

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

Petition #: 84-002-05-1-4-00034
Petitioners: Thomas & Jayne McCoy
Respondent: Harrison Township Assessor (Vigo County)
Parcel #: 118-06-14-181-013
Assessment Year: 2005

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 Vigo County Property Tax Assessment Board of Appeals (the PTABOA) by written document dated May 10, 2006.
2. The Petitioners received notice of the decision of the PTABOA on August 28, 2006.
3. The Petitioners filed an appeal to the Board by filing a Form 131 with the county assessor on September 15, 2006. The Petitioners elected to have this case heard in small claims.
4. The Board issued a notice of hearing to the parties dated April 4, 2007.
5. The Board held an administrative hearing on May 16, 2007, before the duly appointed Administrative Law Judge (the ALJ) Rick Barter.
6. Persons present and sworn in at hearing:

For Petitioner: Jayne McCoy, Petitioner,¹

No one appeared to represent the Respondent.

¹ The Petitioner, Jayne McCoy, testified that, in the time span between the filing of the Form 130 appeal and this administrative hearing, the Petitioners sold the subject property. Mr. McCoy is now deceased and Jayne McCoy remains the sole appellant.

Facts

7. The subject property is a 37 feet by 132 feet commercial parcel improved with a 2,090 square foot structure built in 1917 and a detached garage built in 1975, located at 1601 Blaine Avenue in Harrison Township, Terre Haute.
8. The ALJ did not conduct an on-site visit of the property.
9. The PTABOA determined the assessed value of the subject property to be \$6,300 for the land and \$17,000 for the improvements, for a total assessed value of \$23,300.
10. The Petitioner requested an assessment of \$7,500 total for the land and improvements.

Issue

11. Summary of Petitioner's contentions in support of an error in the assessment:

The Petitioner contends the 2005 assessed value of the subject property is over-stated when two sales of the property are considered. *Petitioner Exhibit 1 and McCoy testimony* In support of this contention, the Petitioner submitted two settlement statements for the subject property. In the first sale, dated September 13, 2005, the Petitioners purchased the property for \$7,500. *Id.* In the second sale, dated March 17, 2006, the Petitioners sold the property for \$8,000. *Id.*

Record

12. The official record for this matter is made up of the following:
 - a. The Petition,
 - b. The compact disk recording of the hearing labeled 84-002-05-4-00034McCoy05-16-07,
 - c. Exhibits:

Petitioner Exhibit 1 – Settlement statements for the subject property dated September 13, 2005, and March 17, 2006,

Board Exhibit A - Form 131 petition and all subsequent mailings to the Board,
Board Exhibit B - Notice of Hearing,
Board Exhibit C - Hearing sign-in sheet,
 - d. These Findings and Conclusions.

Analysis

13. 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 Township Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also, Clark v. State Board of Tax Commissioners*, 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 Township 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.
14. The Petitioner failed to provide 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 the subject property is assessed in excess of its market value. *McCoy testimony*. In support of this contention, the Petitioner submitted two settlement statements for sales of the subject property, the first for \$7,500 and dated September 13, 2005, and the second for \$8,000 dated March 17, 2006. *Petitioner Exhibit 1*.
 - b. Real property is assessed based on its "true tax value." *See* Ind. Code § 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 (the MANUAL) at 2 (incorporated by reference at 50 IAC 2.3-1-2). As set forth in the MANUAL, the appraisal profession traditionally has used three methods to determine a property’s market value: the cost approach, the sales comparison approach, and the income approach. *Id.* at 3, 13-15. In Indiana, assessing officials primarily use a mass-appraisal version of the cost approach, as set forth in the REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 – VERSION A (GUIDELINES), to assess real property.
 - c. A property’s true tax value, as determined by applying the GUIDELINES’ cost approach, is presumed to be accurate. *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. P/A Builders & Developers, LLC, 842 N.E.2d 899 (Ind. Tax 2006). A taxpayer, however, may rebut that presumption with evidence relevant to the property's market value-in-use. MANUAL at 5. Appraisals prepared according to the MANUAL's definition of true tax value generally will suffice. *Id.*; *Kooshtard Property VI*, 836 N.E.2d at 505, 506 n.1 (“[T]he Court believes (and has for quite some time) that the most effective method to rebut the presumption that an assessment is correct is through the presentation of a market value in-use appraisal, completed in conformance with the Uniform Standards of Professional Appraisal Practice (USPAP).”). A taxpayer may also rely upon sales information for the subject or comparable properties and any other information compiled according to generally accepted appraisal principles. MANUAL at 5.

- d. 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, 8. This is also true for succeeding assessment years through 2005. *See* MANUAL at 2 (stating that the Manual contains the rules for assessing real property for the March 1, 2002, through March 1, 2005, assessment dates); *see also* Ind. Code § 6-1.1-4-4.5 (requiring the DLGF to adopt rules for annually adjusting assessments to account for changes to value in years since general reassessment, with such adjustments to begin in 2006). Consequently, a party relying on evidence concerning a property's market value as of a date substantially removed from the relevant valuation date of January 1, 1999, must explain how that evidence demonstrates or is relevant to the property's value as of January 1, 1999. *Id.*
- e. Here, the Petitioner relies on evidence showing the Petitioner's purchase price for the property in 2005 and the sale price when the Petitioner sold the property less than one year later. *See Petitioner Exhibit 1*. The purchase and sale prices are \$7,500 and \$8,000 respectively. *Id.* The Petitioner, however, failed to relate either the 2005 purchase price or the 2006 sale price to the January 1, 1999, valuation date.²
- f. The Petitioner failed to raise a prima facie case for a reduction in assessed value. Thus, the Respondent's burden to support its determination with substantial evidence was not triggered. *Lacy Diversified Indus. v. Department of Local Government Finance*, 799 N.E.2d 1215, 1221-1222 (Ind. Tax Ct. 2003).

Conclusion

15. The Petitioner failed to provide sufficient evidence to establish a prima facie case. The Board finds in favor of the Respondent.

² The Board notes that the property record card attached to the petition shows a transfer of ownership on December 17, 1998, for \$40,000, an amount significantly higher than the assessed value of \$23,300 or the Petitioner's requested assessment of \$7,500.

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 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>>