

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

Petition No.: 45-018-06-1-5-00003
Petitioner: Tom Anderson
Respondent: Lake County Assessor
Parcel No.: 45-08-26-108-026.000-018
Assessment Year: 2006

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 his assessment appeal with the Lake County Property Tax Assessment Board of Appeals (PTABOA) on January 10, 2008, by filing a Form 130 Petition with the PTABOA seeking a review of his property's 2006 assessment.
2. The PTABOA issued notice of its decision on May 17, 2011.
3. The Petitioner filed his Form 131 petition with the Board on May 26, 2011. The Petitioner elected to have his case heard pursuant to the Board's small claims procedures.
4. The Board issued a notice of hearing to the parties dated June 7, 2012.
5. The Board held an administrative hearing on August 27, 2012, before the duly appointed Administrative Law Judge (the ALJ) Ellen Yuhan.
6. The following persons were present and sworn in at hearing:

For Petitioner: Tom Anderson, property owner,

For Respondent: Sherry Stone-Lucas, Director of Real Estate, Lake County.

Facts

7. The property under appeal is a single-family home located at 3832 Missouri Street, in Hobart, Indiana.
8. The ALJ did not conduct an on-site inspection of the property under appeal.

9. For 2006, the PTABOA determined the assessed value of the property to be \$10,200 for the land and \$47,800 for the improvements, for a total assessed value of \$58,000.
10. The Petitioner requested a total assessed value of \$23,000.

Issues

11. Summary of the Petitioner's contentions in support of the alleged errors in his property's assessment:
 - a. The Petitioner contends his property is over-valued based on his purchase of the property. *Anderson testimony*. Mr. Anderson testified that he purchased the property at issue in this appeal on October 19, 2007, for \$23,000 in an arm's length transaction. *Id.* In support of this contention, Mr. Anderson submitted the settlement statement from his purchase of the property and the Multiple Listing Service (MLS) information sheet offering the property for sale. *Petitioner Exhibits 1 and 2*. According to Mr. Anderson, the settlement statement shows he was responsible for the 2006 taxes. *Id.*; *Anderson testimony*.
 - b. The Petitioner also contends that the Respondent's evidence shows that his property is over-assessed compared to the average sale price per square foot for similar properties in the neighborhood. *Anderson testimony*. In support of this contention, Mr. Anderson submitted a copy of the Respondent's comparable sale analysis as well as 2005 and 2006 Real Property Maintenance Reports for the properties. *Petitioner Exhibits 5-11A*. Despite the fact that the Respondent's comparable properties were newer houses on larger lots, Mr. Anderson argues that the average sale price was \$52.20 per square foot; whereas the subject property was assessed for \$82.39 per square foot. *Id.*; *Petitioner Exhibit 11A*.
12. Summary of the Respondent's contentions in support of the property's assessed value:
 - a. The Respondent's representative contends that the PTABOA reduced the assessed value of the Petitioner's property from \$79,400 to \$58,000, which she argues was the correct value of the property in 2006. *Stone-Lucas testimony*. In support of this contention, the Respondent submitted a spreadsheet showing three sales in the subject property's neighborhood which occurred in 2005 and property record cards for those properties. *Respondent Exhibits 5 and 6*. Ms. Stone-Lucas testified that she adjusted the comparable sales for the differences in the properties, such as the size of the house and lot, whether the house had central air-conditioning and whether the house had a garage or basement, resulting in adjusted sale prices ranging from \$38,320 to \$59,500. *Stone-Lucas testimony*; *Respondent Exhibits 5 and 6*. In addition, Ms. Stone-Lucas submitted a list of 43 properties that sold in 2005. *Respondent Exhibit 6*.
 - b. In response to the Petitioner's case, Ms. Stone-Lucas argues that the subject property's 2007 sale should be given little weight by the Board. *Stone-Lucas*

testimony. According to Ms. Stone-Lucas, the sale was a bank sale that was outside the relevant time frame for the 2006 assessment date. *Id.*

Record

13. The official record for this matter is made up of the following:

- a. The Form 131 petition,
- b. A digital recording of the hearing labeled 45-018-06-1-5-00003 Anderson,

c. Exhibits:

- Petitioner Exhibit 1 – Settlement statement,
- Petitioner Exhibit 2 – MLS property listing,
- Petitioner Exhibit 3 – 2005 Real Property Maintenance Report for 3832 Missouri Street,
- Petitioner Exhibit 4 – 2006 Real Property Maintenance Report for 3832 Missouri Street,
- Petitioner Exhibit 5 – 2005 Real Property Maintenance Report for 3812 Missouri Street,
- Petitioner Exhibit 6 – 2006 Real Property Maintenance Report for 3812 Missouri Street,
- Petitioner Exhibit 7 – 2005 Real Property Maintenance Report for 3932 Missouri Street,
- Petitioner Exhibit 8 – 2006 Real Property Maintenance Report for 3932 Missouri Street,
- Petitioner Exhibit 9 – 2005 Real Property Maintenance Report for 3946 Missouri Street,
- Petitioner Exhibit 10 – 2006 Real Property Maintenance Report for 3946 Missouri Street,
- Petitioner Exhibit 11-11A - Comparable sales analysis,

