

REPRESENTATIVE FOR PETITIONERS:
John Johantges, Property Tax Group 1, Inc.

REPRESENTATIVE FOR RESPONDENT:
Benjamin Buckles, Administrative Deputy, Washington Township.

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

Steven K. and Helen L. Ahlfeld,)	Petition Nos.: 49-800-02-1-5-06102
)	49-800-02-1-5-06166
Petitioners,)	Parcels: 8-058826
)	8-059704
v.)	
)	
Washington Township Assessor,)	County: Marion
)	Township: Washington
Respondent.)	Assessment Year: 2002
)	

Appeal from the Final Determination of the
Marion County Property Tax Assessment Board of Appeals

January 3, 2006

FINAL DETERMINATION

The Indiana Board of Tax Review (the Board) having reviewed the facts and evidence, and having considered the issues, now finds and concludes the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The issue presented for consideration by the Board is:
Should the assessment be changed because the market value of the property is more accurately established by an appraisal than by the cost approach used by the assessor?

PROCEDURAL HISTORY

2. Pursuant to Ind. Code § 6-1.1-15-3, Petitioners' representative, John Johantges, filed Form 131 Petitions for Review of Assessment, petitioning the Board to conduct administrative reviews of the above petitions. The Form 131's were filed with the Marion County Assessor on February 25, 2005. The determinations of the Marion County Property Tax Assessment Board of Appeals (the PTABOA) were issued on January 28, 2005.

HEARING FACTS AND OTHER MATTERS OF RECORD

3. Pursuant to Ind. Code § 6-1.1-15-4 and § 6-1.5-4-1, Paul Stultz, the duly designated Administrative Law Judge authorized by the Board under Ind. Code § 6-1.5-3-3, held two hearings on July 7, 2005, in Indianapolis, Indiana.¹
4. The following persons were sworn as witnesses at the hearing:
 - For Petitioners - John Johantges, Property Tax Group 1, Inc.,
 - For Respondent - Benjamin Buckles, Administrative Deputy, Washington Township, Joline Ohmart, Washington Township Assessor, Chad Polak, Chief Deputy, Washington Township.
5. In the hearing for petition number 49-800-02-1-5-06166, Petitioners did not submit exhibits. In the hearing for petition number 49-800-02-1-5-06102, Petitioners submitted the following exhibits:
 - Petitioners Exhibit 1 – Letter dated July 7, 2005, from Property Tax Group 1, Inc., to the Board,
 - Petitioners Exhibit 2 – Letter dated June 21, 2005, from J. Johantges, owner of Property Tax Group 1, Inc., to the Administrative Law Judge,
 - Petitioners Exhibit 3 – Appraisal Report of the subject property.

¹ It was determined to combine both appeals after two separate hearings were held. The issue and parties are the same. The two parcels are contiguous.

6. The following exhibits were presented for Respondent:
 - Respondent Exhibit 1 – Property record card for each parcel,
 - Respondent Exhibit 2 – Neighborhood analysis,
 - Respondent Exhibit 3 – Appraisal of the subject property,
 - Respondent Exhibit 4 - Analysis of the appraisal of the subject property from
Assessment Advisor’s Inc.,
 - Respondent Exhibit 5 - Appraisal of 620 Alverna Drive,
 - Respondent Exhibit 6 - Analysis of the appraisal of 620 Alverna Drive from
Assessment Advisor’s Inc.,
 - Respondent Exhibit 7 - Appraisal of 740 Alverna Drive,
 - Respondent Exhibit 8 – Analysis of the appraisal of 740 Alverna Drive from
Assessment Advisor’s Inc.

7. The following additional items are officially recognized as part of the record of proceedings and labeled Board Exhibits:
 - Board Exhibit A – The Form 131 Petitions,
 - Board Exhibit B – Notices of Hearings,
 - Board Exhibit C – Sign-in sheets.

8. The subject properties are a single-family residence and a contiguous vacant lot located at 825 Alverna Drive, Indianapolis, Marion County.

9. The Administrative Law Judge did not conduct an on-site inspection of the subject properties.

10. The PTABOA determined the assessed value for parcel 8-058826 is:

land \$270,300	improvements \$2,047,200	total \$2,317,500.
----------------	--------------------------	--------------------

11. The PTABOA determined the assessed value for parcel 8-059704 is:

land \$289,900	improvements \$0	total \$289,900.
----------------	------------------	------------------

12. The current total assessed value of both parcels is \$2,607,400. Petitioners contended the total assessed value of both parcels should be \$2,250,000.

JURISDICTIONAL FRAMEWORK

13. The Board is charged with conducting an impartial review of all appeals concerning the assessed valuation of tangible property, property tax deductions, and property tax exemptions that are made from a determination by an assessing official or a county property tax assessment board of appeals to the Board under any law. Ind. Code § 6-1.5-4-1(a). All such appeals are conducted under Ind. Code § 6-1.1-15. *See* Ind. Code § 6-1.5-4-1(b); Ind. Code § 6-1.1-15-4.

