

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

Petition: 35-003-02-1-5-00019
Petitioners: Wayne Leon & Margaret Elaine Goodmiller
Respondent: Huntington Township Assessor (Huntington County)
Parcel: 003-00605-00
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 Huntington County Property Tax Assessment Board of Appeals (the “PTABOA”) by written document dated December 22, 2003.
2. Notice of the PTABOA’s decision was mailed to Petitioners on September 13, 2004.
3. The Petitioners filed an appeal to the Board by filing a Form 131 with the county assessor on October 12, 2004. The Petitioners elected to have this case heard as a small claim.
4. The Board issued a notice of hearing to the parties dated January 14, 2005.
5. The Board held an administrative hearing on February 22, 2005, before the duly appointed Administrative Law Judge Patti Kindler.
6. Persons present and sworn as witnesses at the hearing were:
 - a) For Petitioner – Wayne L. and Marvel E. Goodmiller, taxpayers.
 - b) For Respondent – Julie Newsome, deputy township assessor.

Facts

7. The property is a 2,357 square foot 1-story frame home located at 3785 W County Road 558 N, Huntington as shown on the property record card for parcel 003-00605-00.
8. The Administrative Law Judge (the “ALJ”) did not conduct an inspection of the property.

9. The assessed value of subject property as determined by the PTABOA is:
Land \$16,700 Improvements \$153,000 Total \$169,700.
10. The assessed value requested by Petitioners on the subject Form 131 is:
Land \$17,500 Improvements \$137,500 Total \$155,000.

Issue

11. Summary of Petitioners' contentions in support of alleged error in assessment:
- a) The subject property is overvalued in comparison to the other properties located in Bel Air subdivision. The subject property should be compared with other properties in the same subdivision. The assessed value of the subject property should be \$155,000 rather than \$169,700. *W. Goodmiller testimony.*
 - b) The appraisal of the subject property was prepared to determine the fair market value of the subject property. *W. Goodmiller testimony.* The appraisal indicates a market value of \$155,000. *W. Goodmiller testimony; Petitioner Exhibit 1.*
 - c) An estimate of value was obtained from a local realtor as a second opinion. *W. Goodmiller testimony.* The estimate of value states that, considering the condition of the basement, the market value of the subject property would be approximately \$150,000. *W. Goodmiller testimony; Petitioner Exhibit 13.*
 - d) The average assessment of the properties in Bel Air subdivision is \$120,000. Based on the appraisal value for the subject property, the subject property is valued higher than 53 other properties in this same subdivision. *W. Goodmiller testimony.*
 - e) The assessment for lot 5 of Bel Air subdivision is \$182,100. The property sold for \$169,000. The house on lot 5 is brick with 2,976 square feet. It has a concrete drive. That house has a square foot cost of \$56.15. The assessment for lot 11 of Bel Air subdivision is \$125,200. The house on lot 11 is frame with 2,217 square feet. It has an asphalt drive. That house has a square foot cost of \$50.92. The subject property is assessed at \$169,700. The subject house is frame with 2,357 square feet. It has a gravel drive. Petitioners' house has a square foot cost of \$64.91. *Petitioner Exhibit 10, 11; W. Goodmiller testimony.*
 - f) The property identified as lot 54 in Bel Air subdivision is assessed at \$157,000 and sold for \$129,000. *Petitioner Exhibit 11; W. Goodmiller testimony.*
12. Summary of Respondent's contentions in support of the assessment:
- a) The appraisal presented by the Petitioners is flawed because it makes a deduction for the lack of central air conditioning that is present, the comparables used are not in the same neighborhood or subdivision as the subject property and it makes

an adjustment for obsolescence depreciation without any explanation. *Newsome testimony.*

- b) The assessment for the subject property is based on property sales between 1997 and 2000. The appraisal presented by the Petitioner was completed in 2003. *Newsome testimony.*

