

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

Petitions: 76-007-02-1-5-00007
76-007-02-1-5-00008
Petitioner: Vicky L. Czajka Trust
Respondent: Millgrove Township Assessor (Steuben County)
Parcels: 041311010102009
041311020302009
Assessment Year: 2002

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

Procedural History

1. The Petitioner initiated the assessment appeals with the Steuben County Property Tax Assessment Board of Appeals (the PTABOA) by written documents dated April 12, 2004.
2. The PTABOA mailed the notices of its decision on October 27, 2004.
3. The Petitioner filed the appeals to the Board by filing the Form 131 petitions with the county assessor on November 2, 2004 and elected small claims procedures.
4. The Board issued the notices of hearing to the parties dated March 29, 2006.
5. Administrative Law Judge Patti Kindler held the hearing in Angola on May 24, 2006.
6. Persons present and sworn as witnesses at the hearing:
For Petitioner – Raymond W. Czajka,
Vicky L. Czajka,
For Respondent – Larry May, Steuben County Assessor.

Facts

7. The property consists of two parcels. Parcel 041311010102009 (Parcel A) has a detached garage on a lot measuring 50 feet by 120 feet. Parcel 041311020302009 (Parcel B) has a 1,952 square foot frame home on a lot measuring 118 feet by 185 feet.
8. The Administrative Law Judge (ALJ) did not conduct an inspection of the property.

9. The PTABOA determined the following assessed values:
- | | | | |
|-----------------|----------------|------------------------|------------------|
| <u>Parcel A</u> | Land \$7,200 | Improvements \$8,100 | Total \$15,300, |
| <u>Parcel B</u> | Land \$161,800 | Improvements \$115,800 | Total \$277,600. |

10. The total assessed value requested by the Petitioner for both parcels is \$233,100.

Issue

11. Summary of Petitioner's contentions in support of alleged error in assessment:
- a) The Czajkas purchased both parcels in an arm's-length transaction for \$225,000 in September 1999. *R. Czajka testimony; Pet'r Ex. 3, 4.*
 - b) The sales listing data, the purchase agreement, the settlement statement and the sales disclosure forms document that price. *R. Czajka testimony; Pet'r Ex. 1-4.*
 - c) Parcel A was vacant at the time of purchase. *R. Czajka testimony.* In 2001, the 1,200 square foot garage was built. *R. Czajka testimony; Pet'r Ex. 5.*
 - d) The best evidence of the market value for Parcel A and Parcel B is the 1999 purchase price of \$225,000. For the 2002 assessment, it would be appropriate to add the current assessed value of \$8,100 for the new garage. *R. Czajka testimony.*
12. Summary of Respondent's contentions in support of the assessment:
- a) The property record card and sales disclosure form for the McCracken property show it is a residential lakefront lot with an undeveloped vacant rear parcel that together sold for \$258,900 in May of 2000. *May testimony; Resp't Ex. 1.* The McCracken property was similar to the Petitioner's property at the time of purchase because both had an extra vacant lot. *May testimony.*
 - b) The property record card and sales disclosure form for the Wolf property show a residential dwelling on a lakefront lot with an extra garage on the rear lot, similar to the subject property. *May testimony.* The Wolf property sold for \$250,000 in August 2003 and for \$150,000 in November 1999. *May testimony; Resp't Ex. 3.*
 - c) Property record cards and sales disclosure forms for comparable sales show the assessed values for those properties and the subject property are fair. *May testimony.* Comparable lakefront lots are priced the same as the Petitioner's lakefront lot using a base rate of \$1,688 per front foot before adjustments. *May testimony; Resp't Ex. 1, 3.*
 - d) The sales disclosure form for a vacant rear lot shows that it sold for \$20,000 in December 2000. The property record card shows it is assessed at \$18,300. *Resp't Ex. 2.* Parcel A is about half the size of that lot and is assessed at \$7,200. The assessment on Parcel A is similar to this comparable lot. *May testimony.*

- e) The assessed value established for the 1,200 square foot garage on Parcel A has been a semi-issue in this appeal because it is assessed for only \$8,100, but the building permit stated that the proposed cost to build the garage was above \$20,000¹. *May testimony.*

Record

- 13. The official record for this matter is made up of the following:
 - a) The Petition,
 - b) The digital recording of the hearing,
 - c) Petitioner Exhibit 1 – Real estate listing for the property,
Petitioner Exhibit 2 – Purchase Agreement, Addendum and Counter Offer,
Petitioner Exhibit 3 – Settlement Statement,
Petitioner Exhibit 4 – Sales disclosure form,
Petitioner Exhibit 5 – Form 131 Petition,
Respondent Exhibit 1 – Property record cards and a sales disclosure form for the McCracken property at 75 Lane 101 Lake Pleasant,
Respondent Exhibit 2 – Property record card and sales disclosure form for the Bohney property at 140 Lane 101 Lake Pleasant,
Respondent Exhibit 3 – Property record cards and sales disclosure forms for the Wolf properties located at 215 Lane 101 Lake Pleasant,
Respondent Exhibit 4 – Notice of County Assessor Representation,
Board Exhibit A – Form 131 Petition with attachments,
Board Exhibit B – Notice of Hearing,
Board Exhibit C – Hearing 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).

