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

Petition #: **41-018-06-1-5-00001**
Petitioners: **Ray R. & Lois A. Raufeisen**
Respondent: **Johnson County Assessor**
Parcel #: **41-07-18-021-054.000-018**
Assessment Year: **2006**

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

Procedural History

1. Ray and Lois Raufeisen filed a written request asking the Johnson County Property Tax Assessment Board of Appeals ("PTABOA") to reduce their property's assessment.

2. After a preliminary conference, the Needham Township Assessor lowered the subject property's assessment from $209,700 to $197,000. On September 17, 2007, however, the PTABOA issued its determination listing the subject property's assessment at $209,700.

3. The Raufeisens then timely filed a Form 131 petition with the Board asking it to review their assessment. They elected to proceed under the Board's rules for small claims.

4. On December 18, 2007, the Board held an administrative hearing through its Administrative Law Judge, Alyson Kunack (ALJ).

5. Persons present and sworn in at hearing:

    a) For the Raufeisens: Ray R. Raufeisen

    b) For the Johnson County Assessor: Mark Alexander, Johnson County Assessor's Office

Facts

6. The property is a single-family residence located at 1084 Paris Drive in Franklin, Indiana.

7. Neither the Board nor the ALJ inspected the property.

8. The PTABOA's final determination lists the following values:

Land: $40,600 Improvements: $169,100 Total: $209,700

9. The parties, however, agreed that the "assessment of record" was the following amount determined by the Needham Township Assessor after a preliminary conference:
Land: $35,200 Improvements: $161,800 Total: $197,000

10. The Raufeisens did not request a specific value.

Parties' Contentions

11. The Raufeisens offered the following evidence and arguments:

a) The Raufeisens believe that their property's assessment is too high. *Raufeisen argument.* In 2001, the Raufeisens traded a property located at 1855 Longest Drive for the subject property. It was an even trade; the parties did not exchange any money. The Raufeisens bought the Longest Drive property in 1991 for only $149,000. Mr. Raufeisen acknowledged that the subject house was newer than the Longest Drive house and that it had been listed for sale at $192,000. But it sat vacant for three years until the Raufeisens traded for it.

b) The Raufeisens also contend that the subject property's location detracts from its value. It sits within 100 feet of Interstate 65. *Id.; see also Pet'rs Ex. 4.* Traffic noise has increased dramatically since the Raufeisens acquired the property, and it is almost unbearable at times. *Raufeisen testimony.* The Raufeisens therefore contend that, if they were to sell the property, they would have a difficult time "getting the money out of it." *Raufeisen argument.*

c) The Raufeisens could not find another property that was located as close to Interstate 65 as their property. But they did find a 1.6-acre vacant lot just north of their property. *Raufeisen testimony; see also Pet'rs Ex. 5.* The lot's owner was asking for between $25,000 and $30,000, but he did not expect to get that much. *Raufeisen testimony.* The Raufeisens also found a house that was the same size as their house, but that was located further away from Interstate 65. That property was assessed for less than the subject property. *Raufeisen testimony*; s*ee also Pet'rs Ex. 3.*

12. The Johnson County Assessor offered the following evidence and arguments:

a) The PTABOA hesitated to change the subject's property's assessment because it was confused about the details of the Raufeisens' home-trade. *Alexander testimony.*

b) Like the Raufeisens, local assessing officials could not find another property that was as close to Interstate-65 as the subject property. *Id.*

Record

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

    a) The Form 131 petition.

    b) The digital recording of the hearing.

    c) Exhibits[1]:

    Petitioners Exhibit 1: Property Record Card (PRC) for subject property
    Petitioners Exhibit 2: PRC for 1855 Longest Drive
    Petitioners Exhibit 3: PRC for 1440 Paris Drive
    Petitioners Exhibit 4: Aerial photograph of subject property
    Petitioners Exhibit 5: Aerial photograph of subject property and nearby vacant lot

    Board Exhibit A: Form 131 Petition
    Board Exhibit B: Notice of Hearing
    Board Exhibit C: Hearing Sign-In sheet
    Board Exhibit D: Letter of Authorization from Johnson County Assessor

    d) These Findings and Conclusions.

Analysis

Burden of Proof

14. A petitioner seeking review of an assessing official's determination must establish a prima facie case proving both that the current assessment is incorrect, and specifically what the correct assessment should 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).

15. In making its case, the taxpayer must explain how each piece of evidence relates to its 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").

16. Once the petitioner establishes a prima facie case, the burden shifts to the respondent to impeach or rebut the petitioner's evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004); *Meridian Towers*, 805 N.E.2d at 479.

