

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

Petition #: 44-010-06-1-5-00044
Petitioners: John K. & Mary Jane Storck
Respondent: LaGrange County Assessor
Parcel #: 010-18490-01
Assessment Year: 2006

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

PROCEDURAL HISTORY

1. On June 4, 2007, John K. & Mary Jane Storck appealed their property’s assessment to the LaGrange County Property Tax Assessment Board of Appeals (“PTABOA”). The PTABOA issued its decision on May 3, 2007.
2. The Storcks timely filed a Form 131 petition with the Board. They elected to have this case heard under the Board’ small-claims procedures.
3. On July 9, 2008, the Board held an administrative hearing through its Administrative Law Judge, Jennifer Bippus (“ALJ”).
4. People present and sworn in at hearing:
 - a) For the Storcks: John K. Storck
Mary Jane Storck
 - b) For the Assessor: Lori Carney, LaGrange County Assessor

FACTS

5. The property contains a house and is located at 920 East 465 South, Wolcottville, Indiana.
6. Neither the Board nor the ALJ inspected the Storcks' property.
7. The PTABOA listed the following values for the property:

Land: \$106,800 Improvements: \$320,800 Total: \$427,600.

8. The Storcks request a total assessment of \$310,000.

PARTIES' CONTENTIONS

9. The Storcks offered the following evidence and arguments:

- a) The Storcks' house sits on a lot fronting Oliver Lake. The property has 40 feet of frontage along the lake. *Pet'rs Ex. 1*. The Storcks also have a garage located at the rear of the property. That garage is on a separate parcel for tax purposes. They did not appeal that lot's assessment. *Carney testimony*. The Storcks did not appeal that parcel's assessment. *Id.*; *J. Storck testimony*.
- b) The Storcks offered an appraisal report prepared by Debra Lambright of Appraisal Associates. *Pet'rs Ex. 1*. Ms. Lambright is an Indiana Certified Residential Appraiser. *Id. at 7*. She estimated that the Storcks' property was worth \$310,000 as of January 1, 2005. *Id.*
- c) Ms. Lambright used the sales-comparison and cost approaches to estimate the property's value. Those two approaches yielded similar estimates—\$310,000 under the sales-comparison approach and \$301,700 under the cost approach. *Pet'rs Ex. 1*. Ms. Lambright ultimately relied on her sales-comparison estimate, finding that market values on Oliver Lake were running higher than cost-approach derived values. *Id.*
- d) Ms. Lambright did not find any Oliver Lake sales from 2004-2005 involving properties that were similar to the Storcks' property. She therefore used sales of properties on three other "skiing lakes." *Pet'rs Ex. 1*. She adjusted the sale prices of those comparable properties to reflect various ways in which they differed from the Storcks' property. Those adjustments included deducting \$120,000 from two of the three sale prices to account for the properties' comparatively greater lake frontage (86' and 116' versus 40'). *Id.*
- f) The Storcks' neighbors had informal conferences with the Assessor and received deductions ranging from 25% - 33% of their original assessments. The Storcks, by contrast, had to attend a PTABOA hearing and did not receive a comparable reduction. *J. Storck testimony*.

10. The Assessor offered the following evidence and arguments:

- a) In valuing the Storcks' property, Ms. Carney, the LaGrange County Assessor, relied on appraisals of four Oliver Lake properties. *Carney testimony*; *Resp't Exs. 11-14*. Ms. Lambright prepared three of those four appraisals. *Resp't Ex. 11-14*. The Storcks' appraisal was \$50,000 - \$75,000 less than those other appraisals. *Id.* Ms.

Carney also offered an “iDox” report listing sale prices for other properties on Oliver Lake. *Resp’t Exs. 9-10*. Those sale prices ranged from \$85,000 to \$825,000.

