

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

Petition #: 41-014-02-1-4-00019
Petitioner: HURRICANE FOOD, INC.
Respondent: WHITE RIVER TOWNSHIP ASSESSOR (JOHNSON COUNTY)
Parcel: 1500010103700
Assessment Year: 2002

The Indiana Board of Tax Review (IBTR) issues this determination in the above matter, and 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 written document dated July 10, 2003.
2. The Petitioner received notice of the decision of the PTABOA on October 24, 2003.
3. The Petitioner filed an appeal to the Indiana Board of Tax Review (IBTR) by filing a Form 131 with the county assessor on November 18, 2003. Petitioner elected to have this case heard in small claims.
4. The IBTR issued a notice of hearing notice to the parties dated July 15, 2004.
5. The IBTR held an administrative hearing on August 19, 2004 before the duly appointed Administrative Law Judge Jennifer Bippus.

6. Persons present and sworn in at the hearing:
 - A. For Petitioner: Milo E. Smith, Petitioner's Representative.
 - B. For Respondent: Mark Alexander, Township Representative.

Facts

7. The property is classified as a commercial property as is shown on the property record card #1500010103700.
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:

Land \$297,300	Improvements \$336,900	Total \$634,200
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10. Assessed Value requested by Petitioner:

Land \$180,000	Improvements: \$240,000	Total \$420,000
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Contentions

11. Summary of Petitioner's contentions in support of alleged error in assessment is:
 - A. The canopy priced as a special feature should be priced from Appendix G at \$16.40 per sq. ft. and depreciated using Table F-8 in Appendix F. The canopy is currently priced at \$12.00 per sq. ft. *Smith Testimony*.
 - B. The land is not priced correctly. On the land order there is no criteria for a positive twenty-five percent (25%) influence factor for commercial properties. *Smith Testimony; Petitioner Exhibit 2*.
 - C. "The criteria relating to influence factors must be included as part of the land value determination submitted to the Property Tax Assessment Board of Appeals under IC 6-1.1-4-13(a) and presented at the public hearing held under IC 6-1.1-4-13.6(a)." *Smith Testimony; Petitioner Exhibit 3*.
 - D. The subject property should have an effective age of 1990 as is shown on the previous property record card. There is no justification from the County officials to have changed the age from 1990 to 2000. *Smith Testimony; Petitioner Exhibits 4 & 5*.
 - E. The footprint of the subject property has never changed and is the same as it was during the prior assessment. *Smith Testimony*.

- F. The condition should remain the same as it has always been at average, and the age should be 1990. Accordingly, thirty five percent (35%) depreciation should be applied to the property. *Smith Testimony; Petitioner Exhibits 6, 7, 8, 9 & 10.*

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

- A. The Respondent stated that the sale price of the property in 1997, \$700,000, was brought up at the PTABOA hearing. *Alexander Testimony.*
- B. The tax representative is basing his entire case on his interpretation of the cost approach and the application of the land value, and it is strictly a methodology position and does not relate to the value of the property. *Alexander Testimony.*
- C. The influence factor of the land was based on the sales comparison approach. *Alexander Testimony.*
- D. The effective year was changed to get closer to market value, because the sale price of the property was \$700,000. *Alexander Testimony.*

Record

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

- A. The Petition, and all subsequent pre-hearing or post-hearing submissions by either party.
- B. The tape recording of the hearing labeled BTR #5874.
- C. Exhibits:

Petitioner Exhibit 1: Copy of the property record card.

Petitioner Exhibit 2: Copy of the 2002 White River Township Land Order.

Petitioner Exhibit 3: Version A – Real Property Assessment Guideline, Chapter 2, page 11.

Petitioner Exhibit 4: Version A – Real Property Assessment Guideline, Appendix F, page 5.

Petitioner Exhibit 5: Copy of prior property record card reflecting the March 1, 1998 assessment.

Petitioner Exhibit 6: Version A – Real Property Assessment Guideline, Appendix F, page 7.

Petitioner Exhibit 7: Version A – Real Property Assessment
Guideline, Appendix F, pages 36-37.

Petitioner Exhibit 8: Version A – Real Property Assessment
Guideline, Appendix F, page 24.

Petitioner Exhibit 9: Version A – Real Property Assessment
Guideline, Appendix F, page 38.

Petitioner Exhibit 10: Proposed revised property record card.

Petitioner Exhibit 11: Letter to the White River Township Assessor
requesting copies of documentary evidence
and list of witnesses.

Petitioner Exhibit 12: Letter to the Johnson County Assessor
requesting copies of documentary evidence
and list of witnesses.

Respondent Exhibit 1: Authorization for Mark Alexander to
represent the White River Township
Assessor.

D. These Findings and Conclusions.

Analysis

14. The most applicable governing law is:
 - A. The Petitioner must sufficiently explain the connection between the evidence and Petitioner’s assertions in order for it to be considered material to the facts. *See generally, Heart City Chrysler v. State Bd. of Tax Comm’rs*, 714 N.E.2d 329, 333 (Ind. Tax Ct. 1999).
 - B. The Board will not change the determination of the County Property Tax Assessment Board of Appeals (PTABOA) 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. *See Clark v. State Bd. of Tax Comm’rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998); *North Park Cinemas, Inc. v. State Bd. of Tax Comm’rs*, 689 N.E.2d 765 (Ind. Tax Ct. 1997).
 - C. No technical failure to comply with the procedures of a specific assessing method violates this rule so long as the individual assessment is a reasonable measure of “True Tax Value,” and failure to comply with the Real Property Assessment Guidelines for 2002-Version ‘A’ or other

guidelines...does not in itself show that the assessment is not a reasonable measure of "True Tax Value." 50 IAC 2.3-1-1(d).

15. The Petitioner did not provide sufficient evidence to support Petitioner's contentions. This conclusion was arrived at because:
- A. The Petitioner argued that the property was not assessed in accordance with the Version A – Real Property Assessment Guideline (Guideline).
 - B. The cost approach to value contained in the Guideline is not the only acceptable means of determining a property's true tax value for the 2002 reassessment. (*Guideline, Introduction, page 2*) (Stating that both the comparable sales approach and the capitalized income approach may be used if applicable).
 - C. The Respondent correctly argued that probative market evidence is more indicative of the bottom-line value of the property for the 2002 assessment. In support of the bottom-line value assigned to the property, the Respondent referred to the property record card (*Petitioner Exhibit 1*) indicating the property sold in 1997 for \$700,000. Testimony indicated adjustments were made to the Guideline assessment of the property to derive a True Tax Value closer to the sales information. This market data tends to support the total current assessed value of \$634,200.
 - D. The Petitioner has therefore failed to demonstrate error in the total True Tax Value of the property. 50 IAC 2.3-1-1(d).

Conclusions

16. The Petitioner has not made 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

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.