

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

Petition #: 71-027-06-1-5-00411
Petitioner: Suzanne M. Crofoot Living Trust
Respondent: St. Joseph County Assessor
Parcel #: 191036053304
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. The Petitioner appealed the subject property’s assessment to the St. Joseph County Property Tax Assessment Board of Appeals (“PTABOA”). The PTABOA issued its determination on May 8, 2008. The Petitioner then timely filed a Form 131 petition with the Board and elected to proceed under the Board’s small claims rules.
2. On December 16, 2009, the Board held a hearing through its Administrative Law Judge, Jennifer Bippus (“ALJ”).
3. The following people appeared and were sworn in at the hearing:
 - a) For the Petitioner: Suzanne Crofoot
 - b) For the Respondent: David Wesolowski, St. Joseph County Assessor
Dennis Dillman, PTABOA member
Ross Portolese, PTABOA member
Ralph Wolfe, PTABOA member
Kevin Klaybor, PTABOA member
Loren Geyer, Former Union Township Assessor

Frank Agostino appeared as the Respondent’s counsel.

Facts

4. The subject property is a residential property located at 65000 Block Oak Road, North Liberty, Indiana. It contains a mobile home that the Petitioner rents to a tenant for \$550 per month. *Crofoot testimony.*

5. Neither the Board nor the ALJ inspected the property.
6. The PTABOA valued the subject property as follows:
Land: \$19,100 Improvements: \$31,000 Total: \$50,100
7. At the hearing, the Petitioner requested the following values¹:
Land: \$19,100 Improvements: \$9,000 Total: \$28,100

Parties' Contentions

8. The Petitioner offered the following evidence and arguments:
 - a) Although the Petitioner owns both the subject land and the mobile home situated on that land, the Petitioner challenges only the mobile home's assessment. The Petitioner claims that the mobile home should be designated as personal property instead of real property. *Crofoot argument.*
 - b) According to the Petitioner two-thirds of states classify mobile homes as personal property. If a mobile home can be moved, it is personal property. *Crofoot argument.* And the subject home can be moved. It has an iron frame and sits on concrete blocks with piers. Straps tie the home to the blocks, but those straps are only used to stabilize the home. *Crofoot testimony.* The home also has a hitch, although Theodora Schafer, the appraiser that the Petitioner hired to appraise the home, indicated that the hitch had been removed. *Id.; Pet'r Ex. 1 at 2 of 7.* Ms. Crofoot testified that she did not know whether the home had wheels, although Ms. Schafer indicated that the wheels had also been removed. *Id.*
 - c) The Petitioner also offered Ms Schafer's Manufactured Home Appraisal Report. *Pet'r Ex. 1.* Ms. Schafer certified that she prepared that report according to the Uniform Standards of Professional Appraisal Practice ("USPAP"). *Id. at 6 of 7.* She estimated the mobile home's market value at \$9,000 as of May 5, 2008. *Id. at 3 of 7.* She, however, did not estimate the subject land's value. *Id.* And she viewed only the home's exterior, although she noted that the owner had reported that the interior was in poor condition. *Id. at 2 of 7.*
 - d) Ms. Schafer relied on the sales-comparison approach, using sales of four mobile homes that were located between 7.5 and 20.5 miles from the subject property. *Pet'r Ex. 1 at 1 of 7 – 4 of 7.* She decided not to use the cost approach both because she had not inspected the home's interior and because she considered the sales-comparison approach to be the most reliable indicator of a mobile home's value. *Id. at 2 of 7.* Ms. Schafer similarly decided against using the income approach because she did not have enough data to come to a reliable conclusion. *Id. at 4 of 7.*

¹ On the Form 131 petition, the Petitioner requested a land value of \$19,000 and a "personal property" value of \$9,000 for a total value of \$28,000. *Board Ex. A.*

- e) In reaching her value estimate, Ms. Schafer noted that the subject home appeared to be personal property because: (1) it was capable of being moved; (2) it was reportedly just resting on concrete blocks and was only fastened to the land by tie-downs; (3) it had a metal shipping tag typical for mobile homes; and (4) its electric-service drop was fastened to a pole away from the home rather than to the home itself. *Pet'r Ex. 1 at Addendum page 1 of 1.*
 - f) According to the Petitioner, the mobile home is a “shack” and will be torn down as soon as the tenant leaves. *Crofoot testimony.* While the Respondent claimed that Ms. Schafer should have considered the property’s rental income, that income relates only to the Petitioner’s federal taxes and has nothing to do with the subject property’s value. *Crofoot argument.*
9. The Respondent offered the following evidence and arguments:
- a) The Respondent contends that the subject mobile home was properly classified as real property. Mr. Geyer, the former Union Township Assessor, observed and measured the home years ago. He saw a metal undercarriage and hitch, but no wheels. He classified the unit as a manufactured home because it was affixed to a permanent foundation. *Geyer testimony.*
 - b) The Respondent also argues that Ms. Schafer’s appraisal was unreliable. Ms. Schafer did not adjust her comparable properties’ sale prices to reflect differing sale dates. Similarly, she did not explain why she deducted \$13,000 from the sale price for comparable sale 2 or how she determined her location adjustment for comparable sale 3. *Agostino argument; Resp’t Ex. 11; Pet’r Ex. 1.*
 - c) In addition, Mr. Dillman pointed to several reasons why he did not think that Ms. Schafer’s appraisal complied with USPAP standards. First, Ms. Schafer failed to explain why she excluded the subject land from her appraisal. Second, she did not inspect the home’s interior or crawl space. Third, she did not adjust her comparable homes’ sale prices to account for the distance between those homes and the subject property. Finally, although Ms. Schafer described her appraisal as a full appraisal, she omitted a number of material facts. *Dillman testimony.*
 - d) Also, despite the fact that the Petitioner rents out the subject property, Ms. Schafer ignored the income approach. Using a gross rent multiplier (“GRM”) is the preferred method for valuing a single-unit rental like the subject property. *Klaybor testimony.* According to Kevin Klaybor, a member of the PTABOA, the standard multiplier for the nicer area around Potato Creek is six. *Id.* Although the Petitioner rented the property for \$550 per month, Mr. Klaybor testified that market rent would have been at least \$600 per month or \$7,200 per year. *Id.* Mr. Klaybor used that minimum annual rent of \$7,200 and a GRM of six to estimate the subject property’s market value at \$43,200. *Id.* Based on Mr. Klaybor’s calculations, the Respondent contends that the subject property’s correct value is \$43,200. *Agostino argument.*