- b) Ms. Carney questioned the validity of Ms. Lambright’s valuation opinion. For example, Ms. Lambright addressed only the Storcks' home and not the separate parcel containing their garage. Although the two parcels are listed separately on the tax rolls, they would sell as one. The garage parcel is assessed for \$9,000. *Carney testimony*.
- c) Ms. Carney also pointed to what she believed were questionable decisions by Ms. Lambright in adjusting the sale prices of her comparable properties. First, some of the houses were significantly older than the Storcks’ house yet Ms. Lambright did not adjust their sale prices to account for those age differences. Second, her net adjustments, as high as \$105,000 in one case, were troubling. Third, Ms. Lambright was inconsistent in the adjustments she made for differences in lake frontage. She considered one lot with 50 feet of lake frontage equal to the Storcks’ lot, while she adjusted the other two sale prices by \$120,000. And she actually miscalculated the total lake frontage for those sales because they involved multiple adjacent lots. Fourth, the adjustments in the Storcks’ appraisal were inconsistent with adjustments in the other four appraisals of Oliver Lake properties. Finally, although Ms. Lambright used sales from 2004 and 2005, she did not adjust those sale prices to January 1, 2005 values.

RECORD

11. The official record for this matter is made up of the following:

- a) The Form 131 petition,
- b) A digital recording of the hearing,
- c) Exhibits:

Petitioners Exhibit 1: Certified appraisal by Debra Lambright, Appraisal Associates

Petitioners Exhibit 2: Assessor’s letter dated March 2, 2007

Petitioners Exhibit 3: “Receipts” for March 9 – 12, 2007

Petitioners Exhibit 4: PTABOA hearing notice

Petitioners Exhibit 5: Informal appeal examples

Petitioners Exhibit 6: Chart for comparable properties

Petitioners Exhibit 7: Determination by PTABOA

Petitioners Exhibit 8: Homeowner’s policy information

Petitioners Exhibit 9: Form 131 petition with attachments

Respondent Exhibit 1: Property record cards for the Storcks’ property

Respondent Exhibit 2: Plat map & aerial view of subject property

John K. & Mary Jane Storck
Findings and Conclusions

- Respondent Exhibit 3: Photos (computer generated from “NC,” and recent camera photos)
- Respondent Exhibit 4: Assessor’s “letter of intent” dated March 2, 2007
- Respondent Exhibit 5: Page 4 of Form 130 dated March 7, 2007 and signed and returned March 9, 2008
- Respondent Exhibit 6: Response to the “letter of intent”
- Respondent Exhibit 7: Appraisal of Storcks’ property by Lewis & Lambright
- Respondent Exhibit 8: Form 115 dated May 3, 2007 & amended Form 115 dated May 30, 2008
- Respondent Exhibit 9: iDox sales from Oliver Lake on the water
- Respondent Exhibit 10: iDox sales from Oliver Lake on the channel
- Respondent Exhibit 11: Appraisal received by county assessor from Lewis & Lambright (Leeka)
- Respondent Exhibit 12: Appraisal received by county assessor from Lewis & Lambright (Fisher)
- Respondent Exhibit 13: Appraisal received by county assessor from Lewis & Lambright (Brown)
- Respondent Exhibit 14: Appraisal received by Caldwell Appraisals, Inc. (Scott)

- Board Exhibit A: Copy of Form 131 petition and attachments
- Board Exhibit B: Notice of hearing
- Board Exhibit C: Hearing sign-in sheet

c) These Findings and Conclusions.

12. On June 20, 2008, the Assessor sent a package of documents to the Board.¹ The Assessor separately offered many of those documents as exhibits. To the extent that the package contains documents that were not duplicates of exhibits offered at the hearing, the Board does not consider those documents in reaching its decision.

ANALYSIS

12. The following describes the parties’ burden of proof:
 - a) A petitioner seeking review of an assessing official’s determination must establish a

