessment must prove the assessment is wrong and what the correct value should be. Indiana Code § 6-1.1-15-17.2 creates an exception to that rule where (1) the assessment currently under appeal represents an increase of more than 5% over the previous year’s assessment for the same property, or (2) a successful appeal reduced the previous year’s assessment below the current year’s level, regardless of the amount. I.C. § 6-1.1-15-17.2. Under those circumstances, the assessor has the burden of proving the assessment is correct. *Id.* If she fails to do so, it reverts to the previous year’s level or to another amount shown by probative evidence. See I.C. § 6-1.1-15-17.2(b)
  
10. Both circumstances apply here. Ms. Hoovler appealed the property’s 2012 assessment, which the PTABOA reduced to \$62,300. We then upheld the PTABOA’s determination. The 2013 PTABOA determination currently under appeal represents an increase of more than 5% over the amount determined in Ms. Hoovler’s 2012 appeal. The Assessor therefore has the burden of proof.

### **Summary of the Parties’ Contentions**

11. Summary of the Assessor's case:

- a. The Assessor issued a Form 11 assessment notice for 2013 valuing the property at \$69,400—\$38,900 for land and \$30,500 for improvements. The PTABOA upheld that value in Ms. Hoovler's 2013 appeal. The Assessor, however, issued a Form 113 notice changing the assessment to \$64,000. Although the notice does not allocate the overall value between land and improvements, the Assessor testified that those components are \$38,000 for land and \$26,000 for improvements. *Myers testimony; Resp't Exs. R3-R6, R8.*
- b. The land was assessed correctly under the 2011 Real Property Assessment Guidelines. Measured farmland does not necessarily equal a parcel's legal acreage. The Assessor used the county's GIS system to accurately calculate the acreage and soil types as follows:

Type	Acres
Homesite	1.0 acre
Public Road	0.44 acres
Farmland (FDA soil type)	1.62 acre
Farmland (MTB soil type)	0.91 acres
Farmland (TY soil type)	3.03 acres
<b>Total</b>	<b>7.0 acres</b>

*Myers testimony; Resp't Ex. 15.*

- c. If one uses the slightly different allocations between soil types that Ms. Hoovler proposed in her Form 131 petitions, the land assessment would be \$38,700, or only \$200 less than what the PTABOA determined. In any case, the Assessor asked for an assessment of \$64,000 as reflected in the Form 113 notice. That includes a land assessment of only \$38,000, or \$700 less than what Ms. Hoovler requested. *See Myers testimony; Resp't Exs. R11-R14.*

12. Summary of Ms. Hoovler’s case:

- a. Ms. Hoovler researched agricultural land assessments in section 5 of Owen Township and found various errors. In 2013, her assessment increased by 11.6% over what its correct assessment should have been for 2012. Other properties within a one-mile radius did not have similar increases. Ms. Hoovler also randomly sampled assessments in Howard, Carroll, and Tippecanoe counties. Those counties were assessing agricultural land correctly under the Guidelines. *Hoovler testimony; Pet’r Exs. 12, 36-37C.*
- b. For the past four years, the Assessor has incorrectly allocated the subject land between soil types. The allocations should be as follows:

Type	Acres
Homesite	1.0 acre
Public Road	0.44 acres
Farmland (FDA soil type)	1.98 acre
Farmland (MTB soil type)	0.91 acres
Farmland (TY soil type)	2.67 acres
<b>Total</b>	<b>7.0 acres</b>

Using the correct allocations, the 2013 land assessment should be \$38,270. Ms. Hoovler testified that she had no issue with the Assessor’s proposed \$26,000 assessment for the buildings.<sup>3</sup> She instead wanted her agricultural land to be correctly allocated between soil types, even if that meant a higher land value than the \$38,000 conceded by the Assessor. *Hoovler testimony; Pet’r Exs. 22, 27-28, 30, 33-35.*

- c. At the hearings on Ms. Hoovler’s 2012 appeal, neither the PTABOA nor the Board considered her evidence of what she believed to be the correct allocation between soil types. If the land had been correctly allocated, the assessment would have been \$37,885 for land and \$24,300 for improvements, for a total of \$62,185. *Hoovler testimony and argument; Pet’r Exs. 8-26, 32-32A, 41, 43*
- d. The PTABOA declined to hear unresolved issues from Ms. Hoovler’s 2012 appeal. The PTABOA also tabled changing the 2013 appeal pending our determination for 2012.<sup>4</sup> We issued our determination in the 2012 appeal on August 22, 2014, but the PTABOA never revisited the 2013 assessment. *Hoovler testimony; Pet’r Exs. 18, 19-19B, 42-42B.*

---

<sup>3</sup> “ALJ.: [T]he County did after the fact, after the Form 115 was issued, did issue a Form 113 . . . lowering the buildings to \$26,000, is that correct?