Record

10. 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:

Petitioner's Exhibit 1: Appraisal report prepared by Theodora G. Schafer.

Respondent's Exhibit 1: Form 131 petition,
Respondent's Exhibit 2: Form 115 determination,
Respondent's Exhibit 3: Form 130 petition,
Respondent's Exhibit 4: Form 11 notice,
Respondent's Exhibit 5: PTABOA Uniform Checklist,
Respondent's Exhibit 6: PTABOA Record of Hearing,
Respondent's Exhibit 7: Hearing information,
Respondent's Exhibit 8: Form 114 hearing notice,
Respondent's Exhibit 9: Audit of Real Estate Appraisal,
Respondent's Exhibit 10: Subject property record card,
Respondent's Exhibit 11: Copy of appraisal report.

Board Exhibit A: Form 131 petition,
Board Exhibit B: Hearing notice dated August 25, 2009,
Board Exhibit C: Notice of appearance for Mr. Frank Agostino,
Board Exhibit D: Respondent's exhibit cover sheet,
Board Exhibit E: Respondent's witness list,
Board Exhibit F: Hearing sign-in sheet.

- d) These Findings and Conclusions.

Analysis

Burden of Proof

- 11. A petitioner seeking review of an assessing official's determination must make a 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).
- 12. In making its case, the petitioner 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”).

13. Once the petitioner establishes a prima facie case, the burden shifts to the respondent to rebut the petitioner’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.

Discussion

14. Although the Petitioner did not offer any probative evidence to support lowering the subject property’s assessment, the Respondent conceded that the property was worth less than the amount for which it was assessed. The Board reaches this conclusion for the following reasons:
 - a) The Petitioner first challenges the subject mobile home’s classification as real property. The Petitioner apparently believes that classifying the mobile home a personal property would exempt it from taxation. But even if the Petitioner is correct that the home should have been classified as personal property, that fact would not shield it from being assessed and taxed. As long as the subject home fit the statutory definition of a “mobile home”—something that the Petitioner did not even try to dispute—it was assessable and taxable. *See* Ind. Code § 6-1.1-7-1 (“Mobile homes which are located within this state on the assessment date of a year shall be assessed and taxed for that year in the manner provided in this chapter.”).
 - b) Thus, regardless of the home’s classification, the Petitioner needed to offer probative evidence of the home’s true tax value. The only evidence that the Petitioner offered in that regard was Ms. Schafer’s appraisal report. Unfortunately, Ms. Schafer estimated the mobile home’s value as of May 5, 2008. That is more than three years after January 1, 2005—the relevant valuation date for 2006 real property assessments. *See* 50 IAC 21-3-3(b) (“The valuation date is January 1 of the year preceding the year of the assessment date.”). It is also more than two years after the January 15, 2006, assessment date that would apply if the home were classified as an “annually assessed mobile home” instead of a “real property mobile home.” *See* 50 IAC 3.3-4-1 (providing that an “annually assessed mobile home” is assessed on January 15th of each year).²
 - c) The Petitioner, however, did not attempt to explain how Ms. Schafer’s appraisal related to the mobile home’s value as of January 1, 2005, or January 15, 2006. Ms. Schafer’s appraisal therefore lacks probative value. *See Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005) (finding that taxpayers’ 2004 insurance policy and 2003 appraisal evidence lacked probative value where they did not explain those documents related to their property’s value as of the relevant January 1, 1999, valuation date at issue).

² The same was true under the administrative rule that applied to 2006 assessments. 50 IAC 3.3-3-2 (2008 cumulative supp. pamphlet)(repealed filed Aug. 15, 2007, 10:12 a.m.; 20070912-IR-050060560FRA).

- d) Because the Petitioner did not relate Ms. Schafer’s appraisal to the appropriate valuation date, the Board need not address what effect, if any, Ms. Schafer’s failure to use a gross income multiplier (“GRM”) to value the property had on her appraisal’s evidentiary value.³ Nonetheless, based on Mr. Klaybor’s calculations using a GRM, the Respondent conceded that the subject property was worth only \$43,200—\$6,900 less than its assessment. Given that concession, the Board finds that the subject property’s assessment should be reduced.

Conclusion

15. The Petitioner failed to make a prima facie case. The Respondent, however, conceded that the subject property was worth only \$43,200. The Board therefore orders that the subject property’s March 1, 2006, assessment be changed to \$43,200.

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: _____

Chairman, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

³ Indiana Code § 6-1.1-4-39 provides that the gross rent multiplier is “the preferred method of valuing: (1) real property that has at least one (1) and not more than four (4) rental units; and (2) mobile homes assessed under IC 6-1.1-7.” Ind. Code § 6-1.1-4-39(b).

IMPORTANT NOTICE

- 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>.