

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

Petition #: 48-003-06-1-5-06130
Petitioner: Bill A. Sheets
Respondent: Anderson Township Assessor (Madison County)
Parcel #: 1886212
Assessment Year: 2006

The Indiana Board of Tax Review (“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 Madison County Property Tax Assessment Board of Appeals (“PTABOA”). The PTABOA mailed notice of its decision on June 28, 2006.
2. The Petitioner filed a Form 131 Petition to the Indiana Board of Tax Review for Review of Assessment on July 28, 2006, electing to proceed under the Board’s small-claims rules.
3. On July 10, 2007, Alyson Kunack, the Board’s duly authorized administrative law judge (“ALJ”), held an administrative hearing in this matter.
4. Persons present and sworn in at hearing:
 - a) For Petitioner: Bill A. Sheets, Petitioner
 - b) For Respondent: Patricia Davis, Anderson Township Assessor
Dennis Plackard, Deputy Assessor, Anderson Township
Jack Norris, Deputy Assessor, Madison County
Cheryl Heath, Madison County Assessor

Facts

5. The subject property contains a single-family residence located at 2019 Noble Street, Anderson.
6. The ALJ did not inspect the subject property.

7. The PTABOA determined the assessed value of subject property to be:

Land \$7,200	Improvements \$30,600	Total \$37,800
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8. The PTABOA apparently ruled on the Petitioner’s appeal before the Respondent’s proposed annual adjustment, or “trending” factors, were approved. *See Plackard testimony; Resp’t Ex. A.* Once those trending factors were approved, the Respondent applied them to the PTABOA’s determination and arrived at the following values:

Land \$4,100	Improvements \$37,900	Total \$42,000
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9. The Petitioner requested the following assessed values on his Form 131 petition:

Land \$2,000	Improvements \$11,122	Total \$13,122
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Parties’ Contentions

10. Summary of Petitioner’s contentions:
 - a) The Petitioner bought the subject property from Centrex Home Equity Company, LLC on August 9, 2005. *Pet’r Ex. 1.* The settlement statement from that transaction shows a contract sale price of \$11,000, although the Petitioner testified that he bought the property for less than \$10,000 “five years ago”. The Petitioner did not expand the house after he bought it. *Sheets testimony.*

 - b) The subject property is in a bad neighborhood. The Petitioner owns several houses in the neighborhood that are impossible to rent. In fact, he owns one house that has been empty since 2003. *Sheets testimony.*

 - c) The Respondent compared the subject property to the best properties in the area to justify its assessment. The Petitioner does not believe that any houses in the area actually sold. There are ten empty houses between 19th Street and 23rd Street. *Sheets testimony.*

11. Summary of Respondent’s contentions:
 - a) The Respondent found six houses in the area that it viewed as being similar to the subject house in terms of grade, condition, and size. *Plackard testimony; Resp’t Ex. A.* The six comparable houses average 980 square feet, while the subject house has 988 square feet. *Id.* The subject property does not have a detached garage, so the Respondent subtracted the garage value from the assessment of each comparable property that has a garage. *Plackard testimony; Resp’t Ex. A.* The average assessment of the six comparable properties—minus garages—is \$43,100. *Id.* The subject property is assessed at \$42,000. *Id.*

 - b) The Respondent also examined real-estate listings in the subject area. A property located at 2806 Noble with an 868-square-foot house was listed for \$39,900. *Plackard testimony; Resp’t Ex. A.* A property located at 2221 Jefferson with a 956-square foot house was listed for \$58,900. *Id.*

- c) The subject property sold for \$47,000 on February 9, 2000. *Plackard testimony.*

Record

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

- a) The Form 131 petition,
- b) A digital recording of the hearing,
- c) Exhibits:
 - Petitioner Exhibit 1: Settlement statement for subject property dated August 9, 2005
 - Respondent Exhibit A: Packet of Property Record Cards (PRCs) and summary sheet
 - Board Exhibit A: Form 131 petition with attachments
 - Board Exhibit B: Notice of hearing
 - Board Exhibit C: Hearing sign-in sheet
- d) These Findings and Conclusions.

Analysis

Burden of Proof

- 13. A petitioner seeking review of an assessing official's determination must establish a prima facie case proving both that the current assessment is incorrect, and specifically what the correct assessment should be. *See Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d 475, 478 (Ind. TaxCt. 2003); *see also Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. TaxCt. 1998).
- 14. In making its case, the petitioner must explain how each piece of evidence relates to its 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”).
- 15. Once the petitioner establishes a prima facie case, the burden shifts to the respondent to impeach or rebut the petitioner's evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004); *Meridian Towers*, 805 N.E.2d at 479.

