

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

Petition #: 84-002-02-1-5-00767
Petitioner: G.X. Thompson
Respondent: Harrison Township Assessor (Vigo County)
Parcel #: 118-06-14-278-014
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 Vigo County Property Tax Assessment Board of Appeals (the PTABOA) by written document dated October 17, 2003.
2. The Petitioner received notice of the decision of the PTABOA on October 21, 2004.
3. The Petitioner filed an appeal to the Board by filing a Form 131 with the county assessor on November 24, 2004. The Petitioner elected to have this case heard in small claims.
4. The Board issued a notice of hearing to the parties dated December 7, 2005.
5. The Board held an administrative hearing on February 21, 2006, before the duly appointed Administrative Law Judge (the ALJ) Rick Barter.
6. Persons present and sworn in at hearing:
 - a) For Petitioner: G.X. Thompson, Petitioner
Beverley Thompson, Petitioner's wife
Larry Bohnert, Witness for Petitioner
 - b) For Respondent: Larry Auler, Harrison Township Assessor
Richetta Hale, Harrison Township Chief Deputy

Facts

7. The subject property is a single-family residence located at 1636 N. 30th Street, Terre Haute, in Harrison Township.

8. The ALJ did not conduct an on-site visit of the property.
9. The PTABOA determined the assessed value of the subject property to be \$8,300 for the land and \$14,700 for the improvement, for a total assessed value of \$23,000.
10. The Petitioners requested an assessment of \$1,000 for the land and \$5,000 for the improvements, for a total assessed value of \$6,000.

Issue

11. Summary of Petitioners' contentions in support of an error in the assessment:
 - a. The Petitioner contends that the subject property was purchased for \$5,700 on July 15, 2002, and that this purchase establishes a \$6,000 market value for the subject property for 2002. *G.X. Thompson testimony*. In support of this contention, the Petitioner submitted into evidence an Offer to Purchase Real Estate dated July 10, 2002, and a Settlement Statement dated September 5, 2002, both showing a sales price of \$5,700. *Petitioner Exhibits 1 - 3*.
 - b. The Petitioner further contends that a series of photographs taken on September 25, 2002, of the house shows that the improvements on the property are in "poor" condition. *G.X. Thompson testimony; Petitioner Exhibit 4*. The Petitioner alleges that there is roof damage, rotting sheathing, an antiquated kitchen, gutters that are in bad shape, no fascia or soffits, and no eave overhangs. *Id.*
12. Summary of Respondent's contentions in support of the assessment:
 - a. The Respondent testified that the subject was a rental property and stated that the PTABOA had made changes to the assessment. *Hale testimony*.

Record

13. The official record for this matter is made up of the following:
 - a. The Petition,
 - b. The CD recording of the hearing labeled Thompson 84002021500767 022106,
 - c. Exhibits:

Petitioner Exhibit 1 - Summary of contentions,
Petitioner Exhibit 2 - Copy of purchase agreement of subject,
Petitioner Exhibit 3 - Copy of closing statement for the subject property,
Petitioner Exhibit 4 - Copies of 11 photographs of subject,

Respondent Exhibits – None were submitted,

Board Exhibit A - Form 139L petition,
Board Exhibit B - Notice of Hearing,
Board Exhibit C - Sign in sheet,

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 Township Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also, Clark v. State Board of Tax Commissioners*, 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 Township 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 establish a prima facie case for a reduction in value. The Board reached this decision for the following reasons:
- a. The Petitioner contends that, based on the purchase price of the property, the subject property is over-assessed. In support of this contention, the Petitioner submitted evidence of the purchase of the subject property on July 15, 2002, for \$5,700. *Petitioner Exhibits 2 and 3*. Further, the Petitioner testified that the sale was an arms-length transaction and represented the market value of the subject property. *G.X. Thompson testimony*.
 - 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 at 2 (incorporated by reference at 50 IAC 2.3-1-2) (the 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. Wayne Township Assessor*, 821 N.E.2d 466, 469 (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 a sale to establish the market value-in-use of a property must provide some explanation as to how the sales price demonstrates or is relevant to the property's value as of January 1, 1999. *Id.*
- d. Here, the Petitioner purchased the subject property for \$5,700 in July of 2002. The Petitioner testified the sale was an arms'-length transaction and represented market value of the property. The sale of a property is often the most compelling evidence of its market value. In this case, the Petitioners bought the subject property for a fraction of the amount for which it is currently assessed. The sale price therefore demonstrates that the current assessment is excessive. Further, absent evidence to the contrary, the Board will not assume that the subject property depreciated substantially between January 1, 1999, and the date that the Petitioner bought the property. In any event, the subject property would have had to depreciate at an astronomical rate in order for the current assessment to be a more accurate measurement of its true tax value than the purchase price. Thus, the Petitioner raised a prima facie case that the assessed value was incorrect and that the correct value of the subject property is \$5,700.¹
- 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). Here, the Respondent offered nothing to rebut Petitioner's case. The Respondent merely alleged that the property was a rental property but provided no evidence of the impact being a rental property would have on the market value of the subject property. Thus, the Respondent failed to impeach the Petitioner's evidence or rebut the Petitioner's case.

Conclusion

16. The Petitioner provided sufficient evidence to establish a prima facie case. The Respondent did not rebut the Petitioner's evidence. The Board finds in favor of the Petitioner.

Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the 2002 assessment should be changed.

¹ The Petitioner also submitted pictures to show that the property is not worth the assessed value. *Petitioner Exhibit 4*. To the extent that the Petitioner raises an issue with the condition of the property, we note that the house is presently rated as "poor." The Petitioner presented insufficient evidence to rule that a different condition rating is warranted. Even if we were to rule that the house was "very poor," however, the assessment would not be lower than the purchase price that the Petitioner has presented.

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>.