

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

Petition No.: 15-008-10-1-5-01704
Petitioners: Steve & Jennifer Sprengard
Respondent: Dearborn County Assessor
Parcel No.: 15-06-24-100-098.000-020
Assessment Year: 2010

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

Procedural History

1. The Sprengards appealed their 2010 assessment to the Property Tax Assessment Board of Appeals (“PTABOA”). On April 26, 2011, the PTABOA issued a determination denying the Sprengards relief.
2. The Sprengards timely filed a Form 131 petition with the Board. They elected to have their appeal heard under the Board’s small claims procedures.
3. On September 6, 2012, the Board held a hearing on the petition through its designated Administrative Law Judge, Jennifer Bippus. Neither the Board nor the ALJ inspected the subject property.
4. Steve Sprengard and County Assessor Gary Hensley were sworn and testified at that hearing. County Attorney Andrew Baudendistel represented the County Assessor.

Facts

5. The subject property is a vacant residential lot (Lot 78) on Oakmont Court in Lawrenceburg.
6. The PTABOA determined the assessed value is \$63,400.
7. The Sprengards requested a value of \$35,000.

Contentions

8. Summary of the Petitioners’ case:
 - a) The Sprengards contend their property is over-assessed based on their purchase price and the sale price of other lots in the same area. They purchased their lot for \$28,500

in July 2010. The bank owned the property and they thought they were getting a good deal. The subject property was originally listed for \$39,000 in September 2009. *Sprengard testimony; Pet'rs Ex. 1.*

- b) Mr. Sprengard presented MLS listing information for sales of three vacant lots. They are about the same size as the subject property. They are located on the same street in close proximity to the subject property. Lot 79 is located next and sold for \$14,000 in April 2012. Lot 81 sold for \$12,125 in July 2012. And Lot 82 also sold for \$12,125 in July 2012. Properties in this neighborhood are selling for less than what the Sprengards paid for their lot. *Sprengard testimony; Pet'rs Exs. 2, 3, 4.*
- c) Other lots in the neighborhood that sold have assessments around \$2,000. *Sprengard testimony.*

9. Summary of the Respondent's case:

- a) The Assessor presented property record cards for the subject lot and the three lots discussed by the Sprengards. The 2010 assessment for the Sprengards' lot (Lot 78) is \$63,400. The 2010 assessments for Lots 79, 81, and 82 are \$63,800, \$2,400, and \$2,400. *Hensley testimony; Resp't Exs. 1-4.*
- b) Lots 81 and 82 received a "developer's discount" for 2010 and that is why those assessments are only \$2,400. Once the developer sells the property then the discount is removed. For 2011, the lots were sold and assessed at \$60,000 and \$59,000 respectively. (Subsequently these two lots were returned to the bank and the discount was reinstated.) *Hensley testimony; Resp't Exs. 3, 4.*
- c) The March 1, 2010 assessments considered sales for a 14 month period from 2008 and 2009. The valid sales are analyzed and used to arrive at base rate values for each neighborhood. For the subject neighborhood, Villages of Sugar Ridge, lots greater than .8 acres have a base rate of \$64,000 per acre and lots less than .5 acres have a base rate of \$120,000 per acre. *Hensley testimony; Resp't Ex. 5.*
- d) There are "issues" with this development, but there were good solid sales to support the values for 2010. The sales presented by the Sprengards will be considered for 2012 and future assessments, but they are not applicable to the 2010 assessment. *Hensley testimony.*

Record

10. The official record contains the following:

- a) The Form 131,
- b) Digital recording of the hearing,

- c) Petitioners' Exhibit 1 – MLS listing/sale information for subject lot (Lot 78),
Petitioners' Exhibit 2 – MLS listing/sale information for Lot 79,
Petitioners' Exhibit 3 – MLS listing/sale information for Lot 81,
Petitioners' Exhibit 4 – MLS listing/sale information for Lot 82,

Respondent Exhibit 1 – Property Record Card (“PRC”) for (Lot 78),
Respondent Exhibit 2 – PRC for Lot 79,
Respondent Exhibit 3 – PRC for Lot 81,
Respondent Exhibit 4 – PRC for Lot 82,
Respondent Exhibit 5 – Page from 2010 Dearborn County Land Order showing base
rate values for the subject neighborhood,

Board Exhibit A – Form 131 petition,
Board Exhibit B – Hearing Notice dated July 31, 2012,
Board Exhibit C – Hearing Sign-In Sheet,

- d) These Findings and Conclusions.

