

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

Petition: 41-009-03-1-4-00454
Petitioner: Key Bank National Association
Respondent: Franklin Township Assessor (Johnson County)
Parcel: 5100 14 36 065/00
Assessment Year: 2003

The Indiana Board of Tax Review (Board) issues this determination in the above matter. The Board 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 11, 2003.
2. The PTABOA issued its decision on July 16, 2004.
3. The Petitioner filed an appeal to the Board by filing a Form 131 with the county assessor on August 4, 2004. The Petitioner elected small claims procedures.
4. The Board issued a notice of hearing to the parties dated December 15, 2005.
5. The Board held an administrative hearing before its duly appointed Administrative Law Judge, Paul Stultz, on January 31, 2006.
6. Persons present and sworn as witnesses at the hearing:
For Petitioner - Carla Bishop, tax representative,
For Respondent - Mark Alexander, appraiser.

Facts

7. The property is a branch bank located at 101 East Jefferson Street, Franklin, Indiana.
8. The Administrative Law Judge did not conduct an inspection of the property.
9. The assessed value of the subject property as determined by the PTABOA is:
land \$45,000 improvements \$795,700 total \$840,700.
10. The assessed value requested by the Petitioner is:
land \$45,000 improvements \$584,200 total \$629,200.

Issue

11. Summary of the Petitioner's contentions in support of alleged error in the assessment:
 - a. The Petitioner presented an appraisal establishing that the combined value for the subject property and six other parcels was \$685,000 as of February 27, 2001. *Pet'r Ex. 2*. The appraisal date is relevant to the valuation date, January 1, 1999. *Bishop testimony*.
 - b. The assessed values of the related six parcels are not being appealed. The assessed values of these parcels are for land only and are in line with the land values established by the appraisal. *Id.*
 - c. The total appraised value of the six parcels is \$685,000. The current assessed value of the related six parcels should be subtracted from this total to determine the appraised value that is attributable to the parcel under appeal. Furthermore, Petitioner does not dispute the current land value for the subject parcel. Subtracting the parcel's current assessed land value from the total value attributable to the parcel establishes a value of \$584,200 for the improvements. *Id.*

12. Summary of the Respondent's contentions in support of the assessment:
 - a. The subject property was appealed in 2002 and again in 2003. The original 2003 assessed value was lowered by the PTABOA to reflect adjustments for the basement storage area, the lack of fixed division walls, and obsolescence. *Alexander testimony; Pet'r Ex. 3, Form 115 attachment*.
 - b. The appraisal states that its intended use is for negotiations for sale and leaseback of the property. It was not intended for use in a property tax appeal. *Alexander testimony*.

Record

13. The official record for this matter is made up of the following:
 - a. The Petition,
 - b. A digital recording of the hearing,
 - c. Petitioner Exhibit 1 - Summary of issues,
Petitioner Exhibit 2 - Appraisal,
Petitioner Exhibit 3 - Form 131 Petition with attachments,

Respondent Exhibit 1 - Subject property record card,¹
Respondent Exhibit 2 - Letter authorizing Mark Alexander to represent the
Respondent,
Board Exhibit A - Form 131 Petition with attachments,
Board Exhibit B - Notice of Hearing on Petition,
Board Exhibit C - Sign-in sheet,

d. These Findings and Conclusions.

Analysis

14. The most applicable governing cases are:
- a. A Petitioner seeking review of a determination of an assessing official has the burden to establish a prima facie case proving that the current assessment is incorrect and specifically what the correct assessment would 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).
 - b. In making its case, the taxpayer must explain how each piece of evidence is relevant to the requested assessment. *See Indianapolis Racquet Club, Inc. v. Washington Twp. Assessor*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004) (“[I]t is the taxpayer’s duty to walk the Indiana Board . . . through every element of the analysis”).
 - c. Once the Petitioner establishes a prima facie case, the burden shifts to the assessing official to rebut the Petitioner’s evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). The assessing official must offer evidence that impeaches or rebuts the Petitioner’s evidence. *Id.*; *Meridian Towers*, 805 N.E.2d at 479.
15. The Petitioner provided sufficient evidence to support its contentions. This conclusion was arrived at because:
- a. Real property is assessed based on its “true tax value,” which does not mean fair market value. It 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); 2002 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.3-1-2). There are three generally accepted techniques to calculate market value-in-use: the cost approach, the sales comparison approach, and the income approach. The primary method for assessing officials to determine market value-in-use is the cost approach. *Id.* at 3. To that end, Indiana promulgated a series of guidelines that explain the application of the cost approach. *See REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 – VERSION A*. The value

¹ The record establishes that Key Bank National Association (formerly known as Society National Bank, Ameritrust National Bank and Franklin Bank & Trust Company) has owned the property since 1999. *Petitioner Exhibit 2 at 7*. Nevertheless, the property record card still names Franklin Bank & Trust Company.

established by use of the Guidelines, while presumed to be accurate, is merely a starting point. A taxpayer may offer evidence relevant to market value-in-use to rebut that presumption. Such evidence may 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. MANUAL at 5.

