

REPRESENTATIVE FOR THE PETITIONERS:

Kevin L. Smith, *pro se*

REPRESENTATIVE FOR THE RESPONDENT:

Terri Boone, Huntington County Assessor

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

Kevin L. & Melinda K. Smith,	)	Petition No.:	35-008-20-1-5-00645-20
)		
Petitioners,	)	Parcel No.:	35-11-06-200-041.502-008
)		
v.)		
	)	County:	Huntington
Huntington County Assessor,	)	Township:	Jefferson
)		
Respondent.	)	Assessment Year:	2020 ¹

Appeal from the Final Determination of the
Huntington County Property Tax Assessment Board of Appeals

April 23, 2021

FINAL DETERMINATION

The Indiana Board of Tax Review (Board) having reviewed the facts and evidence, and having considered the issues, now finds and concludes the following:

¹ The Form 131 and Form 130 both indicate the assessment year under appeal is 2020. However, the Form 115 submitted by the Petitioners indicates an effective date of assessed value as of January 1, 2019. The Respondent testified that the Form 115s for 2019 and 2020 were both issued on October 9, 2020. Mr. Smith testified that he inadvertently attached the wrong Form 115 to the Form 131 and the year under appeal is 2020. The Respondent agreed the year under appeal is 2020.

INTRODUCTION

1. The Petitioners request a deduction for their heritage barn. Did the Petitioners meet the requirements of Ind. Code § 6-1.1-12-26.2?

PROCEDURAL HISTORY

2. The Petitioners initiated their 2020 assessment appeal with the Huntington County Assessor on June 12, 2020. On October 9, 2020, the Huntington County Property Tax Assessment Board of Appeals (PTABOA) issued its determination denying the Petitioners a heritage barn deduction. The Petitioners timely filed a Petition for Review of Assessment (Form 131) with the Board.
3. On February 2, 2021, Dalene McMillen, the Board's Administrative Law Judge (ALJ), held a telephonic hearing. Neither the Board nor the ALJ inspected the property.

HEARING FACTS AND OTHER MATTERS OF RECORD

4. Kevin L. Smith appeared *pro se* via telephone. Huntington County Assessor Terri Boone and county employee Julie Newsome appeared for the Respondent via telephone. All participants were sworn.
5. The Petitioners offered the following exhibits:

Petitioner Exhibit A: Taxpayer's Notice to Initiate an Appeal (Form 130),
Petitioner Exhibit B: Page 1 Statement of Deduction of Assessed Valuation
Attributed to Heritage Barn (Form 55706),
Petitioner Exhibit B1: Page 2 Additional information regarding heritage barn
deduction,
Petitioner Exhibit C: Form 131,
Petitioner Exhibit D: 1995 exterior photograph of the subject property,
Petitioner Exhibit D1: 1995 interior photograph of the subject property,
Petitioner Exhibit D2: Interior photograph of the subject property,
Petitioner Exhibit D3: Interior photograph of the subject property,
Petitioner Exhibit D4: Photograph of the subject property "restored."

6. The Respondent offered the following exhibit

- Respondent Exhibit 1: "Value approach analysis,"
- Respondent Exhibit 2: Subject property record card,
- Respondent Exhibit 3: Department of Local Government Finance (DLGF) "Certification of Agricultural Land Base Rate Value for Assessment Year 2020" memorandum,
- Respondent Exhibit 4: Aerial photograph of the subject property,
- Respondent Exhibit 5: Form 55706 (page 1),
- Respondent Exhibit 6: Form 130,
- Respondent Exhibit 7: Notice of Hearing on Petition – Real Property (Form 114) for January 1, 2019,
- Respondent Exhibit 8: Form 114 for January 1, 2020,
- Respondent Exhibit 9: Notification of Final Assessment Determination (Form 115) for January 1, 2019,
- Respondent Exhibit 10: Form 115 for January 1, 2020,
- Respondent Exhibit 11: Form 131,
- Respondent Exhibit 12: Comparable land sales analysis and sales disclosure forms for parcel numbers 35-03-28-100-028.200-019, 35-03-02-400-016.600-019, and 35-07-23-400-004.501-014,
- Respondent Exhibit 13: IndyStar article "Will Indiana lose a bit of itself when old barns disappear?" dated October 14, 2013,
- Respondent Exhibit 13A: Indiana Code § 6-1.1-12-26.2,
- Respondent Exhibit 14: Indiana Barn Foundation article "Hoosiers from across the state are coming together to save Indiana barns,"
- Respondent Exhibit 15: Indiana Barn Foundation article "Mauri Williamson Barn Preservation Grant Fund,"
- Respondent Exhibit 16: 1990 subject property record card,
- Respondent Exhibit 17: Two exterior photographs of the subject property,
- Respondent Exhibit 18: Respondent's closing statement.

7. The record also includes the following: (1) all pleadings and documents filed in this appeal; (2) all orders and notices issued by the Board or ALJ; and (3) the digital recording of the hearing and these findings and conclusions.

8. The property under appeal includes a 40x43 square foot barn (T22S) originally built in 1900, a 28x34 square foot barn (T31SO) added to the original structure in 2001, and a utility shed located at 6315 South 594 West in Warren.