- Respondent Exhibit 1 – Form 130 appeal,
- Respondent Exhibit 2 – PTABOA hearing notice,
- Respondent Exhibit 3 – Form 115,
- Respondent Exhibit 4 – Pictures of the subject property,
- Respondent Exhibit 5 – Comparable sales analysis,
- Respondent Exhibit 6 – List of sales and property record cards to support the assessor's comparable sales analysis,

- Board Exhibit A – Form 131 petition,
- Board Exhibit B – Notice of hearing dated June 7, 2012,
- Board Exhibit C – Hearing sign-in sheet,

d. These Findings and Conclusions.

Analysis

14. The Petitioner failed to establish a prima facie case that his property's assessed value was incorrect for the March 1, 2006, assessment. The Board reached this decision for the following reasons:
- a. The 2002 Real Property Assessment Manual defines "true tax value" as "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." 2002 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.3-1-2). Appraisers have traditionally used three methods to determine a property's market value: the cost approach, the sales comparison approach, and the income approach to value. *Id.* at 3, 13-15. In Indiana, assessing officials generally assess real property using a mass-appraisal version of the cost approach, as set forth in the REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 – VERSION A.
 - b. A property's market value-in-use, as determined using the Guidelines, 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); *PA Builders & Developers, LLC*, 842 N.E.2d 899 (Ind. Tax Ct. 2006). A taxpayer may rebut that presumption with evidence that is consistent with the Manual's definition of true tax value. MANUAL at 5. A market value-in-use appraisal prepared according to the Uniform Standards of Professional Appraisal Practice (USPAP) often will suffice. *Id.*; *Kooshtard Property VI*, 836 N.E.2d at 506 n.6. A taxpayer may also offer actual construction costs, sales information for the subject property or comparable properties, and any other information compiled according to generally accepted appraisal principles. MANUAL at 5.
 - c. Regardless of the method used to rebut an assessment's presumed accuracy, a party must explain how its evidence relates to the property's market value-in-use as of the relevant valuation date. *O'Donnell v. Dep't of Local Gov't Fin.*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006); *see also Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). For the 2006 assessment, the valuation date was January 1, 2005. 50 IAC 21-3-3.
 - d. The Petitioner first contends that his property was over-valued for 2006 based on his purchase of the property for \$23,000 on October 19, 2007. *Anderston testimony; Petitioner Exhibits 1 and 2*. The sale of the subject property is often the best evidence of the property's value. *See Hubler Realty Co. v. Hendricks County Assessor*, 938 N.E.2d 311, 315 (Ind. Tax Ct. 2010) (finding that the Board's determination assigning greater weight to the property's purchase price than its appraised value was proper and supported by the evidence). The Petitioner, however, bought the subject property almost three years after the relevant January 1, 2005, valuation date. Mr. Anderson needed to explain how the sale price related to the property's value as of January 1, 2005. And because Mr. Anderson failed to relate his

October 19, 2007, purchase price to the January 1, 2005, valuation date, the purchase of the property alone is insufficient to prove that his property was over-valued for the 2006 assessment year. *See Long*, 821 N.E.2d at 471.

- e. The Petitioner also contends that the assessed value of his property was excessive compared to the sale prices of other properties in the neighborhood. *Anderson testimony*. According to Mr. Anderson, the Respondent's comparable properties were newer houses on larger lots, but the comparable properties sold on average for \$52.20 per square foot; whereas the subject property was assessed for \$82.39 per square foot. *Id.*; *Petitioner Exhibit 11A*. However, the Petitioner based his calculations for the subject property on 704 square feet of living area when, in fact, the photographs and the property record card indicate the property is a 1¾ -story house. *Respondent Exhibit 4 and 6*. The MLS Listing Sheet for the property also shows that the Petitioner's home has 1,408 square feet of living area; rather than the 704 square feet of living area that the Petitioner claims. *Petitioner Exhibit 2*. Therefore, contrary to the Petitioner's arguments, the subject property is assessed for only \$41.19 per square foot – which is substantially lower than the sale prices of the Respondent's "comparable" properties on a square foot basis. Thus, this claim also fails to support a reduction in the property's assessed value for 2006.
- f. Where the Petitioner has not supported his claims 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

15. The Petitioner failed to establish a prima facie case that his property's assessment was incorrect for the 2006 assessment year. The Board finds for the Respondent.

Final Determination

In accordance with the above findings of fact and conclusions of law, the Indiana Board of Tax Review determines that the assessed value of the subject property should not be changed for the 2006 assessment year.

ISSUED: November 9, 2012

Chairman, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

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>.