

REPRESENTATIVE FOR PETITIONER:

Marjorie E. Strausbaugh, *Pro Se*

REPRESENTATIVES FOR RESPONDENT:

Tamara Martin, Grant County Assessor

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

MARJORIE E. STRAUSBAUGH,	)	Petition No.:	27-011-06-1-5-00967
)		
Petitioner,	)	Parcels:	27-09-29-100-005.001
	)		27-09-28-200-001.000
v.)		
	)	County:	Grant
GRANT COUNTY ASSESSOR,	)	Township:	Jefferson
)		
Respondent.	)	Assessment Year:	2006

Appeal from the Final Determination of
Grant Property Tax Assessment Board of Appeals

April 27, 2009

FINAL DETERMINATION

The Indiana Board of Tax Review (“Board”), having reviewed the facts and evidence, and having considered the issues, now finds and concludes the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

INTRODUCTION

1. Ms. Strausbaugh challenged her property's assessment mainly because she thought that it was too high. But she did not offer any probative evidence to show that her property was assessed for more than its market value-in-use. The Board therefore upholds the property's assessment.

PROCEDURAL HISTORY

2. On August 28, 2007, Ms. Strausbaugh filed a notice with the Grant County Assessor contesting the subject property's 2006 assessment. The notice referred to both of the above-captioned parcels, which together make up the subject property. On January 18, 2008, the Grant County Property Tax Assessment Board of Appeals ("PTABOA") issued determinations lowering each parcel's assessment, but not to the levels that Ms. Strausbaugh had requested. On March 3, 2008, Ms. Strausbaugh filed a Form 131 petition with the Board.¹ The Board has jurisdiction over Ms. Strausbaugh's appeal under Ind. Code §§ 6-1.1-15 and 6-1.5-4-1.

HEARING FACTS AND OTHER MATTERS OF RECORD

3. On February 4, 2009, the Board's Administrative Law Judge, Jennifer Bippus ("ALJ"), held a hearing on Ms. Strausbaugh's appeal. Neither the Board nor the ALJ inspected Ms. Strausbaugh's property.
4. The following people were sworn in as witnesses:

Marjorie E. Strausbaugh

¹ Contrary to the Board's instructions on the Form 131 petition, Ms. Strausbaugh listed two parcels on the same appeal petition. The parties agreed to proceed with a hearing on both parcels. Unless otherwise indicated, the Board refers to the parcels collectively as the subject property.

For the Assessor:

Tamara Martin, Grant County Assessor
Gary Landrum, Grant County Deputy Assessor

5. Nancy Leming, Grant County Chief Deputy Assessor, appeared at the hearing, but she was not sworn as a witness and did not testify.

6. Ms. Strausbaugh submitted the following exhibits:
 - Petitioner's Exhibit 1: Photograph of the front of the subject house
 - Petitioner's Exhibit 2: Photograph of the subject barn
 - Petitioner's Exhibit 3: Interior photograph of an outbuilding on the subject property
 - Petitioner's Exhibit 4: Exterior photograph of the outbuilding

7. The Assessor submitted the following exhibits:
 - Respondent Exhibit 1: The subject property's record card
 - Respondent Exhibit 2: The first page of an appraisal that Ms. Strausbaugh submitted at the PTABOA hearing
 - Respondent Exhibit 3: Page entitled "Marjorie Strausbaugh 2006 AV Petition to State" and 16 pages of documents relating to various properties

8. We recognize the following additional items as part of the record of proceedings:
 - Board Exhibit A: Form 131 petition
 - Board Exhibit B: Notice of hearing, dated December 18, 2008
 - Board Exhibit C: Hearing sign-in sheet

9. The subject is a residential property, located at 9071 South 801 East, Gas City.

10. The PTABOA's final determinations list the following values:
 - Parcel 27-09-29-100-005.001
Land: \$4,400 Improvements: \$0 Total: \$4,400

 - Parcel 27-09-28-200-001.000
Land: \$20,000 Improvements: \$16,500 Total: \$36,500

11. Ms. Strausbaugh requests the following values:

Parcel 27-09-29-100-005.001

Land: \$4,400 Improvements: \$0 Total: \$4,400

Parcel 27-09-28-200-001.000

Land: \$20,000 Improvements: \$9,000 Total: \$29,000

ADMINISTRATIVE REVIEW AND THE PETITIONER'S BURDEN

12. A taxpayer seeking review of an assessing official's determination must establish 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. If the taxpayer establishes a prima facie case, the burden shifts to the respondent to offer evidence to impeach or rebut the taxpayer's evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004); *Meridian Towers*, 805 N.E.2d at 479.