Record

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

- a) The Petition,
- b) The tape recording of the hearing labeled BTR 5338,
- c) Exhibits:
 - Petitioner Exhibit 1: Certified appraisal for the subject property,
 - Petitioner Exhibit 2: Notice for pre-hearing conference,
 - Petitioner Exhibit 3: Notice of hearing from the PTABOA,
 - Petitioner Exhibit 4: Form 115,
 - Petitioner Exhibit 5: List of properties used as comparables by the PTABOA,
 - Petitioner Exhibit 6: Form 131,
 - Petitioner Exhibit 7: List of 55 properties located in Bel Air subdivision with the corresponding assessed values,
 - Petitioner Exhibit 8: List comparing the assessments of all the Bel Air properties to the subject property,
 - Petitioner Exhibit 9: Copy of the Bel Air Estates Covenants,
 - Petitioner Exhibit 10: Comparison of the subject property to the properties identified as lot 5 and lot 11 in Bel Air subdivision,
 - Petitioner Exhibit 11: Copy of the sale disclosure forms,
 - Petitioner Exhibit 12: Photographs of the basement of the subject property,
 - Petitioner Exhibit 13: Estimate of value by Steve Ness,
 - Respondent Exhibit 1: Copy of the notice of pre-hearing conference,
 - Respondent Exhibit 2: Subject property record card,
 - Respondent Exhibit 3: Form 130,
 - Respondent Exhibit 4: Form 115,
 - Respondent Exhibit 5: A sales ratio study of 3 sales and property record cards for 7 properties in the Bel Air subdivision,
 - Board Exhibit A: Form 131 petition with attachments,
 - Board Exhibit B: The Notice of Hearing,
 - Board Exhibit C: The Sign In Sheet,
- 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 Petitioners did not make a prima facie case. This conclusion was arrived at because:
- a) The appraisal presented by the Petitioners indicates that the value of the subject property should be \$155,000 as of December 12, 2003. While taxpayers may present evidence of fair market value to establish an error in the assessment, the evidence must be relevant to the valuation date established for the 2002 reassessment, which is January 1, 1999. *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). The Petitioners have not presented any evidence establishing how or why their appraisal is relevant to the value of their property as of January 1, 1999. Lacking such explanation or evidence, the value established by that appraisal has no probative value. *Id.*
 - b) The estimate of value prepared by the local realtor suggests the value of the subject property should be approximately \$150,000 as of February 3, 2005. Again, in order to be of some probative value, evidence regarding fair market value must relate back to January 1, 1999. *Id.* The Petitioners did not offer any explanation or evidence showing how or why the value suggested by the local realtor was relevant to valuation date. As such, the estimate of value prepared on February 3, 2005, has no probative value. *Id.*
 - c) The Petitioners attempted to show the current assessment of the subject property is incorrect by comparing their assessment to the assessments of other properties located in the same subdivision. The Petitioners also pointed to the assessment and sale of two specific Bel Air properties in an attempt to establish error. Using

those comparisons, the Petitioners sought to show that the current assessment for their property is incorrect because it is higher than the assessments of other properties claimed to be comparable. In order to establish error through such a comparison, the Petitioners must first establish that the alleged comparables are truly comparable. *Blackbird Farms Apts., LP v. Dept. of Local Gov't Fin.*, 765 N.E.2d 711, 715 (Ind. Tax Ct. 2002). In this case, Petitioners did not present probative evidence sufficiently explaining why the 55 comparable properties were truly comparable to the subject property. The Petitioners opined that the properties are comparable, but such conclusory statements do not constitute probative evidence. *Long*, 821 N.E.2d at 470.

- d) The Petitioners established only a few isolated facts about their comparables. They testified about the exterior finish, the square footage and driveway types; however, these factors are not enough to establish comparability. One of the properties the Petitioners pointed to is a 2,976 square foot brick house and the other is a 2,217 square foot frame house, while the subject house is a 2,357 square foot frame house. The characteristics pointed out by the Petitioners do not show comparability; rather these characteristics tend to show that these other properties are not comparable because of differences in size and exterior finish. The comparison of these properties to the subject property has no probative value. *Id.*; *Blackbird Farms*, 765 N.E.2d at 715.

Conclusion

16. The Petitioner failed to make 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 assessment should not 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.