

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

Petition #: 47-012-02-1-5-00005
Petitioner: John Coryea
Respondent: Marion Township Assessor (Lawrence County)
Parcel #: 1200157600
Assessment Year: 2002

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 Lawrence County Property Tax Assessment Board of Appeals (the PTABOA) by written document dated July 15, 2004.
2. The Petitioner received notice of the decision of the PTABOA on December 10, 2004.
3. The Petitioner filed an appeal to the Board by filing a Form 131 with the county assessor on January 7, 2005. The Petitioner elected to have this case heard in small claims.
4. The Board issued a notice of hearing to the parties dated May 11, 2005.
5. The Board held an administrative hearing on June 13, 2005, before the duly appointed Administrative Law Judge (the ALJ) Jennifer Bippus.
6. Persons present and sworn in at hearing:
 - a) For Petitioner: John Coryea, Taxpayer
Cathy Coryea, Taxpayer
 - b) For Respondent: April Stapp Collins, Lawrence County Assessor
Kirk Reller, Real Property Advisor, Lawrence County
Nancy Miller, Marion Township Assessor, Lawrence County

Facts

7. The property is classified as a single family residential property with an extra living unit as is shown on the property record card for parcel #1200157600.

8. The ALJ did not conduct an inspection of the property.
9. The Lawrence County PTABOA determined the assessed value of the subject property to be \$8,200 for the land and \$36,100 for the improvements for a total assessed value of \$44,300.
10. The Petitioner requested an assessed value on his Form 131 petition of \$8,200 for the land and \$17,800 for the improvements for a total assessed value of \$26,000.

Issue

11. Summary of Petitioner's contentions in support of alleged error in assessment:
 - a) The Petitioner contends that the assessment of the subject property is over stated at \$44,300. According to the Petitioner, two appraisals value the subject property far less than the assessment. *J. Coryea testimony.*
 - b) The Petitioner testified that he purchased the subject property in October 1998. An appraisal done at the time of the purchase valued the subject property at \$20,000. According to the Petitioner, a second appraisal done in 2004 valued the subject property at \$26,000. *J. Coryea testimony; Petitioner Exhibits 1 and 2.* The Petitioner alleged that the appraisal done in 1998 is the best indicator of value. The hearing instructions stated the evidence should relate to the valuation date of January 1, 1999. *C. Coryea testimony.* The Petitioner argued that the 1998 appraisal was done in October 1998 which is just three months prior to the valuation date. *J. Coryea testimony.*
 - c) The Petitioner also alleged that the subject property is beyond repair. The Petitioner was told by a former tenant that the subject property was infested with termites. The ground could be seen through the floor. The Petitioner has replaced the floor joists in two bedrooms. *J. Coryea testimony.* Further, the 2004 appraisal says the life expectancy of the subject property is seven years. According to the Petitioner, the subject property will be torn down within the next five years when the tenants can find someplace to live and the Petitioner pays off the mortgage. *J. Coryea testimony.*
 - d) Finally, according to the Petitioner, there are two separate residences within the subject property and both are rented. The tenants have minimum wage jobs and do not pay their rent consistently. There are churches that help the tenants with the rent. One tenant is to pay \$450 per month and the other tenant is to pay \$85 per week. The Petitioner alleged that he is also responsible for the utilities. According to the Petitioner, he is barely able to pay the utilities with the rent he receives. *J. Coryea testimony.*
12. Summary of Respondent's contentions in support of the assessment:

- a) The Respondent disputed the validity of the appraisals. According to the Respondent, the 1998 appraisal was based on the GRM (Gross Rent Multiplier) and the 2004 appraisal was based on sales comparables. The Respondent questioned why the same appraiser would do two appraisals on the same property, but use different methodologies. *Reller testimony.*
- b) The Respondent further noted that the 2004 appraisal, using the sales comparison method, compares the subject property to single family homes. *Reller testimony.* Also, according to the Respondent, the square footage of the subject property is different on the 1998 appraisal than it is on the 2004 appraisal. The 1998 appraisal shows 951 square feet and the 2004 appraisal shows 1,211 square feet. *Reller testimony.*
- c) According to Mrs. Miller, the 1998 appraisal was likely based on the wrong house, 103 West Main Street, not the subject property located at 1003 West Main Street. The drawing (sketch) and square footage in the 1998 appraisal are incorrect for the subject property. She is concerned that other information used in the 1998 appraisal may also be incorrect. *Miller testimony.* In order to support the Respondent's contention that the 1998 appraisal is based on the wrong house, the Respondent presented the property record card for 103 Main Street. *Miller testimony; Respondent Exhibit 1.*

Record

13. The official record for this matter is made up of the following:

- a) The Petition.
- b) The tape recording of the hearing labeled IBTR #6075.
- c) Exhibits:

Petitioner Exhibit 1: Appraisal of subject property from October 1998 (starts on page 10).