ADMINISTRATIVE REVIEW AND THE PETITIONER'S BURDEN

14. 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).
15. 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”).
16. 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.

ISSUE – *Should the assessment be changed because the market value of the property is more accurately established by an appraisal than by the cost approach used by the assessor?*

17. Petitioners presented the following evidence regarding this issue:
 - A. Petitioners introduced an appraisal of the two parcels prepared by Michael Moore, a certified appraiser. The appraised value of both parcels was \$2,250,000 as of February 9, 1998. *Petitioners Exhibit 3.*
 - B. The appraisal included two parcels identified as lots 9 and 10 in Alverna Estates. *Petitioners Exhibit 3.* The PTABOA failed to consider that the appraisal was for both parcels. *Johantges testimony; Petitioners Exhibit 1.*
 - C. The two parcels combined should be assessed at no more than \$2,250,000. *Petitioners Exhibit 1.* No time adjustment to January 1, 1999, is needed because the appraisal value is fair. *Johantges testimony.*
 - D. The current assessment is approximately 19% greater than the appraisal value. *Id.*
 - E. Petitioners agreed at the hearing that, if the values of the parcels were changed based on the appraisal, the new combined value should be allocated to each parcel in the same proportion as previously assessed. *Id.*

18. Respondent presented the following evidence regarding this issue:
 - A. Petitioners' appraisal is a reasonable estimation of the combined February 1998 value of the two parcels under appeal. *Buckles testimony; Respondent Exhibit 4.*
 - B. The PTABOA determined that the total fair market value for both parcels was \$2.6 million, which is approximately 12% to 15% greater than the appraisal value. The assessment of record is within an acceptable range of the appraisal value. Petitioners were not guaranteed exactitude in the assessed value. *Buckles testimony.*
 - C. Washington Township officials trended the values of all properties at an annual rate of three percent to arrive at a January 1, 1999, value. *Id.*
 - D. Respondent agreed at the hearing that, if the values of the parcels were changed based on the appraisal, the new combined value should be allocated to each parcel in the same proportion as previously assessed. *Id.*

ANALYSIS

19. Petitioners presented an appraisal that concluded the total assessed value of both parcels was \$2,250,000 as of February 9, 1998. *Johantges testimony; Petitioners Exhibit 3*. Respondent agreed that this appraisal established a reasonable value for the two parcels as of that date. *Buckles testimony; Respondent Exhibit 4*.
20. Indiana's assessment regulations provide that for the 2002 general reassessment, a property's assessment must reflect its value as of January 1, 1999. 2002 REAL PROPERTY ASSESSMENT MANUAL at 4 (incorporated by reference at 50 IAC 2.3-1-2). 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. *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). The 1998 appraisal substantially meets this requirement and is sufficient evidence to make a prima facie case for Petitioners.
21. Respondent argued that the appraised value should be increased by three percent because of the difference in time between February 1998 and January 1, 1999. Respondent failed, however, to provide probative evidence to support that position. Washington Township officials trended the values of all properties at an annual rate of three percent, but Respondent failed to establish a substantial basis for the three percent trending factor. Respondent's unsubstantiated conclusions do not constitute probative evidence in support of that trending factor. *Whitley Products v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).
22. Respondent asserted that the combined current assessed value of \$2,607,400 is within an acceptable range and the assessment should not be disturbed because Petitioners are not guaranteed exactitude in assessments. Respondent does not provide any authority or explanation for the conclusion that there is an acceptable market range for establishing the value of the property for assessment or what that range might be. Therefore, this conclusory statement does not qualify as probative evidence. *Lacy Diversified Indus. v.*

Dep't of Local Gov't Fin., 799 N.E.2d 1215, 1221 (Ind. Tax Ct. 2003); *Whitley Products*, 704 N.E.2d at 1119. Furthermore, because the taxpayer is specifically permitted to offer evidence relevant to the market value-in-use of a property that includes actual construction costs, sales and appraisals, Respondent's argument that the value determined from the cost approach in the guidelines is somehow close enough to be acceptable appears to be wrong. MANUAL at 5.

23. The appraisal determined one combined value for the two parcels. The parties agreed at the hearing that, if the values of the parcels were changed based on the appraisal, the new combined value should be allocated to each parcel in the same proportion as previously assessed. *Johantges testimony; Buckles testimony.*
24. Accordingly, the appraisal value of \$2,250,000 provides probative evidence of a combined value of the two parcels. The allocation of this new combined value to the individual parcels shall be in the same proportion as previously assessed.

SUMMARY OF FINAL DETERMINATION

25. The record establishes an unrebutted prima facie case of error. The Board finds for Petitioners.

This Final Determination of the above captioned matter is issued by the Indiana Board of Tax Review on the date first written above.

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>.