

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

Petition: 49-142-02-1-5-08940
Petitioner: David T. Reece
Respondent: Center Township Assessor (Marion County)
Parcel: 1-101563
Assessment Year: 2002

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 Marion County Property Tax Assessment Board of Appeals (the PTABOA) by filing Form 130 dated October 17, 2003.
2. Petitioner received notice of the decision of the PTABOA on March 18, 2005.
3. Petitioner filed an appeal to the Board by filing a Form 131 with the county assessor on April 18, 2005. Petitioner elected to have this case heard in small claims.
4. The Board issued a notice of hearing to the parties dated June 13, 2005.
5. Administrative Law Judge Paul Stultz held an administrative hearing on August 10, 2005.
6. The following persons were sworn in as witnesses at the hearing:
For Petitioner - John Johantges, tax representative,
For Respondent - Frank Corsaro, representative of the Center Township Assessor's Office.

Facts

7. The property is a condominium located at 735 Lexington Avenue in Indianapolis.
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 \$30,200 improvements \$193,700 total \$223,900.

10. The total assessed value requested by Petitioner is \$165,000.

Issue

11. Summary of Petitioner's contentions in support of alleged error in assessment:

- a) Petitioner presented a sales disclosure statement reflecting the sale of the property on March 12, 1998, for \$165,000. *Petitioner Exhibit 2.*
- b) The actual sale of the subject property in 1998 is the best indicator of the subject's market value on the January 1, 1999, valuation date. *Johantges testimony; Petitioner Exhibit 1.*

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

- a) Two sales of the subject property demonstrate that its value has increased substantially from the March 12, 1998, sale date. The property sold for \$252,000 on September 16, 2002, and sold again for \$239,400 on August 29, 2003. *Corsaro testimony; Respondent Exhibits 3 and 4.*
- b) Petitioner's neighborhood was changing rapidly between 1996 and 2003 and there was a large tenant turnover in the building in which the condominium is located. The building was refurbished and the sales disclosure forms indicate sale prices increased from \$165,000 to \$252,000 between 1998 and 2002. Values started decreasing in 2003. *Corsaro testimony.*

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 BTR 5686,
- c) Petitioner Exhibit 1 - Statement of contentions dated August 2005,
Petitioner Exhibit 2 - Sales disclosure form of the subject property dated March 12, 1998,
Respondent Exhibit 1 - Property record card of the subject property,
Respondent Exhibit 2 - Sales disclosure form of the subject property dated March 12, 1999,
Respondent Exhibit 3 - Sales disclosure form of the subject property dated September 16, 2002,
Respondent Exhibit 4 - Sales disclosure form of the subject property dated August 29, 2003,
Board Exhibit A - Form 131 with attachments,
Board Exhibit B - Notice of Hearing,

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. Petitioner provided sufficient evidence to support his contentions. This conclusion was arrived at because:
- a) Indiana’s assessment regulations provide that for the 2002 general reassessment, a property’s assessment must reflect its value as of January 1, 1999. Consequently, a party relying on market data to establish the market value-in-use of a property must provide some explanation as to how this market data demonstrates or is relevant to the property’s value as of January 1, 1999. *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005); 2002 REAL PROPERTY ASSESSMENT MANUAL at 4 (incorporated by reference at 50 IAC 2.3-1-2).
 - b) Petitioner presented evidence of the sale of his property on March 12, 1998, less than a year from the valuation date of January 1, 1999. The proximity of the sale date to the valuation date is sufficient to establish a link between the two dates. The sales disclosure form for this transaction indicates the market value of the home on the sale date was \$165,000.
 - c) Petitioner’s evidence establishes a prima facie case the market value of the home on the valuation date was \$165,000.

- d) In rebuttal, Respondent presented two additional sale disclosure forms for the subject property. The property sold on September 16, 2002, for \$252,000. *Respondent Exhibit 3*. The property sold again for \$239,400 on August 29, 2003. *Respondent Exhibit 4*. Respondent argued these two additional sales demonstrate the subject property has substantially increased in value from its sale on March 12, 1998. *Corsaro testimony*.
- e) As indicated, a party relying on market data to establish the market value-in-use of a property must provide some explanation as to how this market data demonstrates or is relevant to the property's value as of January 1, 1999. Both of the subsequent sales identified by Respondent occurred several years after the January 1, 1999, valuation date. Respondent provided no explanation as to how these two additional sales are relevant to the property's value as of January 1, 1999. These two sales therefore have no probative value and do not serve to rebut Petitioner's prima facie case.
- f) Respondent further claimed the building in which the condominium is located has had a large turnover, the neighborhood was changing rapidly between 1996 and 2003, and the building was refurbished, resulting in an increase in value. *Corsaro testimony*.
- g) Respondent offered no details, such as the date or extent of renovations, to support these contentions. Further, Respondent made no link between these conditions and the market value of the property on January 1, 1999. Respondent's unsubstantiated conclusions concerning value do not constitute probative evidence. *Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113 (Ind. Tax Ct. 1998).
- h) The Board finds the sale of the subject property on March 12, 1998, is the best indicator of the subject's market value-in-use on January 1, 1999. The total assessed value for the subject property shall be reduced to \$165,000.

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 assessment should be changed to \$165,000.

ISSUED: November 3, 2005

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>>.