Petitioner Exhibit 2: Appraisal of subject property from August 2004.

Respondent Exhibit 1: Property record card of 103 Main Street.

- 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 his contentions. This conclusion was arrived at because:
- a) The Petitioner contends the assessment of the subject property is overstated. The Petitioner provided two appraisals to support his contention. The appraisal done in October 1998 valued the subject property at \$20,000. The appraisal done in August 2004 valued the property at \$26,000. *Petitioner Exhibit 1, 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 (incorporated by reference at 50 IAC 2.3-1-2) (hereinafter “MANUAL”). The market value-in-use of a property may be calculated through the use of several approaches, all of which have been used in the appraisal profession. *Id.* at 3; *Long v. Washington Township Assessor*, 821 N.E.2d 466 (Ind. Tax Ct. 2005).
 - 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 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.*
 - d) Here, the Petitioner provided an appraisal for the subject property dated August 9, 2004. The appraisal valued the subject property at \$26,000 as of that date. The appraisal was based on the sales approach to value. *Petitioner’s Exhibit 2.* In an effort to relate this value back to the January 1, 1999, valuation date, the Petitioner submitted an appraisal dated October 7, 1998 that valued the subject property at \$20,000. The 1998 appraisal was based on rental income. *Petitioner’s Exhibit 1.*

Based on the appraisals submitted by the Petitioner, the Petitioner raised a prima facie case that its property is over-valued.

- e) 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. The Respondent submitted the subject property's property record card in support of the current assessment. *Respondent's Exhibit 1*. The Respondent contended that the current assessment is correct. The Respondent also alleged that there were errors in the appraisals submitted by the Petitioner. The Respondent noted that the 1998 appraisal shows the subject property as a two unit duplex, 951 square foot, and an age of 95 years (built in 1903). The 2004 appraisal shows the subject property as a bungalow, 1,211 square foot, and an age of 114 years (built in 1890). Further, the sketches from the two appraisals do not match.¹ *Petitioner Exhibits 1 and 2*. The Respondent also contends that the income valuation approach is the proper appraisal method for income producing properties such as the subject property rather than the sales comparison approach used in the 2004 appraisal. *Reller testimony*.
- f) While the Respondent alleges that the income approach would have been a better choice to value the subject property in the 2004 appraisal, the Respondent did not contend that it was an error or somehow improper to use the sales comparison approach. Nor did the Respondent allege that the sales comparables used in that appraisal were not comparable to the subject property. The Respondent only noted that they were single family homes. Therefore, the Board finds that the Respondent failed to rebut or impeach Petitioner's 2004 appraisal. While the Respondent has raised serious questions regarding the 1998 appraisal, the Board finds that the appraisal, and Petitioner's purchase of the property in 1998 based upon that appraisal, is sufficient evidence to show that property values are not declining in the area. Therefore, the Board holds that the 1998 appraisal is some evidence to relate the 2004 appraisal back to the January 1, 1999, valuation date as required by the Indiana Tax Court in *Long*. However, the Board is not satisfied that it is sufficiently reliable to establish the true tax value of the subject property as of that date. Thus, the Board finds that the 2004 appraisal is a better indicator of the subject property's value and holds that the value of the property as of January 1, 1999, is no greater than the \$26,000 value it appraised for in 2004.²

¹ The property record card (PRC) for the subject property shows the subject property was constructed in 1890 and has 1,211 square foot. The PRC data matches the data used in the 2004 appraisal. The sketch on the PRC also matches the sketch attached to the 2004 appraisal. Based on the evidence, it appears the 2004 appraisal contains the correct information for the subject property.

² Due to the fact that the Board has determined the market value of the subject property based upon the Petitioner's appraisals, the Board need not address Petitioner's other evidence such as the condition of the property and its depreciation.

Conclusion

16. The Petitioner raised a prima facie case that the subject property was over-assessed. The Respondent failed to rebut this evidence. The Board, therefore, finds in favor of the Petitioner and holds that the value of the subject property does not exceed \$26,000.

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

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>>