

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

Petition #: 46-022-02-1-5-00008
Petitioner: Larry M. Casey
Respondent: Michigan Township Assessor (LaPorte County)
Parcel #: 4201-32-279-005
Assessment Year: 2002

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 an assessment appeal with the LaPorte County Property Tax Assessment Board of Appeals (the PTABOA) by written document dated January 20, 2004.
2. The Petitioner received notice of the decision of the PTABOA on August 20, 2004.
3. The Petitioner filed an appeal to the Board by filing a Form 131 with the county assessor on September 7, 2004. Petitioner elected to have this case heard in small claims.
4. The Board issued a notice of hearing to the parties dated February 22, 2006.
5. The Board held an administrative hearing on May 10, 2006, before the duly appointed Administrative Law Judge Debra Eads.
6. Persons present and sworn in at hearing:
 - a) For Petitioner: Larry Casey, property owner
 - b) For Respondent: Terry Beckinger, Michigan Township Assessor
Carol McDaniel, County Assessor
Michael Gregorich, Nexus Group

Marilyn Meighen appeared as attorney for both the Michigan Township Assessor and the LaPorte County PTABOA.

Facts

7. The subject property is a single-family residence located at 212 W. Barker Avenue in Michigan City, Indiana.
8. The Administrative Law Judge (ALJ) did not conduct an inspection of the property.
9. For 2002, the PTABOA determined the assessed value of subject property to be \$7,500 for the land and \$42,500 for the improvements, for a total assessed value of \$50,000.
10. The Petitioner requested a total assessed value of \$25,050.

Issue

11. Summary of Petitioner's contentions in support of alleged error in assessment:
 - a) The Petitioner contends that the subject property is over-assessed. *Casey testimony*. In support of this contention, the Petitioner submitted an appraisal prepared by a licensed appraiser that estimated the value of the subject property at \$25,050 for March 6, 2004. *Petitioner Exhibit 1*.
 - b) Petitioner testified that he purchased the property in 1995 for \$43,000 as an investment.. *Casey testimony*. The Petitioner argues that the structure has deteriorated since he purchased the property. *Id*.
 - c) In Response to questioning, the Petitioner testified that the evidence of insurance represents insurance coverage on the mortgage loan for the property. *Casey testimony; Petitioner Exhibit 5*.
12. Summary of Respondent's contentions in support of the assessment:
 - a) The Respondent contends the value of the subject property is correct. *Meighen argument*. In support of that contention, the Respondent presented property record cards and sales disclosures for three properties and a sales disclosure for 128 Green Street, one of the comparable properties used in the Petitioner's appraisal. *Respondent Exhibits B-E*.
 - b) The Respondent claims several properties that are substantially comparable to the subject property. *Meighen argument*. According to the Respondent, 219 W. Fulton Avenue is smaller than the subject property and sold on May 28, 1998, for \$50,000 *Id.*; *Respondent Exhibit E*. The Respondent argues that 2017 Buffalo Street is also smaller than the subject and sold on May 12, 1998, for \$58,000 *Id.*; *Respondent*

Exhibit C. Further; 117 W. Barker Avenue, which is also smaller than the subject, sold on August 30, 1996, for \$48,000 *Id.*; *Respondent Exhibit D*. According to the Respondent, the sale prices of the comparable properties resulted in the reduction of the original assessment for the subject property to the \$50,000 that is under appeal. *Meighen argument; Respondent Exhibits C, D and E*.

- c) The Respondent contends that the Petitioner's appraisal was done specifically for property tax purposes and estimates the value of the subject property on March 6, 2004, rather than the January 1, 1999, date appropriate for the 2002 general reassessment. *Beckinger testimony; Petitioner Exhibit 1*. According to the Respondent, an appraiser viewing the property in 2004 cannot determine the condition or value of the property in 1999. *Id.* Further, the Respondent contends that comparable number 1 in the Petitioner's appraisal located at 220 W. Barker Avenue was a repossessed property. *Id.* Comparable number 2 in the Petitioner's appraisal located at 128 Green Street sold on July 30, 1996, for \$43,000. *Respondent Exhibit A and B* The Respondent also argues that the property at 124 Green Street, located next door to 128 Green Street, sold on July 28, 1995, for \$87,500 and the subject property was purchased on June 6, 1995, for \$43,500. *Respondent Exhibit A. Beckinger testimony; Respondent Exhibit A*.

