

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

Petition: 27-016-02-1-5-00012
Petitioner: Michael J. Riddle
Respondent: Center Township Assessor (Grant County)
Parcel: 0718-403-173.000-16
Assessment Year: 2002

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 Grant County Property Tax Assessment Board of Appeals (PTABOA) by written document dated October 4, 2005.
2. The PTABOA mailed the notice of its decision on April 11, 2006.
3. The Petitioner filed an appeal to the Board by filing a Form 131 on May 11, 2006. He elected small claims procedures.
4. The Board issued a notice of hearing to the parties dated March 19, 2007.
5. Administrative Law Judge Patti Kindler held the hearing in Marion on April 25, 2007.
6. The following persons were present and sworn as witnesses at the hearing:
For the Petitioner – Michael J. Riddle, property owner,
For the Respondent – Tamara Martin, Grant County Assessor,
Gary Landrum, Grant County Deputy Assessor.

Facts

7. The subject property is a residential dwelling on a lot measuring 59 feet by 132 feet located at 3738 South Gallatin Street in Marion.
8. The Administrative Law Judge did not conduct an inspection of the property.
9. The PTABOA determined the total assessed value is \$51,800 (land \$7,400 and improvements \$44,400).
10. The Petitioner requested a total assessed value of \$22,000 (land \$4,000 and improvements \$18,000).

Contentions

11. Summary of Petitioner's contentions in support of alleged error in assessment:
 - a) The subject property's current assessment of \$51,800 is excessive. The subject property was purchased for \$18,000 on January 12, 2005. The purchase price accurately represents the value of the home. The purchase price is shown on the settlement statement, the closing statement, and the sale listing for the subject property. *Riddle testimony; Pet'r Ex. 1, 2, 4.*
 - b) The subject property had adequate exposure to the market. *Riddle testimony.* The property's original list price was \$27,500, but the property did not sell. *Riddle testimony; Pet'r Ex. 4.* Nicholson Realty reduced the list price to \$23,900. The subject property was on the market for over ninety days before it was purchased for \$18,000. *Id.*
 - c) The subject property was repossessed and sold in an "as is" condition. The property had extensive interior damage. *Riddle testimony; Pet'r Ex. 4.* The property had rotted floors from water damage in both the bath and kitchen. The front porch was falling down. The insurance company would not insure the property in its damaged state. *Riddle testimony.*
 - d) The Respondent submitted a photograph of the property that gives the impression the dwelling is nice. The photo does not reflect the interior condition. *Riddle testimony.*
 - e) The market value of the subject property is lowered by the neighborhood. The home next door appears uninhabitable. The neighborhood does not have a good reputation. *Riddle testimony.*
 - f) Petitioner would sell the property for \$26,000. *Riddle testimony.*
12. Summary of Respondent's contentions:
 - a) The Petitioner did not attend the PTABOA hearing. There was no evidence submitted that would indicate the subject property had water damage or deterioration affecting its condition. No damage was evident from either the exterior photograph or the Form 130 Petition. *Martin testimony; Resp't Ex. 1.*
 - b) The PTABOA determined the sale of the subject property was motivated by the property's repossession. *Martin testimony.*
 - c) The subject property's value was established under a mass appraisal system using sales data from the subject neighborhood and an exterior inspection of the property. *Martin testimony.*

Record

13. The official record for this matter is made up of the following:
- a) The Petition,
 - b) The digital recording of the hearing,
 - c) Petitioner Exhibit 1 – Settlement Statement,
Petitioner Exhibit 2 – Seller Closing Statement,
Petitioner Exhibit 3 – Purchase Agreement,
Petitioner Exhibit 4 – Sale listing for the subject property,
Petitioner Exhibit 5 – Form 131 Petition,
Petitioner Exhibit 6 – Form 115 from PTABOA,
Respondent Exhibit 1 – Exterior photograph of the subject property,
Respondent Exhibit 2 – Aerial plat of subject land,
Respondent Exhibit 3 – Notice of County Assessor Authorization,
Board Exhibit A – Form 131 Petition with attachments,
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 an assessment has the burden to prove that the current assessment is incorrect and specifically what the correct assessment would be. *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. *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. *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 provide sufficient evidence to support his contentions. This conclusion was arrived at because:
- a) Real property is assessed on the basis of 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 (hereafter Manual) at 2 (incorporated by reference at 50 IAC 2.3-1-2). There are three generally accepted techniques to calculate market value-in-use: the cost approach, the sales comparison approach, and the income approach. The primary method for assessing officials to determine market value-in-use is the cost approach. *Id.* at 3. To that end, Indiana promulgated a series of guidelines that explain the application of the cost approach. *See* REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 — VERSION A (hereafter Guidelines). The value established by use of the Guidelines, while presumed to be accurate, is merely a starting point. A taxpayer is permitted to offer evidence relevant to market value-in-use to rebut that presumption. 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) For the 2002 reassessment, an assessment is to reflect value of the property as of January 1, 1999. MANUAL at 4. Should a Petitioner present any evidence of value relating to a different time, the Petitioner is required to provide some explanation how those values demonstrate, or are relevant to, the subject property's value as of January 1, 1999. *117 Republic Ltd. P'ship v. Brown Twp. Assessor*, 851 N.E.2d 399, 400 n.2 (Ind. Tax Ct. 2006); *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005).
 - c) The Petitioner purchased the subject property on January 25, 2005. The Petitioner did not offer an explanation showing how or why the 2005 purchase price was relevant to the assessment date of March 1, 2002, or value as of January 1, 1999. Therefore, the evidence of the sale lacks probative value.
 - d) The Petitioner claimed the general condition of the property and the declining neighborhood lowers the property value. The Petitioner merely offered his own testimony of these factors. Petitioner supplied no probative evidence. The claim of such factors alone does not make a case for an assessment change. Petitioner did not demonstrate how these factors might lower the value of the property. The Petitioner's claims are merely conclusory statements and do not constitute probative evidence. *Whitley Products v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).
 - e) The Petitioner failed to make a prima facie case that there is an error in the assessment. Where the Petitioner has not supported the 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.

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 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>.