

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

Petition No.: 12-008-07-1-1-00007
Petitioner: Glen Hart
Respondent: Clinton County Assessor
Parcel No.: 12-05-29-300-005.000-008
Assessment Year: 2007

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 Clinton County Property Tax Assessment Board of Appeals (PTABOA) by written document dated December 15, 2008.
2. The PTABOA issued its decision on June 17, 2009.
3. The Petitioner filed a Form 131 petition with the Board on July 21, 2009. The Petitioner elected to have his case heard pursuant to the Board's small claims procedures.
4. The Board issued a notice of hearing to the parties dated November 17, 2009.
5. The Board held an administrative hearing on January 14, 2010, before the duly appointed Administrative Law Judge Alyson Kunack.
6. Persons present and sworn in at hearing:
 - a) For Petitioner: Glen Hart, Petitioner
 - b) For Respondent: Brian Thomas, authorized representative
Dana M. Myers, Clinton County Assessor
Jada Ray, Chief Deputy Assessor, Clinton County

Facts

7. The property is a single-family residence and agricultural land located at 8660 West County Road 200 North in the city of Frankfort, Madison Township in Clinton County.
8. The Administrative Law Judge (ALJ) did not inspect the property.

9. For 2007, the PTABOA determined the assessed value of the subject property to be \$56,400 for the land and \$72,400 for the improvements, for a total assessed value of \$128,800.
10. The Petitioner requests an assessed value of \$46,500 for the land and \$67,100 for the improvements, for a total assessed value of \$113,600.

Issues

11. The Petitioner contends that the assessed value of his house and its one-acre homesite is excessive. *Hart testimony*. According to Mr. Hart, the assessed values of his house and homesite increased by \$11,280 from 2006 to 2007. *Hart testimony; Petitioner Exhibits 1 and 2*. Mr. Hart testified that his home is well over 100 years old and the values of such houses are going down. *Hart testimony*. Furthermore, Mr. Hart argues, the Governor said that taxes on houses were going down, but taxes on land were going up, yet both increased for the subject property. *Id.*
12. The Respondent's representative argues that the assessed value was correct, based on a physical inspection that was made of the subject property prior to the PTABOA hearing. *Thomas testimony*. According to Mr. Thomas, the total assessed value of \$128,800 includes not just the house and one-acre homesite, but several outbuildings and an additional 44 acres of land. *Thomas testimony; Respondent Exhibit 2*. Further, Mr. Thomas argues, the Governor was referring to the amount of tax dollars spent, not the assessed value of properties. *Id.*

Record

13. The official record for this matter is made up of the following:
 - a. The Petition.
 - b. The digital recording of the hearing.
 - c. Exhibits:

Petitioner Exhibit 1: The Petitioner's Property Record Card printed
November 21, 2008,

Petitioner Exhibit 2: The Petitioner's Property Record Card printed April
14, 2009,

Respondent Exhibit 1: Exhibit list,

Respondent Exhibit 2: Written summary of testimony,

Board Exhibit A: Form 131 Petition,

Board Exhibit B: Notice of Hearing,

Board Exhibit C: Hearing sign-in sheet,
Board Exhibit D: 30-day Notice Waiver.

- 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 Petitioner failed to provide sufficient evidence to establish a prima facie case for a reduction in the assessed value of his property. The Board reached this decision 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 at 2 (incorporated by reference at 50 IAC 2.3-1-2). The appraisal profession traditionally has used three methods to determine a property’s market value: the cost approach, the sales-comparison approach and the income approach to value. *Id.* at 3, 13-15. In 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); *P/A Builders & Developers, LLC*, 842 N.E.2d 899 (Ind. Tax 2006). 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 property or comparable properties and other information compiled according to generally accepted appraisal principles. MANUAL at 5.

- c) Regardless of the method used to rebut an assessment's presumption of accuracy, a party must explain how its evidence relates to the subject property's market value-in-use as of the relevant valuation date. *O'Donnell v. Department of Local Government Finance*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006); *see also Long v. Wayne Township Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). For the March 1, 2007, assessment, the valuation date was January 1, 2006. 50 IAC 21-3-3.
- d) Here, Mr. Hart argues that the values of his house and one-acre homesite increased significantly from 2006 to 2007. *Hart testimony; Petitioner Exhibits 1 and 2*. That increase, however, does nothing to show that the property's March 1, 2007, assessment failed to accurately reflect its market value-in-use. That is particularly true given the principle that each assessment and each tax year stands alone. *Fleet Supply, Inc. v. State Bd. of Tax Comm'rs*, 747 N.E.2d 645, 650 (Ind. Tax Ct. 2001) (citing *Glass Wholesalers, Inc. v. State Bd. of Tax Comm'rs*, 568 N.E.2d 1116, 1124 (Ind. Tax Ct. 1991)). Thus, evidence as to a property's assessment in one year does not prove its true tax value in a different year. *See id.*
- e) In further support of his contention that his property's assessed value was too high, Mr. Hart argues that older homes like his would not sell for such a price. *Hart testimony*. While the Petitioner may be correct in his assertion, Mr. Hart failed to provide any probative evidence to support his opinion. Unsupported and conclusory statements do not constitute probative evidence. *Lacy Diversified Indus., Ltd. v. Dep't of Local Gov't Fin.*, 799 N.E.2d 1215, 1221 (Ind. Tax Ct. 2003); *Whitley Prods. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).
- f) Finally, the Petitioner argued that although the Governor had stated that taxes on homes were going down but taxes on land were increasing, the values on both the Petitioner's house and its one-acre homesite increased. *Hart testimony*. To the extent that the Petitioner contests his taxes—as opposed to the subject property's assessment—the Board lacks jurisdiction to hear his claim. The Board is a creation of the legislature and has only those powers conferred by statute. *Whetzel v. Dep't of Local Gov't Fin.*, 761 N.E.2d 904, 908 (Ind. Tax Ct. 2001)(citing *Matonovich v. State Bd. of Tax Comm'rs*, 705 N.E.2d 1093, 1096 (Ind. Tax Ct. 1999)). The Board therefore must address appeals from determinations made by local assessing officials or county PTABOs that concern property valuations, property tax deductions, or property tax exemptions.

Ind. Code § 6-1.5-4-1. By contrast, no statute authorizes the Board to review the propriety of local tax rates.

- g) The Petitioner failed to raise a prima facie case that his property was assessed in excess of its market value-in-use. When a taxpayer fails to provide probative evidence that an assessment should be changed, the Respondent’s duty to support the assessment with substantial evidence is not triggered. See *Lacy Diversified Indus. v. Dep’t of Local Gov’t Fin.*, 799 N.E.2d 1215, 1221-1222 (Ind. Tax Ct. 2003).

Conclusion

- 14. The Petitioner failed to establish a prima facie case. The Board finds in favor of the Respondent.

Final Determination

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

ISSUED: _____

Chairman,
Indiana Board of Tax Review

Commissioner,
Indiana Board of Tax Review

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>.