

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

Petition: 84-012-06-1-5-00013
Petitioners: Gorden & Karen Allen
Respondent: Vigo County Assessor
Parcel: 84-03-28-100-004.000-012
Assessment Year: 2006

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

Procedural History

1. The Petitioners initiated an assessment appeal with the Vigo County Property Tax Assessment Board of Appeals (PTABOA) by filing a Form 130.
2. The PTABOA mailed its decision on January 14, 2008.
3. The Petitioners appealed to the Board by filing a Form 131 on February 11, 2008, and elected to have this case heard according to small claims procedures.
4. The Board issued a notice of hearing to the parties dated May 1, 2008.
5. Administrative Law Judge Paul Stultz held the Board's administrative hearing on June 5, 2008.
6. Gorden and Karen Allen represented themselves at the hearing. Susan McCarty, Chief Deputy Assessor, represented the Respondent.

Facts

7. This is a case about residential property located at 6700 East Devonald in Terre Haute.
8. The Administrative Law Judge did not conduct an inspection of the property.
9. The PTABOA determined the assessed value is \$20,300 for land and \$196,300 for improvements (total \$216,600).
10. The Petitioners requested an assessed value of \$20,000 for land and \$150,000 for improvements (total \$170,000).

Issue

11. A summary of the Petitioners' case:

- a. The appraised value is less than the subject property's assessed value. The subject property was appraised in August 2006. The appraisal contained some errors. The appraiser omitted the second home located on the parcel, increased the square footage of finished living area for the main home, and incorrectly reported the parcel acreage. *K. Allen testimony; Pet'r Ex. 1.*
- b. The PTABOA determination reflects the errors contained in the appraisal. The PTABOA determination increased the total acreage and increased the square footage of finished living area for the main home. The PTABOA determination also changed the grade factor from C-2 to D. *K. Allen testimony; Pet'r Ex. 1.*
- c. After the PTABOA hearing, the appraiser was contacted to correct the appraisal. Before the corrections were made, the PTABOA issued its determination. The appraisal presented to the Board was supposed to be the corrected appraisal. Because this appraisal omits the second dwelling, it must be inaccurate. *K. Allen testimony.*

12. A summary of the Respondent's case:

- a. The subject property record card shows that the subject property's legal description calls for 2.57 acres of land. The land record shows that the subject property's land value is based on a total of 2.57 acres of land. The land assessment change was the result of removing one of the one acre home sites and valuing that acre as excess residential acreage. It was the understanding of the PTABOA that the homes shared utilities rather than each having separate water and septic systems. The land value changed from \$34,900 to \$20,300. *McCarty testimony; Resp't Ex. 1.*
- b. The square footage finished living area was increased by 1,440 square feet based on the information provided by the Petitioners' appraisal. The grade factor was changed from a C-2 to D on the recommendation of the township assessor's property review. *McCarty testimony.*
- c. The fireplace is valued in 2 parts. There is a charge for openings and a charge for stacks. The subject property's assessment includes a charge for one opening and one stack. *McCarty testimony; Resp't Ex. 1.* The canopies are valued as free-standing conventional shed-type canopies. *McCarty testimony; Resp't Ex. 2.* These values are consistent with the assessment guidelines.¹

¹ The Petitioners original claim included issues regarding the fireplace value and the canopy values. The Petitioners did not present any testimony or documentary evidence regarding these issues during the hearing. However, the Respondent chose to provide an explanation to the Petitioners regarding the manner by which the values were determined.

- d. The sales ratio study for the subject neighborhood shows the assessed values are within range of the sale prices. The properties selected are not comparable to the subject property. The sales ratio study shows that property assessments in the area are close to the market values. *McCarty testimony; Resp't Ex. 3.*
- e. The appraisal omitted the second dwelling located on the property. This omission affects the overall value reported for the subject property. The appraisal does not correctly represent the subject property. *McCarty testimony.*

Record

13. The official record for this matter is made up of the following:
- a. The Petition,
 - b. A digital recording of the hearing,
 - c. Petitioner Exhibit 1 – Appraisal of subject property,
Petitioner Exhibit 2 – Form 131 petition,
Petitioner Exhibit 3 – Form 130 petition,
Petitioner Exhibit 4 – Multiple listings of comparable property,
Petitioner Exhibit 5 – Form 115 Final Determination,
Respondent Exhibit 1 – Subject property record card,
Respondent Exhibit 2 – Real Property Assessment Guidelines, Appendix C, page
9,
Respondent Exhibit 3 – 2006 sales ratio study for neighborhood 108101,
Board Exhibit A – Form 131 Petition for Review of Assessment,
Board Exhibit B – Notice of Hearing on Petition,
Board Exhibit C – Hearing 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 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. The Petitioners did not make a prima facie case. This conclusion was arrived at for the following reasons:
- 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); REAL PROPERTY ASSESSMENT 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. MANUAL 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*. The value established by us 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. Regardless of the approach used to prove the market value-in-use of a property, Indiana's assessment regulations provide that for the 2006 reassessment, a property's assessment must reflect its value as of January 1, 2005. An appraisal (or any other evidence of value) must have some explanation as to how the evidence demonstrates or is relevant to that property's value as of the required valuation date. *See Long v. Wayne Twp Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). Starting with the 2006 assessment date, there is a system for annually adjusting the assessed value of real property to account for changes in value since the last general reassessment. Ind. Code § 6-1.1-4-4.5; Ind. Admin. Code tit. 50, r.21-3-3. "The valuation date is January 1 of the year proceeding the year of the assessment date. Sales occurring before or after that date shall be trended if appropriate...." 50 IAC 21-3-3. For this 2006 appeal, the valuation date is January 1, 2005.
 - c. The appraisal valued the subject property at \$165,000 as of January 1, 2005. However, the Petitioners admitted that, because of certain omissions, the appraisal was not an accurate appraisal. These omissions included incorrectly reported

finished living area for the main home, omitting the second home in the valuation and a discrepancy in land measurement. *K. Allen testimony; Pet'r Ex. 1*. Due to these omissions, the appraisal is not an accurate reflection of the subject property and, as such, is not a true representation of the subject property's market value-in-use.

- d. Additionally, the Petitioners' appraisal values the subject property as of August 2006. The assessment date under review is March 1, 2006 with a valuation date of January 1, 2005. Even if the appraisal was an accurate reflection of the subject property's market value-in-use, the Petitioners did not provide any evidence showing how the August 2006 appraisal was relative to the January 1, 2005 valuation date.
- e. The Petitioners offered information on alleged comparable properties. However, the Petitioners did not explain how or why this evidence supported their case. The Petitioners merely entered these documents into the record. Without any explanation of relevance to the Petitioners' case, the evidence has no probative value.

Conclusion

- 16. The Petitioner did not make a prima facie case. The Respondent's burden to rebut the evidence was not triggered. The Board finds in favor of the Respondent.

Final Determination

In accordance with the above findings and conclusions, the Indiana Board of Tax Review determines that the assessment should not be changed.

ISSUED: _____

Commissioner, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

- 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>