

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

Petition #: 63-012-02-1-5-00002
Petitioners: Marion J. Smith & Antoinette J. Hobson-Smith
Respondent: Washington Township Assessor (Pike County)
Parcel #: 012-00867-00
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 Petitioners initiated an assessment appeal with the Pike County Property Tax Assessment Board of Appeals (PTABOA) by written document dated September 12, 2003.
2. Notice of the decision of the PTABOA was mailed to the Petitioners on December 18, 2003.
3. The Petitioners filed an appeal to the Board by filing a Form 131 with the county assessor on January 20, 2004.
4. The Board issued a notice of hearing to the parties dated March 8, 2004.
5. The Board held an administrative hearing on April 28, 2004, before the duly appointed Administrative Law Judge Rick Barter.
6. Persons present and sworn in at hearing:
 - a) For Petitioners: Marion J. Smith, Petitioner
Antoinette Joy Hobson-Smith, Petitioner
 - b) For Respondent: David A. Tisdale, PTABOA member
Paul A. Lake, PTABOA member
Sam Polen, PTABOA member
Wilma Jones, Pike County Assessor

Facts

7. The property is classified as residential, as is shown on the property record card for parcel #012-00867-00.
8. The Administrative Law Judge did not conduct an inspection of the property.
9. Assessed Value (AV) of subject property as determined by the Pike County PTABOA: Land \$8,800; Improvements \$118,000; Total \$126,800.
10. Assessed Value requested by Petitioner: Land \$8,800; Improvements \$105,200; Total \$114,000.

Issue

11. Summary of Petitioners' contentions in support of alleged error in assessment:
 - a) Petitioners purchased the subject property in May 2001 for a price of \$114,000.
 - b) Petitioners' evidence includes an appraisal performed at the time they purchased the subject parcel that places the value at \$115,000.
 - c) The previous owner had purchased the subject property in January 2000 for \$110,000.
 - d) The Petitioners asserted that the appraisal and two sales support the requested \$114,000 AV sought by the Petitioners and disprove the township's original AV of \$136,800 and the PTABOA's subsequent determination of \$126,800.
12. Summary of Respondent's contentions in support of the assessment:
 - a) The subject property was assessed using the guidelines of the state and is appropriately valued under the current law.
 - b) Three comparable homes in similar locations sold at prices comparable to the current AV of the subject property.

Record

13. The official record for this matter is made up of the following:
 - a) The Petition, and all subsequent pre-hearing and post-hearing submissions by either party.
 - b) The tape recording of the hearing labeled BTR #5849.
 - c) Exhibits:
 - Petitioners' Exhibit 1: A copy of Form 131 appeal to the state board.
 - Petitioners' Exhibit 2: A copy of the property record card (PRC) for the subject property reflecting the PTABOA determination.
 - Petitioners' Exhibit 3: A copy of a purchase agreement dated April 14, 2001, in which the Petitioners agreed to purchase the subject property for a total of \$114,000.

Petitioners' Exhibit 4: A copy of a cover letter and accompanying Appraisal of Real Property for the subject property dated April 24, 2001.

Petitioners' Exhibit 5: Copies of 12 photographs of the subject property and adjoining improved property.

Respondent's Exhibit 1: A copy of Form 115 (Notification of Final Assessment Determination) dated December 12, 2003, issued after a PTABOA hearing on the subject property. The PTABOA raised depreciation on the residential improvement from 13%, an amount set by the computer software utilizing data from the state manual, to 20%.

Respondent's Exhibit 2: A copy of the Form 130 appeal to the PTABOA.

Respondent's Exhibit 3: A copy of the PRC reflecting the PTABOA changes to depreciation.

Respondent's Exhibit 4: A copy of the April 14, 2001, purchase agreement between the Petitioners and the former owner of the subject property reflecting a sale price of \$114,000.

Respondent's Exhibit 5: A copy of an Underwriter Quantitative Analysis Appraisal Report dated April 24, 2001, reflecting a value of \$115,000.

Respondent's Exhibit 6: A copy of the county assessor's State Hearings Witness List.

Respondent's Exhibit 7: A copy of a Sales Disclosure Form dated October 3, 2003, for an improved residential property at 1841 E. Main Street (012-00484-00) and an adjoining land-only parcel (012-00484-01) reflecting a total sales price of \$123,500.

Respondent's Exhibit 8: A copy of the PRC for parcel 012-00484-01.

Respondent's Exhibit 9: A copy of the PRC for parcel 012-00484-00.