¹ By accepting small claims procedures, the parties agreed that the issues are substantially the same as the issues raised at the PTABOA hearing. The small claims election also means the parties agreed not to raise new issues. Ind. Admin. Code tit. 52, r. 3-1-2(b). Therefore, the Board will not address the purportedly incorrect value of the garage, which the Respondent attempted to raise for the first time during this proceeding.

- 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 Petitioner provided sufficient evidence to support its contentions. This conclusion was arrived at because:
- a) Real property is assessed based on its "true tax value," which does not mean fair market value. It means "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." Ind. Code § 6-1.1-31-6(c); 2002 REAL PROPERTY ASSESSMENT MANUAL (hereafter Manual) at 2 (incorporated by reference at 50 IAC 2.3-1-2). There are three generally accepted techniques to calculate market value-in-use: the cost approach, the sales comparison approach, and the income approach. The primary method for assessing officials to determine market value-in-use is the cost approach. *Id.* at 3. To that end, Indiana promulgated a series of guidelines that explain the application of the cost approach. *See REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 — VERSION A* (hereafter Guidelines). The value established by use of the Guidelines, while presumed to be accurate, is merely a starting point. A taxpayer is permitted to offer evidence relevant to market value-in-use to rebut that presumption. Such evidence may include actual construction costs, sales information regarding the subject or comparable properties, appraisals, and any other information compiled in accordance with generally accepted appraisal principles. MANUAL at 5.
 - b) For the 2002 reassessment, an assessment is to reflect value of the property as of January 1, 1999. MANUAL at 4. If a Petitioner presents any evidence of value relating to a different time, the Petitioner is required to provide some explanation about how those values demonstrate, or are relevant to, the subject property’s value as of January 1, 1999. *See Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005).
 - c) The actual purchase price of a property often carries a considerable amount of weight toward establishing the correct value of a property.
 - d) The undisputed evidence established that the subject property sold for \$225,000 in 1999 in an arm's-length transaction. A garage was added to the vacant lot in 2001

and clearly must be considered in determining the total assessed value as of March 1, 2002. In making the assessment, the Respondent valued the garage at \$8,100, a figure that the Petitioner has not disputed. As previously noted, the Respondent's current attempt to argue about the value of the garage is a new issue that the Board will not decide. Furthermore, even if the value of the garage were an issue properly before the Board, the evidence that the Respondent offered would not be sufficient to require any change.²

- e) The purchase price, plus the value of the added garage, makes a prima facie case that the total market value-in-use for these two parcels is only \$233,100. The burden of going forward with probative evidence shifted to the Respondent.
- f) The Respondent attempted to support the current assessment with purportedly comparable sales and assessments. This evidence, however, fails to support the current assessment. The most fundamental problem with the Respondent's evidence is an absence of facts and analysis that might support a meaningful comparison of the other properties to the subject property. *Id.* at 471 (it is not the Board's responsibility to review all the documentation to determine whether properties are comparable — the party offering a comparable must explain the characteristics of the subject property, how those compare to the comparable, and how any differences affected the relevant market value-in-use of the properties).
- g) The Respondent primarily pointed out that the same base land value was used to assess the subject property, the McCracken property, and the Wolf property. The Respondent offered testimony that that value was \$1688 per front foot. While the McCracken and Wolf property record cards support that testimony, the Czajka property record card for the front lot shows \$1677. This inconsistency was not explained by either party, but is immaterial to the Board's ultimate determination. Comparing the land values would be only one step in determining the relative market values-in-use of the properties. Again, no legitimate conclusions about value can be reached from purportedly comparable properties when there is a failure to compare how the properties have similar characteristics and to explain how any differences affected the relative market values-in-use.
- h) The sale prices or the assessments of the McCracken, Bohney, and Wolf properties carry no probative value in this case. *Id.*
- i) In addition, the Respondent failed to relate those purportedly comparable sales to 1999 value. That failure leaves such evidence with no probative value. *Id.*

² The Respondent offered testimony (but no documentation) that the building permit for the garage stated a proposed cost of more than \$20,000. Such evidence has little, if any, weight in establishing that the value of the garage should change.

Conclusion

16. The Respondent failed to rebut or impeach the Petitioner's evidence. The Respondent also failed to support the current assessment with substantial, probative evidence. Alternatively, to the extent that the Respondent's evidence has any weight or probative value, the weight of the evidence clearly supports the Petitioner's claim that the total assessed value for both parcels should be \$233,100.

Final Determination

In accordance with the above findings and conclusions, the Indiana Board of Tax Review now determines that the assessments should 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. You must name in the petition and in the petition's caption the persons who were parties to any proceeding that led to the agency action under Indiana Tax Court Rule 4(B)(2), Indiana Trial Rule 10(A), and Indiana Code §§ 4-21.5-5-7(b)(4), 6-1.1-15-5(b). The Tax Court Rules provide a sample petition for judicial review. The Indiana Tax Court Rules are available on the Internet at <http://www.in.gov/judiciary/rules/tax/index.html>. The Indiana Trial Rules are available on the Internet at http://www.in.gov/judiciary/rules/trial_proc/index.html. The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code>.