PETITIONERS' CONTENTIONS

9. The Petitioners argue the 40x43 square foot barn (T22S) is entitled to the heritage barn deduction. The barn was built prior to 1950 and the interior photographs indicate the barn is a post and beam structure with mortise and pegs. The exterior photograph indicate windows and steel siding was added around 2001. A false front was added to protect the foundation from further water damage. The barn is currently used to store tractors, house chickens, a "shop area," and storage. *Smith testimony; Pet'r Ex. D, D1, D2, D3, D4.*
10. According to Mr. Smith, the barn originally had a "front barn" and silo attached. The prior owner tore down the silo and tore off part of the front barn and converted it into a "lean-to." To retain the integrity of the entire structure and restore its original shape, the Petitioners removed part of the "lean-to" located on the front of the barn and reconstructed it with a gable roof. *Smith testimony; Pet'r Ex. D, D4.*
11. Mr. Smith testified that he has 35 years of experience in the "industry." He claims, it is cost prohibitive to restore an old barn back to its original state without using new products and materials. For this reason, the barn is a mixture of old and new materials. While the exterior is upgraded with new materials, the interior still has the original posts and beams of the heritage barn. The restored barn allows future generations the opportunity to enjoy the barn, while also giving them a glimpse into their past heritage. *Smith testimony; Pet'r Ex. D1, D2, D3, D4.*

RESPONDENT'S CONTENTIONS

12. The Respondent does not dispute the fact that the original 40x43 square foot type-2 bank barn was built prior to 1950 and constructed with mortise and tenon. The County argues that the barn does not qualify for a heritage barn deduction because the Petitioners added a 28x34 square foot addition to the barn in 2001. The Petitioners also added windows, siding, and a metal roof. Because of the renovations, the barn does not meet the

qualifications of preserving the original barn or retaining sufficient integrity of the design and materials. *Newsome testimony; Resp't Ex. 2, 16, 17.*

13. The Respondent offered a brief history on the heritage barn deduction. The Indiana Barn Foundation established in 2013, was the driving force for the deduction of heritage barns. The goal of the organization was to encourage owners to restore and repair old barns. The Indiana Barn Foundation also offers matching grants to help owners maintain the structures. *Newsome testimony; Resp't Ex. 15.*
14. In 2014, Ind. Code § 6-1.1-12-26.2 was enacted providing a property tax deduction for heritage barns. The bill permits an individual to receive a 100% property tax deduction against the assessed value of the barn if it qualifies as a heritage barn. It requires the Office of Tourism and Development to promote heritage barns and allows a county to impose a public safety fee, a fee that Huntington County does not impose. *Newsome testimony; Resp't Ex. 13, 13A.*

ANALYSIS²

15. Indiana Code § 6-1.1-12-26.2 provides a property tax deduction for heritage barns. Specifically, an eligible applicant is entitled to a deduction against the assessed value of the structure and foundation of a heritage barn beginning with assessments after 2014. The deduction is equal to 100% of the assessed value of the structure and foundation of the heritage barn. Ind. Code § 6-1.1-12-26.2(b). An eligible applicant that desires to obtain the deduction must file a certified deduction application with the auditor of the county in which the heritage barn is located on the form prescribed by the DLGF.³ Ind. Code § 6-1.1-12-26.2(c).

² Because the Petitioners did not challenge the assessed value of the subject property, the burden shifting provisions of Ind. Code § 6-1.1-15-17.2 do not apply and the burden rests with the Petitioners.

³ Form 55706 is the DLGF prescribed form.

16. A heritage barn means a mortise and tenon barn that was constructed before 1950.⁴ Additionally, the barn must retain sufficient integrity of design, materials, and construction to clearly identify the building as a barn. Ind. Code § 6-1.1-12-26.2(a)(2).
17. “Barn” means a building (other than a dwelling) that was designed to be used for: housing animals, storing or processing crops, storing and maintaining agricultural equipment, or serving an essential or useful purpose related to agricultural activities conducted on the adjacent land. Ind. Code § 6-1.1-12-26.2(a)(1).
18. Here, the barn identified as T22S on the subject property record card is a type-2 bank barn built prior to 1950. The evidence clearly indicates the interior is a mortise and tenon barn constructed with heavy wooden timbers joined with wooden pegs. The exterior photographs show the barn was updated with windows, a roof, and siding. The barn is used for agricultural storage, a “shop,” and to house chickens. It is clear from the evidence the property meets the criteria set forth in Ind. Code § 6-1.1-12-26.2(a)(1).
19. The only question remaining is did the barn retain sufficient integrity of design, materials, and construction to clearly identify the building as a barn. The Petitioners submitted photographs showing the barn in its original state and current state. The photographs show the original size and interior to be unchanged. The exterior has been updated with windows, siding, and a roof. The only change to the design was a small entryway added to fix a water and foundation issue. The Board finds the statute is silent regarding the use of new materials to upgrade the building. However, the building must retain sufficient integrity to be clearly identifiable as a barn.
20. The County argues the 28x34 square foot addition added in 2001 would disqualify the barn from receiving the heritage barn deduction. The Petitioners did not dispute that a “lean-to” was added to the barn. According to the subject property record card, this

⁴ “Mortise and tenon barn” is defined as a barn that was built using heavy wooden timbers, joined together with wood-pegged mortise and tenon joinery, that form an exposed structural frame. Ind. Code § 6-1.1-12-26.2(a)(4).

addition is currently assessed as a separate building identified as T31SO. Accordingly, this addition does not disqualify the original structure from receiving the heritage barn deduction.

21. Therefore, the Board finds that the subject type-2 bank barn (T22S) is entitled to the heritage barn deduction for the 2020 assessment year.

SUMMARY OF FINAL DETERMINATION

22. In accordance with the above findings of fact and conclusions of law, the Board finds the Petitioners meet the criteria for a heritage barn deduction for the 2020 assessment year. As a result, the Petitioners are entitled to receive the heritage barn deduction on their type-2 bank barn (T22S) for the 2020 assessment year.

The Final Determination of the above captioned matter is issued by the Indiana Board of Tax Review on the date written above.


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>>