

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

Petition: 48-003-03-1-5-00155
Petitioner: Charles Bruce Smith
Respondent: Anderson Township Assessor (Madison County)
Parcel: 18 60-6A-36Z
Assessment Year: 2003

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

Procedural History

1. Petitioner initiated an assessment appeal with the Madison County Property Tax Assessment Board of Appeals (the PTABOA) by written document dated September 2, 2004.
2. The PTABOA issued notice of its decision on October 1, 2004.
3. Petitioner filed an appeal to the Board by filing a Form 131 with the county assessor on October 22, 2004. Petitioner elected to have this case heard according to small claim procedures.
4. The Board issued a notice of hearing to the parties dated October 24, 2005.
5. The Board held an administrative hearing on December 6, 2005, before the duly appointed Administrative Law Judge Paul Stultz.
6. The following persons were present and sworn as witnesses at the hearing:
For Petitioner - Charles B. Smith, Petitioner,
Michael Imhof, former president of the Scarlett Lakes Subdivision Homeowners Association,
For Respondent - Lloyd Brumback, Deputy County Assessor,
Dennis Plackard, Deputy Anderson Township Assessor,
Patricia Davis, Chief Deputy Anderson Township Assessor.

Facts

7. The property is a residential dwelling located at 1333 Scarlett Drive, Anderson, Indiana.
8. The Administrative Law Judge did not conduct an inspection of the property.

9. The assessed value as determined by the PTABOA is:
land \$24,100 improvements \$99,300 total \$123,400.
10. The assessed value requested by Petitioner on the Form 131 is:
land \$24,000 improvements \$74,000 total \$98,000.

Issue

11. Summary of Petitioner's contentions in support of alleged error in the assessment:
- a. Petitioner purchased the home in Scarlett Lakes subdivision for \$108,000 in May 1996. The subdivision was designed to be an upscale family neighborhood, but did not develop as expected. Values in the neighborhood have declined since Petitioner's purchase of the home. *Smith testimony; Imhof testimony.*
 - b. Petitioner's residence has 1,359 square feet. Three larger homes in the subdivision are assessed for less than the subject property. *Smith testimony.* The home directly across the street from Petitioner's property has 1,688 square feet, was constructed by the same builder as Petitioner's home, and is assessed for \$116,700. A nearby house with a pond and a view of a fountain is assessed for \$95,400. A two-story house next door to the subject property has 2,100 square feet, is assessed for \$114,800, and recently sold for \$83,053. *Imhof testimony.*
 - c. An appraisal valued Petitioner's property at \$106,000 as of June 15, 2001. *Board Ex. A, attachment 5.*
 - d. A comparative market analysis of neighborhood sales that occurred in 2003 and 2004 demonstrates that the average sales price was \$93,266. *Board Ex. A, attachment 2.*
 - e. The appraisal of the subject property and the comparative market analysis support the position that the assessed value is higher than the market value. *Imhof testimony; Board Ex. A., attachments 2, 5.*
12. Summary of Respondent's contentions in support of the assessment:
- a. The assessed value is correct. *Plackard testimony.*
 - b. Four homes in Petitioner's subdivision are assessed for more than Petitioner's property. *Respondent Ex. 2.*
 - c. The amount of deductions or exemptions applied to a parcel may affect the tax liability. *Plackard testimony.*

Record

13. The official record for this matter is made up of the following:¹
- a. The Petition,
 - b. Digital recording of the hearing,
 - c. Respondent Exhibit 1 - Subject property record card,
Respondent Exhibit 2 - Four property record cards of comparable properties,
Board Exhibit A - Form 131 with attachments,
Attachment 1 - Two page statement of Petitioner's position,
Attachment 2 - Comparative market analysis of sixteen comparable properties,
Attachment 3 - Detail listing of twelve properties listed on the comparative market analysis,
Attachment 4 - Subject property record card,
Attachment 5 - Appraisal of the subject property,
Board Exhibit B - Notice of Hearing,
 - d. These Findings and Conclusions.

Analysis

14. The most applicable laws 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.

¹ Petitioner’s exhibits are attached to the Form 131. Petitioner presented no additional exhibits at the hearing.