¹ The Assessor represented that the package contained the following documents: Form 131 State Appeal; IBTR Notice of Hearing (July 9, 2008); LaGrange County Possible Witness List; Notice of Assessor Representation; IBTR Notice of Hearing (October 23, 2007); LaGrange County fax to IBTR; IBTR issues list; IBTR Notice of Hearing (April 8, 2008); Letter dated February 13, 2008 from Mr. Storck; Fax received from Jane Chrisman regarding requested continuance; PTABOA Hearing Scripts; PTABOA Hearing Summaries; Form 130 Petition to the PTABOA; Form 115; Form 130; Assessor’s IBTR Exhibit Coversheet; Property record cards – Petitioner; Plat map & Google Aerial View; Assessor’s letter to Storcks requesting Letter of Intent; Form 130 page 4; Petitioner Letter to Assessor Confirming Intent; Subject Property Appraisal; Form 115 PTABOA Final Determination; iDox data sheet with comps; iDox data sheet with comps; LaGrange County Exhibits 11 -14 Subject Property Comparables; Petitioner Exhibits 1 – 6.

prima facie case proving both that the current assessment is incorrect, and specifically 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).

- b) In making its case, the petitioner must explain how each piece of evidence relates to its requested assessment. *See Indianapolis Racquet Club, Inc. v. Wash. 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 respondent to impeach or rebut the petitioner’s evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004); *see also Meridian Towers*, 805 N.E.2d at 479.
13. The Storcks proved that their property’s assessment should be reduced to \$310,000. The Board reaches this conclusion for the following reasons:

The Storcks’ case

- a) Indiana assesses real property based on its “true tax value,” which the 2002 Real Property Assessment Manual defines 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, sales-comparison, and income approaches. *Id.* at 3, 13-15. 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, as determined using the Guidelines, is presumed to accurately reflect its market value-in-use. *See MANUAL at 5; Kooshtard Property VI, LLC v. White River Twp. Assessor*, 836 N.E.2d 501, 506 (Ind. Tax Ct. 2005) *reh’g den. sub nom. PA Builders & Developers, LLC*, 842 N.E.2d 899 (Ind. Tax 2006). But 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 (“USPAP) often will suffice. *Id.; Kooshtard Property VI*, 836 N.E.2d at 506 n 6. A taxpayer may also 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.*
- 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. Dep’t of Local Gov’t Fin.*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006); *see also Long v. Wayne Twp. Assessor*, 821

N.E.2d 466, 471 (Ind. Tax Ct. 2005). For the March 1, 2006, assessment, that valuation date is January 1, 2005. IND. ADMIN. CODE tit. 50, r. 21-3-3.

- d) The Storcks offered an appraisal report estimating their property's value at \$310,000. Ms. Lambright, the appraiser, used two generally accepted approaches to estimate the property's value, and she certified that she complied with USPAP. She also estimated the property's value as of the relevant January 1, 2005, valuation date.
- e) Based on Ms. Lambright's appraisal, the Storcks made a prima facie case that their property should be assessed at \$310,000. The burden therefore shifted to the Assessor to impeach or rebut that appraisal.

The Assessor's rebuttal

- f) Ms. Carney offered two main reasons for her belief that Ms. Lambright's appraisal was unreliable—Ms. Lambright did not consider the parcel containing the Storcks' garage and she made questionable adjustments to her comparable properties' sale prices. While Ms. Carney's claims have some merit, they do not significantly impeach Ms. Lambright's valuation opinion.

1. Ms. Lambright's failure to include the garage parcel

- g) Ms. Lambright's failure to consider the Storcks' garage detracts only marginally from the reliability of her valuation opinion. The Storcks did not dispute Ms. Carney's claim that they would sell the parcels as one property. Still, the parcels are assessed separately, and Ms. Lambright's appraisal supports an inference that the garage parcel's assessment largely captures what that parcel contributes to the larger property's overall value. The garage parcel is assessed for \$9,000. And Ms. Lambright's adjustments to the sale prices of her comparable properties are consistent with that value. She adjusted two properties' sale prices by \$10,000 because they had two-car garages and the other property's sale price by \$15,000 because it had a "2+car" garage. *Pet'rs Ex. 1*. Also, while the parties did not offer any evidence to show how much land the garage parcel included, Ms. Lambright viewed lake frontage—not overall size—as the primary value influence on value. *See Pet'rs Ex. 1* (listing only differences in lake frontage in adjustment grid and saying that adjustments were based on "subject vs. comparable site values and location, not size").

