

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

Petition #: 42-022-04-1-5-00001
Petitioner: Shirley J. Kiel
Respondent: Vincennes Township Assessor (Knox County)
Parcel #: 022-012-UP09-004-001
Assessment Year: 2004

The Indiana Board of Tax Review (the Board) issues this determination in the above matter, and finds and concludes as follows:

Procedural History

1. The Petitioner initiated an assessment appeal with the Knox County Property Tax Assessment Board of Appeals (the PTABOA) by written document on April 14, 2005.
2. The Petitioner received notice of the decision of the PTABOA via a Form 115 Notification of Final Assessment Determination dated April 27, 2005.
3. The Petitioner filed an appeal to the Board by filing a Form 131 with the county assessor on May 4, 2005. The Petitioner elected to have this case heard in small claims.
4. The Board issued a notice of hearing to the parties dated March 30, 2006.
5. The Board held an administrative hearing on June 20, 2006, before the duly appointed Administrative Law Judge (the ALJ) Rick Barter.
6. Persons present and sworn in at hearing:
 - a. For Petitioner: Shirley J. Kiel, Petitioner
 - b. For Respondent: Rose Goodwin, Vincennes Township Assessor.

Facts

7. The subject property is a single-family, residential dwelling located at 2002 Prospect Avenue, Vincennes, in Vincennes Township.
8. The ALJ did not conduct an on-site visit of the property.

9. The PTABOA determined the 2004 assessed value of the subject property to be \$19,500 for the land and \$97,800 for the improvements, for a total assessed value of \$117,300.¹
10. The Petitioner requested an assessment of \$12,000 for the land and \$80,662 for the improvements, for a total of \$92,662.

Issues

11. Summary of Petitioner's contentions in support of an error in the assessment:
 - a. The Petitioner contends that the 2004 assessed value is over-stated in relation to the March 29, 2005, purchase price of \$92,662 for the subject property. *Kiel testimony*. In support of this contention, the Petitioner submitted a copy of the Real Estate Purchase Contract showing a total sales price of \$92,662 for the property. *Petitioner Exhibit 2*.
 - b. The Petitioner further argues that the sales price of nearby properties demonstrate that the assessed value of the subject property is over-stated. *Kiel testimony*. In support of this argument, the Petitioner submitted copies of pages from the Knox County Board of Realtors showing sales of several properties that the Petitioner contends are comparable to the subject property. *Petitioner Exhibit 1*.
 - c. Finally, the Petitioner contends that the subject property is out-dated, under-improved, lacks amenities, has limited access via an easement, and is suffering storm damage to the roof because of poor quality repairs, and damage to windows, doors and lighting fixtures. *Kiel testimony*. In support of this contention, the Petitioner submitted photographs of the subject property. *Petitioner Exhibit 4*.

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

The Respondent contends that the assessed value is correct under Indiana and Knox County assessing standards. *Goodwin testimony*. The Respondent testified that she believes that values in the subject neighborhood will change when state-mandated "trending" assessments are completed for tax year 2007. Finally, the Respondent testified that property values were lower in 1999 compared to 2005. *Id.*

Record

13. The official record for this matter is made up of the following:
 - a. The Petition,

¹ The Petitioner and the Respondent agreed at the hearing that the assessed value was \$17,400 for land, \$97,800 for the improvements, for a total assessed value of \$115,200. According to the property record card submitted by the Respondent, \$115,200 is the March 1, 2006 assessment.

b. The compact disk recording of the hearing labeled 42-022-05-1-5-00001-06-20-2006 Kiel,

c. Exhibits:

Petitioner Exhibit 1 - Copies of four pages from Knox County Board of Realtors,
Petitioner Exhibit 2 – Copy of purchase contract for subject property dated March 2005,

Petitioner Exhibit 3 – Copy of homeowner’s insurance application for subject property,

Petitioner Exhibit 4 – Copy of four photos of subject property showing roof damage,

Petitioner Exhibit 5 – Copy of recording instrument filed with Knox County Recorder March 2005,

Petitioner Exhibit 6 – Copy of Certificate of Survey,

Petitioner Exhibit 7 – Property record card for subject property printed February 18, 2005,

Respondent Exhibit – Property record card for subject property printed June 20, 2006,

Board Exhibit A - Form 131 petition,

Board Exhibit B - Notice of Hearing,

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 establish a prima facie case for a reduction in the assessed value of the subject property. The Board reached this decision for the following reasons:
- a. The Petitioner contends that assessed value of the property is over-stated when compared to the 2005 purchase price of \$92,662. *Kiel testimony*. In support of this contention, the Petitioner presented an excerpt of the Real Estate Contract and Mortgage. *Petitioner Exhibit 2*.
 - b. Real property in Indiana is assessed on the basis of its “true tax value.” See I.C. § 6-1.1-31-6(c). “True tax value’ is defined as “[t]he 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.” 2002 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.3-1-2) (the MANUAL). A taxpayer is permitted to offer evidence relevant to market value-in-use. MANUAL at 5. “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 guidelines.” *Id.*
 - c. Regardless of the approach used to prove the market value-in-use of a property, 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*, at 471; MANUAL at 4. Consequently, a party relying on a sale to establish the market value-in-use of a property must provide some explanation as to how the sales price demonstrates or is relevant to the property’s value as of January 1, 1999. *Id.*
 - d. The Petitioner relied upon her purchase of the property in 2005 for \$92,662 to show the market-value-in-use of the subject property, but failed to explain the relevance of the 2005 sale to the January 1, 1999, valuation date. The Respondent, however, testified that the property was worth less in 1999 than in 2005. *Goodwin testimony*. Thus, the Petitioner has established a prima facie case that the 1999 value of the property would be no higher than its 2005 purchase price.
 - e. Where the Petitioner has established a prima facie case, the burden shifts to the Respondent to rebut the Petitioner’s evidence. See *American United Life Ins. Co.*, 803 N.E.2d 276. Here, Respondent contends that it assessed the property properly under Indiana and Knox County assessment rules. In order to carry its burden, the Respondent must do more than merely assert that it assessed the property correctly. See *Canal Square v. State Bd. of Tax Comm'rs*, 694 N.E.d2d 801, 808 (Ind. Tax Ct.

Apr. 24, 1998) (mere recitation of expertise insufficient to rebut prima facie case). Thus, the Respondent failed to rebut Petitioner's evidence.²

Conclusion

16. The Petitioner provided sufficient evidence to establish a prima facie case that the 2004 value of the subject property is no greater than its \$92,662 purchase price. The Respondent failed to rebut the Petitioner's evidence. The Board finds for the Petitioner.

Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should be changed.

ISSUED: _____

Commissioner,
Indiana Board of Tax Review

² The Petitioner also submitted sales of alleged comparable properties and evidence concerning the condition of the property. In accepting the evidence of the market value of the subject property, the Board deems that these additional issues have been resolved.

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>.