- b. Indiana's assessment regulations provide that for the 2002 general reassessment, a property's assessment must reflect its value as of January 1, 1999. *Long v. Wayne Twp. Assessor*, 821 N.E. 2d 466, 471 (Ind. Tax Ct. 2005); MANUAL at 4. Consequently, a party relying on an appraisal to establish the market value-in-use of a property must provide some explanation as to how the appraised value demonstrates, or is relevant to, the property's value as of January 1, 1999. *Id.*
- c. The Petitioner presented an appraisal estimating the combined value of the subject parcel and six other parcels at \$685,000 as of February 27, 2001. That independent, professional appraisal is certified as conforming to generally accepted standards. In this case, the record does not establish any substantial reason to doubt that the appraisal is credible evidence of market value. Using the appraisal as a basis for the assessment in this case, however, might be problematic for two reasons. First, on its face, the appraisal purports to establish a value that is not consistent with the specified valuation date, January 1, 1999. Second, it is an aggregate appraisal for seven parcels, even though the Petitioner appealed only one of those parcels.
- d. According to the appraisal, market conditions applicable to the subject property resulted in a 3% increased value for each of the years 1998 through 2001. *Pet'r Ex. 2 at 65, 68*. Thus, the relationship of the appraised value to the required valuation date, January 1, 1999, can easily be determined. *See Long*, 821 N.E.2d at 471; MANUAL at 4. This evidence is sufficient to overcome the first potential problem.²
- e. By establishing a value of only \$685,000 for all seven parcels as of February 27, 2001, the appraisal provides substantial, probative evidence that the current assessed value of \$840,700 for only one of those parcels (the subject) is too high. Determining a separate, specific value for the improvements from this evidence, however, is a more complicated matter.
- f. The subject parcel has a freestanding, single-tenant bank branch. The entire site (seven parcels) has a combined land area of 0.82 acres with three non-contiguous parts. Although the other parcels have some parking area, the bank and all improvements (paving) are assessed on the one parcel that is the subject of this appeal. The other six parcels are assessed as vacant land.

² In reconciliation of the cost approach, sales comparison approach, and the income approach, this appraisal gave the most weight to the income approach. Nevertheless, it is worth noting that the sales comparison approach used in this appraisal yielded a result that was consistent with the income approach and was based on four sales that dated from July 1995, December 1998, January 1999, and January 2001.

- g. The Petitioner does not dispute the assessed land value as determined by the Respondent on any of these parcels. The Petitioner simply proposes to remove the current assessed land values from the total appraised value and then use the remainder as evidence of the improvement value. The Petitioner failed to provide substantial evidence to support that step. Therefore, the record does not support removing land value for all seven parcels from the overall appraised value as the Petitioner proposes.
- h. Nevertheless, it is clear from the Petitioner's evidence that the total assessed value for the subject property is not more than \$643,900 (the appraised value reduced by 3% per year to get back to a value as of January 1, 1999).
- i. The Respondent failed to rebut or impeach the Petitioner's evidence.

Conclusion

16. The Board finds in favor of the Petitioner.

Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the total assessment should be changed to not more than \$643,900.

ISSUED: **April 27, 2006**

Commissioner,
Indiana Board of Tax Review

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. You must name in the petition and in the petition's caption the persons who were parties to any proceeding that led to the agency action under Indiana Tax Court Rule 4(B)(2), Indiana Trial Rule 10(A), and Indiana Code §§ 4-21.5-5-7(b)(4), 6-1.1-15-5(b). The Tax Court Rules provide a sample petition for judicial review. The Indiana Tax Court Rules are available on the Internet at <http://www.in.gov/judiciary/rules/tax/index.html>. The Indiana Trial Rules are available on the Internet at http://www.in.gov/judiciary/rules/trial_proc/index.html. The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code>.