

REPRESENTATIVE FOR PETITIONER: No One Appeared

REPRESENTATIVE FOR RESPONDENT: Gregory Valentine, Green Township Assessor

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

In the matter of:

MARIE E. BECK)	Petition for Review of Assessment, Form 131
)	
)	Petition No.: 48-014-03-1-6-00004
)	
Petitioner,)	County: Madison
v.)	
)	Township: Green
GREEN TOWNSHIP ASSESSOR)	
)	Parcel No.: 0602015200
Respondent.)	
)	Assessment Year: 2003

Appeal from the Final Determination of
The Madison County Property Tax Assessment Board of Appeals (PTABOA)

December 29, 2003

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:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Issue

1. The issue presented on the Form 131 for consideration by the Board was:

Whether the mobile home was correctly assessed.

Procedural History

2. Pursuant to Ind. Code § 6.1.1-15-3 Marie E. Beck (Petitioner) filed a Form 131 petitioning the Board to conduct an administrative hearing of the above petition. The Form 131 was filed on July 8, 2003. The PTABOA's Notification of Final Assessment Determination was mailed on June 12, 2003.

Hearing Facts and Other Matters of Record

3. Pursuant to Ind. Code § 6-11-15-4, an administrative hearing was scheduled for October 1, 2003 at 1:30 o'clock P.M. The Notice of Hearing on Petition was mailed to the Petitioner at the address listed on the petition, on August 7, 2003.
4. On October 1, 2003, Patti Kindler, the duly designated Administrative Law Judge (ALJ) authorized by the Board under Ind. Code § 6-1.5-5-2, conducted the administrative hearing on the Form 131 petition in Anderson, Indiana.
5. The following persons were present at the hearing:
For the Petitioner: No one appeared

For the Respondent: Gregory Valentine, Green Township Assessor
6. The following items are officially recognized as part of the record of proceedings:
Board's Exhibit A – Form 131 petition

Board's Exhibit B – Notice of Hearing on Petition

Board's Exhibit C – Proof of Mailing

7. The Petitioner failed to appear at the Board's administrative hearing held on October 1, 2003. The Petitioner did not contact the Board or the ALJ prior to the scheduled hearing date and did not request a continuance of the hearing.
8. The ALJ verified that notices of hearing were mailed, with proof of mailing, and also verified that the notices were not returned to the Board as not deliverable.
9. The subject property is a mobile home located at 8669 W. Carefree Drive, Pendleton, Green Township, Madison County.

Jurisdictional Framework

10. This matter is governed by the provisions of Ind. Code § 6-1.1-15, and all other laws relevant and applicable to appeals initiated under those provisions, including all case law pertaining to property tax assessment or matters of administrative law and process.
11. The Board is authorized to issue this final determination pursuant to Indiana Code § 6-1.1-15-3.

State Review and Petitioner's Burden

12. The State does not undertake to reassess property, or to make the case for the petitioner. The State decision is based upon the evidence presented and issues raised during the hearing. See *Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E. 2d 1113 (Ind. Tax 1998).

13. The petitioner must submit ‘probative evidence’ that adequately demonstrates all alleged errors in the assessment. Mere allegations, unsupported by factual evidence, will not be considered sufficient to establish an alleged error. See *Whitley Products, Inc. v. State Bd. of Tax Comm’rs*, 704 N.E. 2d 1113 (Ind. Tax 1998), and *Herb v. State Bd. of Tax Comm’rs*, 656 N.E. 2d 1230 (Ind. Tax 1998). [‘Probative evidence’ is evidence that serves to prove or disprove a fact.]
14. The petitioner has a burden to present more than just ‘de minimis’ evidence in its effort to prove its position. See *Hoogenboom-Nofzinger v. State Bd. of Tax Comm’rs*, 715 N.E. 2d 1018 (Ind. Tax 1999). [‘De minimis’ means only a minimal amount.]
15. 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. ‘Conclusory statements’ are of no value to the State in its evaluation of the evidence. See *Heart City Chrysler v. State Bd. of Tax Comm’rs*, 714 N.E. 2d 329 (Ind. Tax 1999). [‘Conclusory statements’ are statements, allegations, or assertions that are unsupported by any detailed factual evidence.]
16. Essentially, the petitioner must do two things: (1) prove that the assessment is incorrect; and (2) prove that the specific assessment he seeks, is correct. In addition to demonstrating that the assessment is invalid, the petitioner also bears the burden of presenting sufficient probative evidence to show what assessment is correct. See *State Bd. of Tax Comm’rs v. Indianapolis Racquet Club, Inc.*, 743 N.E.2d 247, 253 (Ind., 2001), and *Blackbird Farms Apartments, LP v. DLGF* 765 N.E.2d 711 (Ind. Tax, 2002).
17. The State will not change the determination of the County Property Tax Assessment Board of Appeals unless the petitioner has established a ‘prima facie case’ and, by a ‘preponderance of the evidence’ proven, both the alleged error(s) 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 1998), and *North Park Cinemas, Inc. v. State Bd. of Tax Comm’rs*, 689 N.E. 2d 765 (Ind. Tax 1997). [A ‘prima facie case’ is established when the petitioner has

presented enough probative and material (i.e. relevant) evidence for the State (as the fact-finder) to conclude that the petitioner's position is correct. The petitioner has proven his position by a 'preponderance of the evidence' when the petitioner's evidence is sufficiently persuasive to convince the State that it outweighs all evidence, and matters officially noticed in the proceeding, that is contrary to the petitioner's position.]

Discussion and Analysis of the Issue

ISSUE: *Whether the mobile home was correctly assessed.*

18. Upon the Petitioner's filing of a Form 131 petitioning the Board to conduct an administrative review of the subject petition, an administrative hearing before the duly designated ALJ authorized by the Board, was scheduled for October 1, 2003. The proper notifications of the hearing were sent to all the parties of record.
19. The Petitioner failed to appear at this hearing. The Petitioner did not contact the Board or the ALJ prior to the scheduled hearing date and did not request a continuance of the hearing. The ALJ verified that notices of hearing were mailed, with proof of mailing, and also verified that the notices were not returned to the Board as not deliverable.
20. The Form 131 petition is herewith denied due to the failure of the taxpayer to appear at the administrative hearing and present evidence in support of the alleged errors of assessment as stated on the Form 131 petition. There is no change in the assessment as a result.

This final determination of the above captioned matter is issued this by the Indiana Board of Tax Review on the date first written above.

Commissioner, Indiana Board of Tax Review