2. Ms. Lambright's adjustments

- h) Mr. Carney attacked Ms. Lambright's adjustments to the sale prices of her comparable properties on five fronts. First, Ms. Carney felt that Ms. Lambright should have adjusted those sale prices to account for the age differences between the houses on those properties and the Storcks' house. Ms. Lambright found that the Storcks' house had an effective age of 3 years, while the effective ages of the comparable houses ranged from 10 to 30 years. *Pet'rs Ex. 1*.

- i) Again, Ms. Carney's observation has some merit. One would expect a house's relative age to affect the market value of the property on which it sits. But the extent of that effect is not self evident. Without more, the Board will not simply assume that the age differences at issue in this case significantly affected the houses' relative market values.
- j) Second, Ms. Carney felt that Ms. Lambright's net adjustments, particularly the \$105,000 net adjustment she applied to comparable sale no. 2, were too high. Again, Ms. Carney's claim has at least some merit. An appraiser's decision to substantially adjust sale prices raises questions about how closely the properties compare to the property being appraised. Ms. Lambright's adjustments might have exceeded what is permissible under generally accepted appraisal principles. Ms. Carney, however, did not offer any evidence of that. Under the circumstances, the Board does not find that the size of Ms. Lambright's net adjustments significantly detract from her appraisal's reliability.
- k) Third, Ms. Carney questioned the adjustments that Ms. Lambright made to reflect differences in the amount of each lot's lake frontage. Ms. Carney took issue with Ms. Lambright's decision not to adjust the sale price for a lot with 50 front feet, but to adjust the sale prices for lots with 86 front feet and 116 front feet by \$120,000 each. The Board, however, finds nothing inherently troubling with those differences. The first lot was roughly the same size as the Storcks' lot and the other two were substantially larger. Ms. Lambright simply concluded that the market valued lots with significant lake frontage differently than it valued smaller lots. And even if Ms. Carney were correct in her claim that Ms. Lambright actually underestimated the size of the comparable lots, correcting those errors would have only led to a lower value for the Storcks' property.
- l) Fourth, Ms. Carney noted that Ms. Lambright did not adjust any of her comparable properties' sale prices to reflect January 1, 2005 values. That gives the Board little pause. All of those sales occurred within 11 months of January 1, 2005. The Board infers that Ms. Lambright did not find that property sufficiently appreciated or depreciated within that narrow period to justify any adjustments. And Ms. Carney did not offer any evidence to counter that inference.
- m) Finally, the Board assigns no weight to Ms. Carney's vague claim that Ms. Lambright made different adjustments from appraisal to appraisal. Ms. Carney did not explain what any of those discrepancies were, and the Board will not make Ms. Carney's case for her. Like a taxpayer, an assessor must walk the Board through every step of her analysis.

3. The Assessor's own valuation evidence

- n) Aside from her attacks on Ms. Lambright's appraisal, Ms. Carney offered the four other Oliver Lake property appraisals and "iDox" reports listing several other sales as

independent evidence to show that the Storcks' assessment was correct. But Ms. Carney did not attempt to explain how any of those properties compared to the Storcks' property, beyond the fact that Ms. Lambright used some of the same comparable properties in two of the Oliver Lake appraisals that she used in the Storcks' appraisal. More importantly, Ms. Lambright did not adjust any sale prices to account for differences between those properties and the Storcks' property. *See Long* 821 N.E.2d at 471-72 (Ind. Tax Ct. 2005) (holding that the petitioners failed to explain how the characteristics of the subject property compared to those of purportedly comparable properties or how any differences between the properties affected their relative market values-in-use). Ms. Carney's own valuation evidence therefore lacks probative value.

CONCLUSION

14. By offering Ms. Lambright's appraisal of their property, the Storcks made a prima facie case of error. While the Assessor impeached that appraisal to a degree, it was still reliable evidence of the property's market value-in-use. And the Assessor did not offer any probative valuation evidence of her own. The Storcks therefore proved by a preponderance of the evidence that their property should be assessed for \$310,000.

FINAL DETERMINATION

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the property's assessment should be reduced to \$310,000.

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>