15. Petitioner provided sufficient evidence to support his contentions. This conclusion was arrived at because:
- a. Real property is assessed on the basis of 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 (hereafter 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 (hereafter Guidelines). The value established by use of the Guidelines, while presumed to be accurate, is merely a starting point. A taxpayer is permitted to 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. For the 2002 reassessment, an assessment is to reflect value of the property as of January 1, 1999. MANUAL at 4. Should a Petitioner present any evidence of value relating to a different time, the Petitioner is required to provide some explanation how those values demonstrate, or are relevant to, the subject property's value as of January 1, 1999. *See Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005).
 - c. Petitioner presented a comparative market analysis reflecting sales of neighborhood homes from January 2003 through August 2004. *Imhof testimony; Board Ex. A, attachments 2, 3*. Conclusory statements that a property is "similar" or "comparable" to another property, however, do not constitute probative evidence of the comparability of the two properties. A party seeking to rely on a sales comparison approach must explain the characteristics of the subject property and how those characteristics compare to those of purportedly comparable properties as well as how any differences between the properties affect the relative market values-in-use. *See Long*, 821 N.E.2d at 470-471.
 - d. Petitioner did not explain the characteristics of the subject property and how those characteristics compare to those of the other homes or how any differences affect their relative values. Petitioner failed to establish that his property was comparable to the homes identified in the comparative market analysis. Additionally, Petitioner did not relate this 2003 and 2004 data to the valuation date of January 1, 1999. This comparative market analysis has no probative value. *Id.*

- e. Petitioner also contended three larger homes are assessed for less than Petitioner's property. *Smith testimony*. Again, Petitioner did not present sufficient evidence to explain the characteristics of the subject property and how those characteristics compare to those of the purported comparable properties. Petitioner therefore failed to establish how the subject property was comparable to these three purportedly comparable properties.
- f. Petitioner testified he purchased the property for \$108,000 in May 1996. Petitioner also submitted an appraisal that indicated a value of \$106,000 as of June 15, 2001. *Imhof testimony; Board Ex. A, attachment 5*. Respondent did not dispute either of these values.
- g. Individually, neither of these indications of value is sufficient to relate the proposed value to the January 1, 1999, valuation date. Taken together, however, Petitioner's evidence establishes that values decreased in the neighborhood during the period May 1996 through June 2001. This trend is confirmed by undisputed testimony from both Petitioner and the former president of the neighborhood homeowners association. *Smith testimony; Imhof testimony*. By demonstrating a narrow range of values during the period that brackets the valuation date, Petitioner has shown the relevancy of this evidence to January 1, 1999.
- h. The actual purchase price of a property is often the best evidence of that property's market value-in-use. In a declining market such as exists in Petitioner's neighborhood, the 1996 sale price establishes the upper level of value. Petitioner has established a prima facie case for a reduction in the assessment based on the 1996 purchase price of his property, \$108,000.
- i. Respondent presented the property record cards of four homes in Petitioner's neighborhood, comparing assessed value, square footage, grade, and condition ratings of the homes. *Respondent Ex. 2*. All of the purported comparables, however, are larger than the subject property and three of the four properties have a higher assessed value than the subject property. Respondent failed to offer any explanation as to how these diverse assessments support the current assessment of \$123,400 for Petitioner's property. Further, the sketch grids on the property record cards indicate the physical design of the homes vary widely. Respondent did not present sufficient evidence to explain the characteristics of the subject property and how those characteristics compare to those of the purported comparable properties or how any differences among the properties affect their relative values. Respondent therefore failed to establish that the subject property was comparable to these purported comparable properties. *Long*, 821 N.E.2d at 470-471.
- j. Respondent presented no market evidence to support a conclusion that the value of the property increased from \$108,000 in May 1996 to \$123,400 (based on the assessment) by January 1, 1999, and then decreased to \$106,000 (based on the appraisal) by June 15, 2001. Respondent failed to rebut Petitioner's prima facie case.

Conclusion

16. Petitioner made a prima facie case. Respondent did not rebut Petitioner's evidence. The Board finds in favor of 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 \$108,000.

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>.