

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

Petition #: 31-013-05-1-6-00008
Petitioner: Roger D. Walker
Respondent: Harrison Township Assessor (Harrison County)
Parcel #: 0403270002025
Assessment Year: 2005 (Real Property Mobile Home)

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 initiated an assessment appeal with the Harrison County Property Tax Assessment Board of Appeals (PTABOA) by written document dated April 16, 2005.
2. Notice of the PTABOA's decision was mailed on July 15, 2005.
3. The Petitioner filed an appeal to the Board by filing a Form 131 petition with the county assessor on August 15, 2005.
4. The Board issued a notice of hearing to the parties dated October 28, 2005.
5. The Board held an administrative hearing on December 13, 2005, before the duly appointed Administrative Law Judge, Jennifer Bippus.
6. Persons present and sworn in at hearing:
 - a) For Petitioner: Roger Walker, taxpayer
Robert Walker
 - b) For Respondent: Paul Saulman, Harrison County Assessor
Gerald Saulman, Harrison Township Assessor
Clyde Windell, Harrison County PTABOA
Paul Reas, Harrison County PTABOA

Facts

7. The property is classified as a residential mobile home, located at 4270 Shiloh Rd SW,

Corydon, as is shown on the property record card for parcel 0403270002025.

8. The Administrative Law Judge (ALJ) did not conduct an inspection of the property.
9. The PTABOA determined that the assessed value of the subject property is \$6,000 for the land and \$26,600 for the improvements for a total assessed value of \$32,600.
10. The Petitioner requests a value of \$6,000 for the land and \$10,000 for the improvements for a total assessed value of \$16,000.

Issue

11. Summary of Petitioner's contentions in support of alleged error in assessment:
 - a) Tax assessments in Indiana are to be based on market values for both real estate and personal property. *Robert Walker argument*. Valuations should be tied to the market value of the property being assessed. *Id*. Market value in its purest form is the amount which a buyer is willing to pay for a property and for which a seller is willing to sell the property. *Id*.
 - b) House Bill 1120, effective January 2006, states that personal property (annually assessed) mobile homes are to be assessed at the lower of: the amount paid for the home, the NADA APPRAISAL GUIDE FOR MANUFACTURED HOUSING (NADA Guide), or comparable market sales. *Id; Pet'r Ex. 2*. Thus, the legislature must have recognized that the values for mobile homes under the Real Property Assessment Guidelines for 2002 (Guidelines) were overstated, and that new rules were needed. *Id*.
 - c) The NADA Guide is used by many people to determine the market value for mobile homes and cars. *Id*. It is an independent valuation. *Id*.
 - d) According to the NADA Guide, the value for the subject mobile home should be \$5,733, after adjustments. *Robert Walker testimony; Pet'r Ex. 3*.
 - e) The Petitioner sold the mobile home on August 15, 2004, for \$10,000, to an individual that is making payments to him. *Robert Walker testimony; Pet'r Ex. 2*. This sale was an arm's-length transaction. *Robert Walker testimony*. The Petitioner would not have sold the mobile home for less than its actual value. *Id*.
 - f) The NADA value and the sale price for the subject mobile home both are lower than its assessed value. Given those facts, the assessor should not be tied to the value yielded by the Guidelines in assessing the subject property. *Robert Walker argument*.

12. Summary of Respondents contentions in support of the assessment:
- a) The Township and PTABOA do not value mobile homes from the NADA book. *P. & G. Saulman testimony*. The Respondents were directed by the Department of Local Government Finance (DLGF) to use the Guidelines in valuing mobile homes. *Id.* Respondents have not seen the 2006 law. *Id.*
 - b) Petitioner submitted different NADA values at the PTABOA hearing. *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 BTR 6178,
 - c) Exhibits:
 - Petitioner Exhibit 1: Current property record card with depreciation at thirty-five percent (35%),
 - Petitioner Exhibit 2: Copy of Sales Contract dated 8/15/04,
 - Petitioner Exhibit 3: Calculation of subject mobile home from NADA book,
 - Petitioner Exhibit 4: Copy of Form 131 Petition,
 - Petitioner Exhibit 5: Copy of Residential and Agricultural Depreciation Schedule – Version A.

 - Board Exhibit A: Form 131 petition,
 - Board Exhibit B: Letter outlining Petitioner’s position,
 - Board Exhibit C: Copy of Copy of House Bill 1120, Section 15,
 - Board Exhibit D: Copy of hearing notice,
 - Board Exhibit E. Copy of 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, by a preponderance of the evidence, 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 276 (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.

