

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

**Petition:** 51-006-12-1-5-00002  
**Petitioners:** Sandy Hettle and Bernice Chastain  
**Respondent:** Martin County Assessor  
**Parcel:** 51-05-08-100-049.000-006  
**Assessment Year:** 2012

The Indiana Board of Tax Review (Board) issues this determination, finding and concluding as follows:

**Procedural History**

1. The Petitioners initiated their assessment appeal with the Martin County Property Tax Assessment Board of Appeals (PTABOA) by filing a Form 130 on November 2, 2012.
2. The PTABOA issued a notice of its determination on July 25, 2013.
3. The Petitioners filed their Form 131 petition with the Board on August 14, 2013. They elected to have this appeal heard under the Board's small claims procedures.
4. The Board issued a notice of hearing to the parties on December 5, 2013.
5. On February 11, 2014, Administrative Law Judge Ron Gudgel held the administrative hearing. Neither Mr. Gudgel nor the Board inspected the property.
6. Sandy Hettle, Kirk Reller and Martin County Assessor Carolyn McGuire were sworn and testified at the hearing.

**Facts**

7. The subject property is a residential parcel with a manufactured home and a detached garage located at 8549 First Avenue, Shoals, Indiana.
8. The PTABOA determined the assessment is \$4,500 for land and \$26,100 for improvements (total \$30,600).
9. The Petitioners did not request a specific value.

## **Record**

10. The official record contains the following:
  - a. The Form 131 petition,
  - b. Digital recording of the hearing,
  - c. Petitioner Exhibits A–K – Photographs of the subject property,  
Respondent Exhibit A – Form 130 petition,  
Respondent Exhibit B – Property record card with reassessment values,  
Respondent Exhibit C – Form 115, Notification of Final Determination,  
Respondent Exhibit D – Photograph of the home and stand alone basement,  
Respondent Exhibit E – Form 131 petition,  
Respondent Exhibit F – Property record card with changes made by the PTABOA,  
Board Exhibit A – Form 131 petition,  
Board Exhibit B – Notice of Hearing-Reschedule, dated December 5, 2013,  
Board Exhibit C – Hearing Sign-In Sheet,
  - d. These Findings and Conclusions.

## **Burden**

11. Generally, the taxpayer has the burden to prove that an assessment is incorrect and what the correct assessment should 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). The burden-shifting statute as recently amended by P.L. 97-2014, however, creates two exceptions to that rule.
  - a. First, Indiana Code § 6-1.1-15-17.2 “applies to any review or appeal of an assessment under this chapter if the assessment that is the subject of the review or appeal is an increase of more than five percent (5%) over the assessment for the same property for the prior tax year.” Ind. Code § 6-1.1-15-17.2(a). “Under this section, the county assessor or township assessor making the assessment has the burden of proving that the assessment is correct in any review or appeal under this chapter and in any appeals taken to the Indiana board of tax review or to the Indiana tax court.” Ind. Code § 6-1.1-15-17.2(b).
  - b. Second, Indiana Code section 6-1.1-15-17.2(d) “applies to real property for which the gross assessed value of the real property was reduced by the assessing official or reviewing authority in an appeal conducted under Ind. Code § 6-1.1-15.” Under those circumstances, “if the gross assessed value of real property for an assessment date that follows the latest assessment date that was the subject of an appeal described in this subsection is increased above the gross assessed value of the real property for the latest assessment date covered by the appeal, regardless of the amount of the increase,

the county assessor or township assessor (if any) making the assessment has the burden of proving that the assessment is correct.”

- c. The amended version of the burden-shifting statute was effective March 25, 2014, and applies to all appeals since then.
12. Nothing in the record indicates the 2012 assessment increased by more than 5% from 2011. And nothing in the record indicates the 2011 assessment was the subject of an appeal with any kind of value reduction. Indiana Code § 6-1.1-15-17.2 does not apply. Consequently, the Petitioners have the burden of proof.