Objection

- 11. The Respondent objected to the Petitioners' Exhibits because the sales are current and the appeal is for the 2010 assessment. The objection goes more to the weight of the exhibits than their admissibility. The Board overrules objection and admits the exhibits.

Analysis

- 12. Generally, a taxpayer seeking review of an assessing official's determination must make a prima facie case proving both that the current assessment is incorrect and what the correct assessment should 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).
- 13. In making its case, the taxpayer must explain how each piece of evidence relates to its 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”).
- 14. The Sprengards made a prima facie case for lowering their assessment.
 - a) Indiana assesses real property based on its true tax value, which is “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). Evidence offered in a tax appeal must be consistent with that standard. For example, a market value-in-use appraisal prepared according to Uniform Standard of Professional Appraisal Practice (“USPAP”) often will be probative. *Kooshtard Property VI, LLC v. White River*

Twp. Assessor, 836 N.E.2d 501, 506 n.6 (Ind. Tax Ct. 2005). A party may offer actual construction costs, sales information for the subject or comparable properties, and any other information compiled according to generally accepted appraisal principles. MANUAL at 5.

- b) A party must explain how its evidence relates to the property's market value-in-use as of the relevant valuation date. *O'Donnell v. Dep't of Local Gov't Fin.*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006). For this case the assessment date and the valuation date are both March 1, 2010.
- c) The Sprengards paid \$28,500 for the subject lot. The MLS listing/sale information and the property record card show the subject lot was purchased in July 2010. The sale of the subject property is often the best evidence of the property's value. *See Hubler Realty Co. v. Hendricks County Assessor*, 938 N.E.2d 311, 315 (Ind. Tax Ct. 2010) (finding that the Board's determination assigning greater weight to the property's purchase price than its appraised value was proper and supported by the evidence).
- d) The MLS listing/sale information shows the subject lot was listed on September 21, 2009 for \$39,000. By themselves, listings typically do little to show a property's market value-in-use. But a ten month listing that ultimately results in a sale at or below the list price is much more persuasive, particularly where, as here, the property was actively listed on the relevant valuation date.
- e) The purchase of the subject lot was only four months after March 1, 2010, which is both the assessment date and the required valuation date. The price was sufficiently timely and probative.
- f) The Sprengards made a prima facie case. The Sprengards only requested an assessed value of \$35,000 on the Form 131 and the Board will not reduce the assessment below the amount they requested.
- g) Once the Petitioner establishes a prima facie case, the burden shifts to the Respondent to impeach or rebut the Petitioner's evidence. *See American United Life Insurance Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004).
- h) The Assessor argued that the sales presented by the Sprengards took place after the assessment date and were too late to be considered for the 2010 assessment. Three of the four sales took place in 2012. The Sprengards failed to establish a basis for their relevance to the 2010 assessment.
- i) Their own purchase, however, was just four months after the 2010 assessment date. Furthermore, the subject property had been listed with a realtor for almost a year before it sold. Their sale price is relevant and probative evidence that the Assessor failed to rebut or impeach.

Conclusion

15. The Board finds in favor of the Sprengards. Their assessment will be reduced to \$35,000 as they requested.

Final Determination

In accordance with the above findings of fact and conclusions of law, the Indiana Board of Tax Review now orders that the subject property's assessed value should be changed.

ISSUED: December 3, 2012

Chairman, 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>.