[1] The Johnson County Assessor did not submit any exhibits.

The Raufeisens' Case

17. The Raufeisens did not make a prima facie case for reducing the subject property's assessment below $197,000. The Board reaches this conclusion for the following reasons:

a) Indiana assesses real property based on its true tax value, which the 2002 Real Property Assessment Manual defines 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 2 (incorporated by reference at 50 IAC 2.3-1-2). The appraisal profession traditionally has used three methods to determine a property's market value: the cost, sales-comparison and income approaches. *Id*. at 3, 13-15. Indiana assessing officials generally use 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) *reh'g den. sub nom. P/A Builders & Developers, LLC,* 842 N.E.2d 899 (Ind. Tax 2006). But a taxpayer may rebut that presumption using 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 often will suffice. *Id*.; *Kooshtard Property VI*, 836 N.E.2d at 505, 506 n.1. A taxpayer may also offer sales information for the subject 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 the assessment's presumption of accuracy, a party must explain how its evidence relates to the subject 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 March 1, 2006 assessment, that valuation date is January 1, 2005. IND. ADMIN. CODE tit. 50, r. 21-3-3

d) The Raufeisens did not offer any probative market-based evidence to rebut the subject property's assessment. At best, they identified the 1991 sale price for a property that they traded for the subject property. But that sale price was 14 years removed from the relevant valuation date of January 1, 2005. And the Raufeisens did not explain how it related to the subject property's value as of January 1, 2005.

e) The Raufeisens' other evidence fell even wider of the mark. First, they pointed to two nearby properties: a 1.6-acre vacant lot with an asking price between $25,000 and $30,000 and an improved property that was assessed for less than their property. According to Mr. Raufeisen, those values show that the subject property is assessed too high.

f) In a broad sense, Mr. Raufeisen's position correctly recognizes that one can estimate a given property's market value by comparing it to similar properties that have sold in the marketplace. *See* MANUAL at 13. Indeed, that is precisely the theory behind the sales-comparison approach to value. *Id.* But to apply that approach, a party to an assessment appeal must establish that the purportedly comparable properties sufficiently resemble the appealed property. Conclusory statements that a property is "similar" or "comparable" to another property do not suffice. *Long*, 821 N.E.2d at 470. Instead, the party must explain how the properties' relevant characteristics compare to each other. *See Id*. at 470-71. Equally importantly, he or she must explain how any relevant differences between the properties affect their relative market values-in-use.

g) Mr. Raufeisen did not even remotely show how the subject property compared to either of the purportedly comparable properties. In fact, one of the properties is a vacant lot, while the subject property has improvements. He likewise failed to adjust the vacant lot's sale price or the improved property's assessment to reflect relevant differences between those properties and the subject property.

h) Also, Mr. Raufeisen needed to show that his analysis complied with generally accepted appraisal principles. But in looking to the purportedly comparable improved property's cost-based assessment rather than to its sale price, Mr. Raufeisen appears to have improperly mixed two traditional methodologies—the cost and sales-comparison approaches.

i) Second, Mr. Raufeisen argued that the subject property's proximity to Interstate-65 detracted from its value. While that may be true, the Raufeisens did not offer any market-based evidence to show the effect of the property's location on its market value-in-use.

j) Finally, there is some confusion about the amount of the subject property's 2006 assessment. Following a preliminary conference with the Raufeisens, the Needham Township Assessor determined that the property should be assessed for $197,000. But the PTABOA's determination lists an assessment of $209,700.

k) The PTABOA's decision controls. The statutes governing assessment appeals call for the PTABOA to make the final assessment determination at the local level. *See* Ind. Code § 6-1.15-1. And taxpayers appeal to the Board from the PTABOA's decision, not from the township assessor's initial determination. *See Id.; see also* Ind. Code § 6-1.15-3.

l) Nonetheless, the parties agreed that the "assessment of record" was $197,000. Indeed, that is the amount reflected on the subject property's record card. And the Johnson County Assessor did not even attempt to support the higher number reflected in the PTABOA's determination. On those unique facts, the Board finds that the assessment should be changed to $197,000.

Conclusion

18. The Raufeisens failed to make a prima facie case for any change in assessment beyond what the Needham Township Assessor agreed to. The Board therefore finds that the subject property's assessment should be reduced to $197,000. In all other respects, the Board finds for the Respondent.

Final Determination

In accordance with the above findings and conclusions, the Indiana Board of Tax Review now determines that the subject property's assessment should be changed to $197,000.

ISSUED: **March 11, 2008**

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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>