

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

Petition #s: 84-002-02-1-5-00822
84-002-02-1-5-01076
Petitioner: G.X. Thompson
Respondent: Larry Auler, Harrison Township Assessor (Vigo County)
Parcel #s: 118-06-10-292-010
118-06-10-292-009
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 Petitioner initiated assessment appeals with the Vigo County Property Tax Assessment Board of Appeals (the PTABOA) by written documents dated October 18, 2003.
2. The Petitioner received notices of the decisions of the PTABOA on October 25, 2004.
3. The Petitioner filed appeals to the Board by filing Form 131s with the county assessor on November 24, 2004. Petitioner elected to have these cases heard in small claims.
4. The Board issued notices of hearings to the parties dated December 7, 2005.
5. The Board held administrative hearings on February 21, 2006, before the duly appointed Administrative Law Judge (the ALJ) Rick Barter.
6. Persons present and sworn in at hearing:
 - a) For Petitioner: G.X. Thompson, Petitioner
Beverley Thompson, Petitioner's wife
Larry Bohnert, Witness for Petitioner
 - b) For Respondent: Larry Auler, Harrison Township Assessor
Richetta Hale, Harrison Township Chief Deputy

Facts

7. The subject properties are unimproved residential parcels located at 2700 & 2708 N. 18th Street, Terre Haute in Harrison Township.

8. The ALJ did not conduct an on-site visit of the properties.
9. The PTABOA determined the assessed values of the subject properties to be \$4,200 for the land on each parcel. There are no improvements on either parcel.
10. The Petitioner requested an assessment of \$500 for each parcel.

Issue

11. Summary of Petitioner's contentions in support of an error in the assessment:
 - a. The Petitioner contends that the assessed values of the properties are higher than what the subject properties were purchased for in July 2003. *G.X. Thompson testimony; Petitioner Exhibit 2.* The Petitioner further contends that the market value of the two subject properties should be \$500 each based on their 2003 purchase. *Id.* In support of this contention, the Petitioner submitted a Warranty Deed and a Closing Statement. *See Petitioner Exhibit 2.*
 - b. The Petitioner testified that the subject parcels were purchased so that he could run a water line across these two properties to the property he owns north of these parcels. *G.X. Thompson testimony; Petitioner Exhibit 5.* The Petitioner also stated that the purchases were arms-length with no side deals. *G.X. Thompson testimony.*
 - c. The Petitioner also contends that the assessed values of the properties are over-stated based on the sales of comparable properties. *G.X. Thompson testimony.* In support of this contention, the Petitioner submitted purchase agreements for parcel #18-06-27-426-04 located at 515 S. 13th Street in Terre Haute, which sold for \$500 on April 18, 2004 and parcel #18-06-23-236-00 located at 111 Oakland Street in Terre Haute, which sold for \$300 on April 18, 2004. *Petitioner Exhibits 3 and 4.*
 - c. In response to questioning, the Petitioner testified that neighborhood values have not changed since 1999. *G.X. Thompson testimony.*
12. Summary of Respondent's contentions in support of the assessment:
 - a. The Respondent contends that even though the neighborhood has not changed since January 1, 1999, the subject properties are more valuable now because they are part of the property owned by the Petitioner next door. *Hale testimony; Auler testimony.* The Respondent further contends that the subject properties are worth more than the \$500 that the Petitioner originally paid for them. *Id.*

Record

13. The official record for this matter is made up of the following:
 - a. The Petition,

b. The CD recording of the hearing labeled Thomson 84002021500822,01076 022106,

c. Exhibits:

Petitioner Exhibit 1 - Summary of Petitioner's contentions

Petitioner Exhibit 2 - Copy of a Warranty Deed and closing figures for the purchase of the subject lots at 2700 and 2708 N. 18th Street for a total of \$1,000,

Petitioner Exhibit 3 - Copy of a purchase agreement to buy a lot at 515 S 13th Street for \$500

Petitioner Exhibit 4 - Copy of a purchase agreement to buy a lot at 111 Oakland Street for \$300, and a Quit Claim Deed for same,

Petitioner Exhibit 5 - Copies of five photos of subject properties,

Respondent Exhibit – None were submitted,

Board Exhibit A - Form 139L petition,

Board Exhibit B - Notice of Hearing,

Board Exhibit C - 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 Petitioner provided sufficient evidence to establish a prima facie case for a reduction in value. The Board reached this decision for the following reasons:

- a. The Petitioner contends that based on the purchase price for the two subject parcels along with properties deemed comparable to the subject properties, that the subject properties are worth no more than \$500 each. *G.X. Thompson testimony; Petitioner Exhibits 2 – 4*. The Petitioner testified that the two subject parcels were purchased in July 2003, for a total of \$1,000 or \$500 each. *G.X. Thompson testimony*. In support of this contention, the Petitioner submitted a Warranty Deed and a Closing Statement. *See Petitioner Exhibit 2*. Further, the Petitioner submitted purchase agreements for parcel #18-06-27-426-04 located at 515 S. 13th Street in Terre Haute, which sold for \$500 on April 18, 2004 and parcel #18-06-23-236-00 located at 111 Oakland Street in Terre Haute, which sold for \$300 on April 18, 2004. *Petitioner Exhibits 3 and 4*. The Petitioner testified that the market has not changed since 1999. *G.X. Thompson testimony*. The Respondent agreed. *Hale testimony*.
- b. Real property in Indiana is assessed on the basis of its “true tax value.” See I.C. § 6-1.1-31-6(c). “True tax value” is defined as “[t]he 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 MANUAL). The market value-in-use of a property may be calculated through the use of several approaches, all of which have been used in the appraisal profession. *Id.*, at 3; *Long v. Wayne Township Assessor*, 821 N.E.2d 466, 469 (Ind. Tax Ct. 2005). One such approach used in the appraisal profession is known as the “sales comparison approach.” *Id.* The sales comparison approach “estimates the total value of the property directly by comparing it to similar, or comparable properties that have sold in the market.” *Id.*
- c. Regardless of the approach used to prove the market value-in-use of a property, Indiana’s assessment regulations provide that for the 2002 general reassessment, a property’s assessment must reflect its value as of January 1, 1999. *Long*, at 471; MANUAL at 4. Consequently, a party relying on a sale to establish the market value-in-use of a property must provide some explanation as to how the sales price demonstrates or is relevant to the property’s value as of January 1, 1999. *Id.*
- d. Here, the Petitioner purchased the subject properties for \$500 per property in 2003. He testified that the market has not changed since 1999 and the Respondent agreed. Further, the Respondent testified the market-value-in-use of the subject is less than the \$4,200 assessed value. In so testifying, Respondent effectively stipulated that Petitioner was correct in asserting the 2002 assessed value is incorrect. *Auler testimony*. Thus, the Petitioner raised a prima facie case that the assessed value was incorrect and that the correct value of the subject properties is \$500 each.
- e. 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). Here, the Respondent offered nothing to rebut Petitioner’s case and, in fact, agreed that the assessed values did not represent the market values of the subject properties. The Respondent, however, contends that

the market value of the properties is \$1500 to \$2000 per property but the Respondent did not support this value with any probative evidence. Thus, the Respondent failed to impeach the Petitioner's evidence or rebut the Petitioner's case.

Conclusion

16. The Petitioner raised a prima facie case that the properties are over-valued. The Respondent agreed the assessed value did not represent the market value of the subject properties. The Board, therefore, finds in favor of the Petitioner and holds that the value of each of the subject properties is \$500.

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: _____

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>.