ANALYSIS

Parties' Contentions

A. Ms. Strausbaugh's contentions

15. Ms. Strausbaugh argues that the house and other structures on the subject property are overvalued. She would not be able to sell the property for its assessed value.

16. Ms. Strausbaugh inherited an interest in the property and bought the remaining interests from her brother and sister. The property, however, sat empty during the last several years of her father's life and the buildings had deteriorated. For example, the floor joists in the house need to be replaced, and part of the ceiling collapsed from leaks in the kitchen and utility room. *Strausbaugh testimony*. The garage also has a hole in it. *Id.* When Ms. Strausbaugh bought the property, she hoped to eventually sell it to her grandchildren. She has since lost her job and therefore has not repaired or improved the property. *Id.* When she gets the money, she plans to repair the garage and tear down the rest of the structures. *Id.*
17. The Assessor mistakenly claims that Ms. Strausbaugh had an appraisal prepared for a mortgage-financing transaction. She did not seek financing to buy the property. She got an appraisal because she thought that the appraisal that her brother and sister had ordered overestimated the property's value. *Strausbaugh testimony*.

B. The Assessor's contentions

18. The Assessor argues that the subject property's assessment is correct. The Assessor offered one page of an appraisal that Ms. Strausbaugh had submitted at the PTABOA hearing. *Landrum testimony; Resp't Ex. 2*. Although the appraisal valued the property at \$30,000, the PTABOA did not rely on it because it was "intended for use by the lender/client for a mortgage finance transaction only." *Id.; Landrum testimony*.
19. Regardless, two of the three properties that the appraiser relied on had been sold multiple times. *Landrum testimony; Resp't Ex. 3*. For comparable #2, the appraiser used a \$36,000 sale price, but that property later re-sold for \$43,000. *Id.* Similarly, for comparable #3, the appraiser used a sale price of \$43,000. But that property was involved in several sales with prices ranging from \$43,000 to \$81,500. *Id.* In the view of Mr. Landrum, the Grant County Deputy Assessor, the appraiser should have used the higher re-sale for comparable #2, and a slightly higher (\$45,000) sale price for comparable #3. If those higher sale prices were used, the adjusted sale prices for the two

properties would have been \$32,100 and \$37,820, respectively. *Id.* Also, because the seller in the transaction that the appraiser used as comparable sale #1 was Veteran's Affairs of Orlando, that sale may not have been an arm's-length transaction. Thus, the appraiser's adjusted sale price for comparable #1 was suspect. *Id.*

Discussion

20. 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 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.
21. 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, 505 (Ind. Tax Ct. 2005) *reh'g den. sub nom. PA Builders & Developers, LLC* 842 N.E.2d 899 (Ind. Tax Ct. 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.
22. Ms. Strausbaugh argued that her property was assessed too high because its buildings had deteriorated. But she did not offer any probative evidence to quantify the property's

market value-in-use. She instead simply testified about, and offered photographs of, specific ways in which the buildings on the property had deteriorated.

23. It is at least possible that Ms. Strausbaugh had an appraisal that would have served to quantify the property's market value-in-use. She, however, did not offer that appraisal as evidence. The Assessor did offer one page from that appraisal. But while that page includes a summary of the appraiser's sales-comparison analysis and what appears to be the appraiser's final value estimate, it omits other crucial information. For example, it does not contain the appraiser's signature or certification that he or she conformed either to USPAP or to other generally accepted appraisal practices. In fact, the page offered by the Assessor does not even include the appraiser's name. The Board therefore assigns no weight to the assessor's apparent value estimate.

SUMMARY OF FINAL DETERMINATION

24. Because Ms. Strausbaugh offered no probative evidence to show her property's market value-in-use, she failed to make a prima facie case that its assessment was wrong. The Board therefore finds for the Grant County Assessor and orders that the assessment should not be changed.

This Final Determination of the above captioned matter is issued by the Indiana Board of Tax Review on the date first written above.

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>