Respondent's Exhibit 10: A copy of a Sales Disclosure Form dated January 23, 2004, for an improved residential property at 215 W. Crestview Drive (011-00345-00) reflecting a total sales price of \$137,500.

Respondent's Exhibit 11: A copy of the PRC for parcel 011-00345-00.

Respondent's Exhibit 12: A copy of a Sales Disclosure Form dated August 6, 2003, for an improved residential property at 1138 E. Lake Minnis Drive (011-01139-00) and an adjoining land-only parcel (011-00881-01) reflecting a total sales price of \$120,000.

Respondent's Exhibit 13: A copy of the PRC for parcel 011-01139-00.

Respondent's Exhibit 14: A copy of the PRC for parcel 011-00881-01.

- d) These Findings and Conclusions.

Analysis

14. The most applicable governing statutes and cases are:

- a) The Petitioner must sufficiently explain the connection between the evidence and Petitioner's assertions in order for it to be considered material to the facts. *See*

generally, *Heart City Chrysler v. State Bd. of Tax Comm'rs*, 714 N.E.2d 329, 333 (Ind. Tax Ct. 1999).

- b) The Board will not change the determination of the County Property Tax Assessment Board of Appeals (PTABOA) unless the Petitioner has established a prima facie case and, by a preponderance of the evidence, proven both the alleged errors in the assessment, and specifically what assessment is correct. *See Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998); *North Park Cinemas, Inc. v. State Bd. of Tax Comm'rs*, 689 N.E.2d 765 (Ind. Tax Ct. 1997).
- c) Ind. Code § 6-1.1-31-6 (c), "True Tax Value" defined:
"With respect to the assessment of real property, true tax value does not mean fair market value. True tax value is the value determined under the rules of the department of local government finance."

15. The Petitioners did provide sufficient evidence to support the Petitioners' contentions. This conclusion was arrived at because:

- a) In the case of the 2002 general reassessment, the true tax value of a property is determined as of January 1, 1999. (*2002 Real Property Assessment Manual, page 12*).
- b) Undisputed testimony indicated that the property under appeal sold on the open market for \$110,000 in January of 2000. (*M. Smith testimony*).
- c) Additional undisputed testimony indicated the Petitioners purchased the property for \$114,000 in April 2001. (*Petitioners' Exhibit 3*).
- d) At the time the Petitioners purchased the home in April 2001, an appraisal prepared in conjunction with the mortgage loan indicated the value of the property was \$115,000. (*Petitioners' Exhibit 4*).
- e) By presenting evidence of two sales of the property under appeal and an appraisal prepared for an independent third party financial institution, the Petitioners have made a prima facie case for their position.
- f) Accordingly, the burden of proof shifted to the Respondent to rebut the Petitioners' evidence.
- g) The Respondent asserted that the sale of the property to the Petitioners in April 2001 might not have been an arm's-length transaction. This sale was the result of a divorce between the prior owners. (*Jones's testimony*).
- h) However, as indicated, the sales price was supported by an independent appraisal. This appraisal concluded the value of the property was almost identical to the sale price.

- i) In further support of their position, the county officials presented evidence of three sales that they determined to be comparable properties. These sales occurred between August 2003 and January 2004. (*Respondent's Exhibits 7 through 14*). Based on these purported comparable sales, the PTABOA concluded that the current AV of the subject property is appropriate.
- j) However, the sales submitted as Respondent's evidence occurred in 2003 and 2004, several years subsequent to the valuation date of January 1, 1999. Further, testimony indicated the properties are not located in the same subdivision as the property under appeal and differ in amenities. This tends to cast doubt on the actual "comparability" of the sales to the subject.
- k) The Respondent did not rebut the prima facie case presented by the Petitioners and the Petitioners therefore prevail.
- l) In this appeal, the actual sale price of the property is deemed to be the best evidence of true tax value.
- m) The Respondent acknowledged that values in the Petitioners' neighborhood had increased since 2000. The January 2000 sale of the property is closer in time to the valuation date than the April 2001 sale. The January 2000 sale indicated a total value of \$110,000 for the property, and is deemed to be more representative of the true tax value than the sale price from April 2001.
- n) As such, the AV of the property in question should be set at \$8,800 for land and \$101,200 for all improvements, or a total of \$110,000.

Conclusion

16. The Petitioners made a prima facie case. The Respondent did not rebut Petitioners' evidence and justify its decision with substantial evidence. The Board finds in favor of the Petitioners.

Final Determination

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

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.