Discussion of Issue

15. The Petitioner failed to present sufficient evidence to support his contentions. The Board reaches this conclusion for the following reasons.
- a) The Petitioner contends that the subject mobile home is assessed in excess of its market value as demonstrated by the sale price for the mobile home as well as by its value as determined under the NADA Guide.
 - b) As an initial matter, the parties do not appear to dispute that the Respondent assessed the mobile home in question as real property pursuant to Ind. Admin. Code tit. 50, r. 3.2-3-1. The Petitioner does not dispute the land portion of the assessment. The Petitioner bases his entire appeal on the assessment of the improvement – the mobile home.
 - c) The primary question to be answered in this appeal, therefore, is whether the Petitioner can rely upon evidence of the sale price and NADA Guide value of the subject mobile home to establish an error in assessment.
 - d) Generally, a property’s market value-in-use, as ascertained through application of 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*, 2006 Ind. Tax LEXIS 4 (Ind. Tax 2006). A taxpayer, however, may use an appraisal prepared in accordance with the 2002 Real Property Manual’s definition of true tax value to rebut the presumption that an assessment is correct. 2002 REAL PROPERTY ASSESSMENT MANUAL at 5 (incorporated by reference at 50 IAC 2.3-1-2); *Kooshtard Property VI*, 836 N.E.2d at 505, 506 n.1. Nonetheless, a taxpayer may rebut that presumption by offering evidence relevant to the market value-in-use of the property. *MANUAL* at 5. Such evidence includes sales information regarding the subject or comparable properties as well as other information compiled in accordance with generally accepted appraisal principles. *Id.*

- e) In addition, the DLGF issued the following interpretative guidance in a memorandum to assessing officials dated July, 2003:

Question: After receiving notice of the assessment, the owner of an annually assessed mobile home contacts the township assessor stating that the true tax value is too high when compared to a nationally recognized pricing guide such as the NADA guide for manufactured housing. Should the assessor revise the value based on this type of evidence?

Answer: The true tax value of any property in Indiana, including mobile homes, is to be equal to its market value-in-use as defined in the 2002 Real Property Manual. Therefore, if there exists a better indication of true tax value than that produced by the schedules in the 2002 Real Property Assessment Guidelines that were used by the assessor, the assessor *can* adjust the value. However, the national value guides are based on “averages” and do not necessarily represent the value of any individual mobile home The use of the NADA Guide requires the assessor to apply the methodology outlined in the Guide properly in making an estimate of value. The Department also stresses that the use of the value shown on the NADA website does not take all factors affecting value into consideration and therefore is not good evidence of market value. . . . Therefore, the assessor must fully understand the use of the NADA Guide, and use it properly if accurate values are to result.

Annually Assessed Mobile Homes (Department of Local Government Finance, July 2003).¹

- f) Based on the foregoing, a taxpayer may rely on extrinsic evidence of market value to dispute the assessment of a real property mobile home. Such evidence may include the purchase price of the subject mobile home as well as other evidence of value. While use of a nationally recognized value guide, such as the NADA Guide, may provide an indication of a given mobile home’s market value-in-use, the proponent of such evidence must demonstrate that he or she properly applied that guide in arriving at a requested value. With this in mind, the Board now turns to the evidence presented by the Petitioner.
- g) The Petitioner submitted a Book Value Form for the subject mobile home. The form calls for factual information concerning the mobile home and requires the person completing the form to provide the “yellow chart” value of the home. *Id.* The form also calls for various adjustments to be made to the “yellow chart”

¹ Although the above referenced DLGF interpretive guidance relates to personal property (annually assessed) mobile homes, it would appear to apply with equal force to real property mobile homes.

value. Those adjustments include a “condition” adjustment and a “community adjustment.” *Id.* The Petitioner did not submit the “yellow chart” or any other portion of the NADA Guide as evidence.

- h) The Petitioner did not explain the methodology behind the NADA Guide valuation nor did he provide any evidence from which the Board could infer that he properly applied such methodology in completing the Book Valuation Form. Consequently, the Petitioner’s Book Valuation Form calculation for the subject mobile home lacks probative value.
- i) The Petitioner, however, also presented evidence that he sold the subject mobile home for \$10,000 on August 15, 2004. *See Pet’r Ex 2.*
- j) The sale of a subject property is often the best evidence of that property’s market value. The 2002 Real Property Assessment Manual, however, provides that for the 2002 general reassessment, the assessment of real property must reflect that property’s value as of January 1, 1999. MANUAL at 4. Property values assigned in a general reassessment carry forward from year to year until the next general reassessment. *K.P. Oil, Inc. v. Madison Twp. Assessor*, 818 N.E.2d 1006, 1008 (Ind. Tax Ct. 2004) (citing *Wetzel Enterprises, Inc. v. State Bd. of Tax Comm’rs*, 694 N.E.2d 1259, 1260 n.3 (Ind. Tax Ct 1998)). Therefore, the assessed value determined for the 2002 general reassessment, based on the January 1, 1999, valuation date, will carry forward until the next reassessment.
- k) Thus, it was incumbent upon the Petitioner to provide some explanation as to how the sale price for the subject mobile home related to the mobile home’s value as of the relevant valuation date of January 1, 1999. *See Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005) (holding that an appraisal indicating a property’s value for December 10, 2003, lacked probative value in an appeal from a 2002 assessment). The Petitioner failed to do so.
- l) Based on the foregoing, the Petitioner failed to establish a prima facie case of error.
- m) Where the Petitioner has not supported his claim with probative evidence, the Respondent’s duty to support the assessment with substantial evidence is not triggered. *Lacy Diversified Indus. v. Dep’t of Local Gov’t Fin.*, 799 N.E.2d 1215, 1221-1222 (Ind. Tax Ct. 2003).

Conclusion

- 16. The Petitioner failed to make a prima facie case. The Board finds in favor of the Respondent. The assessment of the subject mobile home is not changed.

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: **March 21, 2006**

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>.