Hoovler: Yes.

ALJ: And you agree with that \$26,000 on the buildings?

Hoovler: I have no issue with the buildings.”

<sup>4</sup> As explained above, the PTABOA did issue a determination on Ms. Hoovler’s 2013 appeal. It is from that determination that she appealed to the Board. *Pet’r Ex. 19-19B.*

- e. The Assessor’s Form 113 notice reducing the 2013 assessment to \$64,000 contradicts the PTABOA’s Form 115 determination from the same day. The Assessor did not explain why she reduced the assessment. On March 20, 2015, Ms. Hoovler filed a Form 133 petition to correct an error in which she requested changes to her land classifications. Although the Clinton County Auditor accepted the petition, she has not responded or taken any action on it.<sup>5</sup> *Hoovler testimony; Pet’r Exs. 20-21, 38-39A.*
- f. In sum, Ms. Hoovler asked us to calculate the correct “acreage, soil types, and assessment amounts” and instruct the Assessor to correct her records accordingly. She further requested refunds based on those corrections for all the years for which she has filed “appeals of the taxes paid and retroactive as provided by law.” *Hoovler argument.*

### Analysis

13. Although Ms. Hoovler asked us to reconsider our determination from 2012 and to order refunds based on her proposed corrections for all years for which she filed appeals, the only issue currently before us is her appeal of the 2013 assessment.
14. Ms. Hoovler agreed to a value of \$26,000 for the improvements, although she had asked for a slightly lower amount on her Form 131 petition. And the Assessor conceded a value of \$38,000 for the land, which is actually less than the amount Ms. Hoovler sought based on her proposed allocation of soil types. So there is no real dispute about the appropriate value—it is \$64,000.
15. Although Ms. Hoovler wants us to order the Assessor to change her records to reflect what Ms. Hoovler claims is the correct allocation between soil types, she did not offer any probative evidence in this appeal to support her position. She instead simply asserted that soil maps support her proposed allocation, without offering those maps as evidence. At most, she offered an aerial photograph of the subject property with what appear to be her own handwritten notations.
16. Ms. Hoovler nonetheless claims that she offered exhibits with “accurate documentation” of the correct allocations in her 2012 appeal. To the extent she asks us to take official notice of exhibits from her 2012 appeal, we decline. Ms. Hoovler acknowledged that we rejected her allocation claim when we actually had the exhibits in question properly before us. In any case, she has alleged what can only be described as minor classification errors that, if corrected, would not reduce her land assessment below the amount the

---

<sup>5</sup> Ms. Hoovler actually offered portions of two Form 133 petitions as exhibits. *Pet’r Exs 38-39A.* They address the 2012 and 2014 assessment years. By contrast, this determination addresses only Ms. Hoovler’s appeal for 2013. In any case, the petitions are not properly before us. There is nothing to show that the PTABOA considered those petitions, much less that Ms. Hoovler had appealed to the Board. *See* I.C. § 6-1.1-15-12(d) – (e) (laying out the procedures for correction of errors, including appeals to the Board from PTABOA determinations).

Assessor has conceded. Under those circumstances, we will not delay or further complicate these proceedings by taking official notice of exhibits from Ms. Hoovler's 2012 appeal. *See* 52 IAC 2-7-4 (b) (providing that parties must be notified of the specific material being noticed and afforded the opportunity to contest or rebut it).

17. For the reasons explained above, we find that the 2013 assessment must be changed to \$64,000. We order no other changes.

### **Final Determination**

In accordance with the above findings of fact and conclusions of law, the Indiana Board of Tax Review determines that the assessment must be changed to \$64,000.

ISSUED: February 12, 2016

---

Chairman, Indiana Board of Tax Review

---

Commissioner, Indiana Board of Tax Review

---

Commissioner, Indiana Board of Tax Review

#### **- APPEAL RIGHTS -**

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5 and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required not later than forty-five (45) days after the date of this notice. The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>. The Indiana Tax Court's rules are available at <<http://www.in.gov/judiciary/rules/tax/index.html>>.