Record

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

- a) The Petition,
- b) The tape recording of the hearing labeled BTR # 6234,
- c) Exhibits:
- Petitioner Exhibit 1: Subject property appraisal dated March 6, 2004,
 - Petitioner Exhibit 2: Form 131 Petition,
 - Petitioner Exhibit 3: Original Form 130 and Form 115,
 - Petitioner Exhibit 4: Revised Form 130, Form 115 and Hardcard,
 - Petitioner Exhibit 5: Letter of insured value,
 - Petitioner Exhibit 6: PTABOA Findings,

 - Respondent Exhibit A: Disclosure of sale information,
 - Respondent Exhibit B: Sales disclosure for 128 Green Street,
 - Respondent Exhibit C: Property record card and sales disclosure for 2017 Buffalo Street,
 - Respondent Exhibit D: Property record card and sales disclosure for 117 W. Barker,
 - Respondent Exhibit E: Property record card and sales disclosure for 219 W. Fulton,

Respondent Exhibit F: Heritage appraisal service year-end housing report for 1998,

Board Exhibit A: Form 131 Petition,
Board Exhibit B: Notice of Hearing,
Board Exhibit C: Notice of Appearance for Marilyn Meighen,
Board Exhibit D: Hearing Sign-In.

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. Wash. 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 failed to provide sufficient evidence to support the Petitioner’s contentions. This conclusion was arrived at because:
- a) The Petitioner contends that the value of the subject property is \$25,050, the estimate of value in the March 2004 appraisal. *Casey testimony; Petitioner Exhibit 1.*
 - b) Real property in Indiana is assessed on the basis of its “true tax value”. *See Ind. Code § 6-1.1-31-6(c)*. “True tax value” is defined as “[t]he 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 (2001 (incorporated by reference at 50 IAC 2.3-1-2) (hereinafter the MANUAL)). The market value-in-use of a property may be calculated through the use of several approaches, all of which have been used in the appraisal profession. *Id.* at 3; *Long v. Wayne Township Assessor*, 821 N.E.2d 466, 469 (Ind. Tax Ct. 2005). One such

approach used in the appraisal profession is known as the “sales comparison approach.” *Id.* The sales comparison approach “estimates the total value of the property directly by comparing it to similar, or comparable, properties that have sold in the market.” *Id.*

- c) Regardless of the approach used to prove the market value-in-use of a property, Indiana’s assessment regulations provide that for the 2002 general reassessment, a property’s assessment must reflect its value as of January 1, 1999. *Long*, at 471; MANUAL at 4. Consequently, a party relying on an appraisal to establish the market value-in-use of a property must provide some explanation as to how the appraised value demonstrates or is relevant to the property’s value as of January 1, 1999. *Id.*
- d) Here, the Petitioner alleged that the assessment on the subject property is excessive on the basis of an appraisal. *Casey testimony* In support of this allegation, the Petitioner submitted an appraisal that determined the market value for the subject property to be \$25,050 as of March 6, 2004. *See Petitioner Exhibit 1.* The Petitioner, however, failed to show the relevance of the March 6, 2004, appraisal to the January 1, 1999, valuation date. The Petitioner did not relate the appraised value back to January 1, 1999, pursuant to *Long*, nor were the sales comparables used in the appraisal trended back to 1999.¹ Thus the Petitioner failed to raise a prima facie case based on the requirements of *Long*.
- e) 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 Industries v. Department of Local Government Finance*, 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.

¹The Board has previously found that where there is testimony that the market is appreciating, appraisals with effective dates subsequent to 1999 can still raise a prima facie case that the property was worth no more in 1999 than its appraised value in later years. Here, however, the Petitioner testified that the property is deteriorating in condition. Because the property’s value in 1999 cannot be determined from the Petitioner’s 2004 appraisal, the appraisal is not probative of the property’s 1999 value. Therefore, the Petitioner has failed to raise a prima facie case.

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>.