The Petitioner's Case

- 16. The Petitioner failed to make a prima facie case. The Board reaches this conclusion for the following reasons:

- a) The 2002 Real Property Assessment Manual defines “true tax value” as “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.” 2002 REAL PROPERTY ASSESSMENT MANUAL 2 (incorporated by reference at 50 IAC 2.3-1-2). Appraisers traditionally have used three methods to determine a property’s market value: the cost, sales-comparison and income approaches. *Id.* at 3, 13-15. Indiana assessing officials generally value real property using a mass-appraisal version of the cost approach, as set forth in the Real Property Assessment Guidelines for 2002 – Version A.
- b) A property’s assessment under the Guidelines is presumed to accurately reflect its true tax value. *See* MANUAL at 5; *Kooshtard Property VI, LLC v. White River Twp. Assessor*, 836 N.E.2d 501, 505 (Ind. Tax Ct. 2005) *reh’g den. sub nom. P/A Builders & Developers, LLC*, 842 N.E.2d 899 (Ind. Tax 2006). But a taxpayer may rebut that presumption with evidence that is consistent with the Manual’s definition of true tax value. MANUAL at 5. A market value-in-use appraisal prepared according to the Uniform Standards of Professional Appraisal Practice often will suffice. *Id.*; *Kooshtard Property VI*, 836 N.E.2d at 505, 506 n.1. A taxpayer may also offer sales information for the subject or comparable properties and any other information compiled according to generally accepted appraisal principles. MANUAL at 5.
- d) Here, the Petitioner did not offer probative evidence to rebut the assessment’s presumption of accuracy. At most, the Petitioner offered one item that even resembles the type of market-based evidence contemplated by the Manual and Tax Court—a settlement statement indicating that he bought the subject property for \$11,000 on August 9, 2005. *See Pet’r Ex. 1*. A property’s sale price can be powerful evidence of its market value-in-use. But the transaction must have been one designed to yield a market price. Thus, the Manual recognizes certain indicia of a market-value transaction:
- The buyer and seller are typically motivated;
 - Both parties are well informed and advised and act in what they consider their best interests;
 - A reasonable time is allowed for exposure in the open market;
 - Payment is made in terms of cash or in terms of financial arrangements comparable thereto; [and]
 - The price is unaffected by special financing or concessions.

MANUAL at 10.

- e) The Petitioner, however, offered no evidence that the sale bore any indicia of a market-value transaction. For example, he did not say whether he had any relationship to the seller, Centex Home Equity Corporation, LLC, or whether the property had been exposed to the market before he purchased it. In fact, the

Petitioner's testimony actually confused the issue. While the settlement statement indicates that the Petitioner bought the property for \$11,000 on August 9, 2005, he testified that he had bought it for less than \$10,000 "five years ago." *Sheets testimony.*

- f) Without any evidence about the transaction beyond the sale price listed in the Petitioner's settlement statement, and in light of the Petitioner's own contradictory testimony about the sale, the Board finds that the Petitioner failed to establish a prima facie case of error.
- g) Thus, the Petitioner did not show that the current assessment should be changed. The discrepancy between the values listed on the subject property's record card and the PTABOA's determination, however, begs the question of what the current assessment actually is. In the Board's view, the operative assessment is the PTABOA's determination. Indiana Code § 5-1.1-15 describes the procedures for challenging assessments at the local level, culminating in the county PTABOA issuing a determination. And it is the PTABOA's determination—not the property record card's valuation—that is appealed to the Board. Ind. Code § 6-1.1-15-3.
- h) The Respondent did not point to any authority to justify increasing the subject property's assessment while the Petitioner's appeal was pending before the Board. The Respondent has therefore waived any claim to a higher assessment.

Conclusion

- 17. The Petitioner failed to make a prima facie case. The Board finds for the Respondent. The subject property's assessment is \$37,800, as set forth in the PTABOA's determination.

Final Determination

In accordance with the above findings and conclusions, the Indiana Board of Tax Review now determines that the subject property's March 1, 2006 assessment should be \$37,800. To the extent that any assessment records reflect a higher assessment, they must be changed.

ISSUED: _____

Commissioner,
Indiana Board of Tax Review

IMPORTANT NOTICE

- Appeal Rights -

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5, as amended effective July 1, 2007, by P.L. 219-2007, and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice. The Indiana Tax Court Rules are available on the Internet at <http://www.in.gov/judiciary/rules/tax/index.html>. The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code>. P.L. 219-2007 (SEA 287) is available on the Internet at <http://www.in.gov/legislative/bills/2007/SE/SE0287.1.html>