

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

Petition: 84-002-06-1-5-00348
Petitioner: Garry E. Tatlock
Respondent: Vigo County Assessor
Parcel: 84-06-10-480-011.000-002
Assessment Year: 2006

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

Procedural History

1. The Petitioner initiated an assessment appeal with the Vigo County Property Tax Assessment Board of Appeals (PTABOA) by written notice dated April 18, 2007.
2. The PTABOA issued notice of its decision on October 30, 2007.
3. The Petitioner appealed to the Board by filing a Form 131 on December 3, 2007, and elected to have this case heard according to small claims procedures.
4. The Board issued a notice of hearing to the parties dated May 1, 2008.
5. Administrative Law Judge Paul Stultz held the Board's administrative hearing on June 5, 2008.
6. Garry E. Tatlock represented himself at the hearing. Vigo County Assessor Deborah Lewis, and Susan McCarty, Chief Deputy Assessor, represented the Respondent.

Facts

7. The parcel is a residential property located at 1529 Woodley Avenue in Terre Haute.¹
8. The Administrative Law Judge did not conduct an inspection of the property.
9. The PTABOA determined the assessed value is \$10,900 for land and \$16,000 for improvements (total \$26,900).
10. The Petitioner contends the total assessed value should be \$17,500.

¹ The Form 131 lists the address as 1528 Woodley, but both parties agreed the correct address is 1529 Woodley.

Contentions

11. The Petitioner presented the following evidence:
 - a. Two realtors inspected the property. One realtor concluded the value of the property was \$14,800 and the other concluded it was \$18,000. *Tatlock testimony.*
 - b. An appraisal valued the subject property at \$17,500 as of April 20, 2007. *Tatlock testimony; Pet'r Ex. 1.*

12. The Respondent presented the following evidence:
 - a. The Petitioner's appraisal values the subject property as of April 20, 2007. *Resp't Ex. 1.* The valuation date for the 2006 assessment is January 1, 2005. The Petitioner did not trend the appraisal value or otherwise explain how the value on April 20, 2007, relates to January 1, 2005. Property values changed in Terre Haute between 2005 and 2007. *McCarty testimony.*
 - b. The property record cards of the three comparable properties used in the appraisal show they seem to be repossessions by financial institutions that are not representative of market value sales in the neighborhood. *McCarty testimony; Resp't Exs. 2-4.* Those transactions all occurred in 2006, which is beyond the required time period. The values for January 1, 2005, were determined using sales from 2004 and 2005. *McCarty testimony.*
 - c. The sales ratio study for the subject neighborhood includes three sales of property located on the same street as the Petitioner's property. Those three sales ranged from \$40,000 to \$58,825. *McCarty testimony; Resp't Ex. 5.*

Record

13. The official record for this matter is made up of the following:
 - a. The Petition,
 - b. A digital recording of the hearing,
 - c. Petitioner Exhibit 1 - Appraisal,
Respondent Exhibit 1 - Page two of the appraisal,
Respondent Exhibit 2 - Property record card (PRC) for appraisal's comparable sale 1,
Respondent Exhibit 3 - PRC for appraisal's comparable sale 2,
Respondent Exhibit 4 - PRC for appraisal's comparable sale 3,
Respondent Exhibit 5 - 2006 sales ratio study for neighborhood 118511,
Board Exhibit A - Form 131 Petition for Review of Assessment,
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).
 - 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 did not make a prima facie case for any assessment change 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 at 2 (incorporated by reference at 50 IAC 2.3-1-2). A taxpayer may offer evidence relevant to market value-in-use to rebut the presumption the assessment is correct. 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. A 2006 assessment must reflect the value of the property as of January 1, 2005. Ind. Code § 6-1.1-4-4.5; 50 IAC 21-3-3. Any evidence of value relating to a different date must also have an explanation about how it demonstrates, or is relevant to, the value as of that required valuation date. *See Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005).
 - c. The Petitioner testified that two realtors valued the property at \$14,800 and \$18,000. The Petitioner did not specify the date for those purported values. The

Petitioner did not even identify the realtors by name. He did not provide their qualifications or any explanation about how they might have arrived at their opinions of value. Neither realtor appeared at the hearing. The Petitioner provided no substantial facts to establish a foundation in support of their conclusions. Unsubstantiated, conclusory, hearsay statements are not probative evidence. They provide no support for the Petitioner's claim. *See Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).

- d. The Petitioner also presented an appraisal stating that the value of the property was \$17,500 as of April 20, 2007. But the Petitioner did not provide anything to relate that appraisal value to the required valuation date, January 1, 2005. Therefore, the appraisal has no probative value.

- 16. The Petitioner failed to make a prima facie case.
- 17. When a taxpayer fails to provide probative evidence supporting its position that an assessment should be changed, the Respondent's duty to support the assessment with substantial evidence is not triggered. *See Lacy Diversified Indus. v. Dep't of Local Gov't Fin.*, 799 N.E.2d 1215, 1221-1222 (Ind. Tax Ct. 2003); *Whitley*, 704 N.E.2d at 1119-20.

Conclusion

- 18. The Board finds in favor of the Respondent.

Final Determination

In accordance with the above findings and conclusions, the Indiana Board of Tax Review determines that the assessment should not be changed.

ISSUED: _____

Commissioner, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

- 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>