### **Contentions**

13. Summary of the Petitioners’ case:
- a. There are errors on the property record card. The home has only two bedrooms not three. The roof is metal, but is assessed as an asphalt roof. The siding is metal not wood. *Hettle testimony.*
  - b. The property is a 1977 trailer with a one-room addition. It is only used for storage. It has no electricity and no heat. The furnace does not work and when it did the air did not circulate through some of the duct work. Because there has been no heat, there is mold and mildew inside. *Hettle testimony.*
  - c. The plumbing does not work. They put in a hand pump for water because the water was rusty. The rust must be in the pipes. Therefore, they all would have to be replaced. *Hettle testimony.*
  - d. There are broken windows covered with plywood. The insulation has fallen down. *Petitioner Exhibits H, I, J; Hettle testimony.*
  - e. When the addition was put on, they cut a hole in the trailer to hook up the addition. They did not put a regular roof on the addition. They put a roof on poles all the way across the addition and the trailer. Two or three areas of the floor need to be replaced because the roof leaks. *Petitioner Exhibit K; Hettle testimony.*
  - f. The cellar was built in 1986. It has no electricity. It has no drainage. *Hettle testimony.*
  - g. The garage is used to store a car. The garage is made of crane boxes. It has a dirt floor and no electricity. The windows are broken and there is a hole in the roof. If the front doors of the garage open, they might just fall off. *Petitioner Exhibits A-E; Hettle testimony.*

- h. A big trench goes down the middle of the property. This trench fills with water when it rains hard and the water goes in the garage and down the road. *Hettle testimony*.
  - i. The assessment is too high. The property does not appreciate like a house. If it sold, the Petitioners probably would not get \$4,000 for it. It would probably fall apart if someone tried to move it. *Hettle testimony*.
14. Summary of the Respondent's case:
- a. The errors on the property record card are easily correctable. The features mentioned by the Petitioners either didn't get entered or were entered incorrectly. For example, the default for a roof is asphalt shingles. Three bedrooms are a default for a five-room house. So the assessments start that way and this one was probably not changed. Changing these features, however, will not change the value because wood and metal are treated the same and the number of bedrooms does not matter. *Reller testimony*.
  - b. Some of the Petitioners' issues have been addressed. The grade on the structure is D-2, which is a very low quality structure and the condition is poor. The garage is assessed as D-1 grade and in poor condition. *Respondent Exhibit F; Reller testimony*.
  - c. The Respondent does not dispute Ms. Hettle's testimony, but the Petitioners failed to provide probative evidence of the market value-in-use as of the valuation date. Therefore, the burden did not shift to the county. *Reller testimony*.

### **Analysis**

15. The Petitioners failed to make a prima facie case for any change to the disputed assessment.
- a. For 2012, real property is assessed based on its "true tax value," which means "the market value-in-use of a property for its current use, as reflected by the utility received by the owner or a similar user, from the property." Ind. Code § 6-1.1-31-6(c); 2011 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.4-1-2). The cost approach, the sales comparison approach, and the income approach are three generally accepted techniques to calculate market value-in-use. *Id.* at 2. Assessing officials primarily use the cost approach. *Id.* at 3. Other kinds of permissible evidence include actual construction costs, sales information regarding the subject or comparable properties, appraisals, and any other information compiled in accordance with generally accepted appraisal principles.
  - b. The Petitioners' evidence consisted of testimony about various serious condition problems and photographs supporting that testimony. But Ms. Hettle did not offer

any probative evidence to quantify the effect of those problems on the market value-in-use. This evidence is not enough to make a case for changing the assessment.

- c. Ms. Hettle testified that she probably could not get \$4,000 for the manufactured home. Ms. Hettle did not offer any probative evidence to support her opinion on this point. Such conclusory statements do nothing to establish the actual market value-in-use of the property and they are of no probative value. *Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).
- d. The Petitioners failed to make a prima facie case. Therefore, the Respondent's duty to support the assessment with substantial evidence was not triggered. *Lacy Diversified Indus. V. Dep't of Local Gov't Fin.*, 799 N.E.2d 1215, 1222 (Ind. Tax Ct. 2003).

### **Conclusion**

- 16. The Petitioners failed to offer probative evidence to support a lower assessment. The Board finds for the Respondent.

### **Final Determination**

In accordance with the above findings of fact and conclusions of law, the 2012 assessed value will not be changed.

ISSUED: May 27, 2014

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Chairman, Indiana Board of Tax Review

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Commissioner, Indiana Board of Tax Review

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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>>.