

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

Petition: 47-012-02-1-5-00006
Petitioner: John Coryea
Respondent: Marion Township Assessor (Lawrence County)
Parcel: 12-002204-00
Assessment Year: 2002

The Indiana Board of Tax Review (the "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 Lawrence County Property Tax Assessment Board of Appeals (the "PTABOA") by filing a Form 130 dated July 15, 2004.
2. The PTABOA mailed notice of the decision to the Petitioner on December 10, 2004.
3. The Petitioner filed a Form 131 Petition with the county assessor on January 7, 2005. He elected to have this case heard according to small claim procedures.
4. The Board issued a notice of hearing to the parties dated December 8, 2005.
5. The Board held an administrative hearing on January 11, 2006, before the duly appointed Administrative Law Judge Paul Stultz.
6. John Coryea, Cathy Coryea, Nancy Miller (the township assessor), and April Stapp Collins (the county assessor) were present and sworn as witnesses at the hearing.

Facts

7. The subject property has two duplex dwellings (each having 1,152 square feet) on a lot that is 50 feet by 132 feet located at 112 10th Street in Mitchell.
8. The Administrative Law Judge (the "ALJ") did not conduct an inspection of the property.

9. The assessed value as determined by the PTABOA is:
Land \$5,000 Improvements \$115,800 Total \$120,800.

10. The assessed value requested by Petitioner is:
Land \$5,000 Improvements \$75,000 Total \$80,000.

Issue

11. Summary of Petitioner's contentions in support of alleged error in assessment:

- a. The current assessment is overstated based on the 1998 appraised value for the first duplex, the 2000 construction cost for the second duplex, and the assessments of three comparable properties. *J. Coryea testimony; Petitioner Exhibit 1, 2, 3, 4, 5.*
- b. The subject duplexes have one-bedroom units. Consequently, they do not have the same market value as multiple bedroom units. *J. Coryea testimony.*
- c. The appraisal estimates the 1998 market value for the subject property with one duplex at \$33,000. *J. Coryea testimony; Petitioner Exhibit 1.* The Petitioner's federal depreciation schedule shows the cost for the second duplex constructed in 2000 was \$43,528. *J. Coryea testimony; Petitioner Exhibit 2.* Based on the appraisal value and the construction cost, the total value of the subject property is \$76,528 for both land and improvements. *J. Coryea testimony.*
- d. The property located at 1140 Warren Street has two duplexes with one-bedroom 480 square foot units and carports. It sold for \$40,000 in April 2002. The subject property has 600 square foot units, but no carports. *J. Coryea testimony; Petitioner Exhibit 3.* The property located at 2629 Clove Lane in Bedford is a duplex with two-bedroom units and has an assessed value of \$45,300. *J. Coryea testimony; Petitioner Exhibit 4.* The property located on Dale Street in Mitchell has 1,536 square foot duplexes with two-bedroom units. Its assessment is \$57,000 and it sold for \$45,000. *J. Coryea testimony; Petitioner Exhibit 5.*
- e. The Respondent's comparables are two-bedroom duplexes with 1,500 square feet. The subject property has one-bedroom duplexes with 1,200 square feet. They are not comparable because of the number of bedrooms, size, and type of construction. *J. Coryea testimony.*

12. Summary of Respondent's contentions in support of the assessment:

- a. The current assessment is correct based on the assessments for the five properties offered as comparables. The Respondent selected these comparables because the properties are duplexes. In selecting the comparables, the Respondent tried to come as close as possible to the subject property regarding age and size. The

assessments of the comparables range from \$67,000 to \$190,100. *Miller testimony; Respondent Exhibit 1, 2, 3, 4, 5.*

- b. The Petitioner's comparable located at 1140 Warren Street is approximately the same age as the subject property with a higher assessed value than the subject property. *Miller testimony.*
- c. The Petitioner's comparable located at 2629 Clover Lane in Bedford has two buildings, with one building ten years older than the subject building. That assessment is double the subject property's assessment. *Miller testimony.*
- d. The Petitioner's comparable located on Dale Street was built at approximately the same time as the subject property and has a larger assessment than the subject property. *Miller testimony.*

Record

- 13. The official record for this matter is made up of the following:
 - a. The Petition,
 - b. A digital recording of the hearing,
 - c. Exhibits:
 - Petitioner Exhibit 1 – Appraisal for properties located at 1003 West Main Street and 10th & Warren Street (the subject property),
 - Petitioner Exhibit 2 – Federal Tax Form 4562, Schedule E for John and Cathy Coryea,
 - Petitioner Exhibit 3 – Multiple listing sale for property located at 1140 Warren Street,
 - Petitioner Exhibit 4 – Photograph of a property located at 2629 Clover Lane in Bedford with a notation about the assessed value and size,
 - Petitioner Exhibit 5 – Property record card ("PRC"), assessment information, property tax information, photographs, and sales information for the property on Dale Street in Mitchell,
 - Respondent Exhibit 1 – PRC for parcel #04-002553-01,
 - Respondent Exhibit 2 – PRC for parcel #12-000047-00,
 - Respondent Exhibit 3 – PRC for parcel #12-001927-00,
 - Respondent Exhibit 4 – PRC for parcel #12-000474-00,
 - Respondent Exhibit 5 – PRC for parcel #12-000894-01,
 - Respondent Exhibit 6 – PRC for the subject property,
 - Board Exhibit A – Notice of Defect and Form 131 Petition,
 - Board Exhibit B – Notice of Hearing,
 - Board Exhibit C – Hearing Sign In Sheet,
 - Board Exhibit D – Request for additional information,

- d. These Findings and Conclusions.
14. On February 21, 2006, the Board requested the PRC for the subject property. On February 23, 2006, the Board received the document from the county assessor. It is made a part of the record as Respondent's Exhibit 6.

Analysis

15. 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. 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. *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.
16. The Petitioner provided sufficient evidence to support his claim. 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. 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. *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005).
- c. The appraisal presented by the Petitioner established the market value for the subject property as of October 1998. Although the market value established for the subject property was three months prior to the January 1, 1999 valuation date, the time difference is minimal and it is unlikely that the market values would have experienced a significant fluctuation between October 1998 and January 1, 1999. Thus, the Petitioner's appraisal has relevance to the subject property's value as of January 1, 1999, and is probative of the value with only one of the duplex buildings. *Long*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005).
- e. The federal depreciation schedule established the actual construction cost for the second duplex was \$43,528 in 2000. This kind of evidence is acceptable. MANUAL at 5. Although the Petitioner did not present evidence relating that cost to January 1, 1999, it is not likely the cost to construct the second duplex would have been higher in 1999 than it was in April of 2000. The Petitioner's construction cost evidence has probative value in setting an upper limit for the assessment of that building.
- f. The Petitioner presented three purportedly comparable properties. Two sold for \$40,000 and \$45,000. One is assessed for \$45,300. While comparable sales and assessments can be useful evidence of value, the purportedly comparable properties must be established as truly comparable to have any probative value. *Long*, 821 N.E.2d at 470-471; *Blackbird Farms v. Dep't of Local Gov't Fin.*, 765 N.E.2d 711, 714-715 (Ind. Tax Ct. 2002). Although the Petitioner provided some information regarding the properties, he did not provide a sufficient amount of information or detailed descriptions, such as age, size, location, construction type, etc., to draw any reasonable conclusion that the properties are truly comparable to the subject property. This evidence has no probative value, but that problem is not fatal to the Petitioner's claim.
- g. With the appraisal (\$33,000) and actual construction costs for the subject property (\$43,528), the Petitioner presented a prima facie case that the total assessed value should be \$76,500. The burden shifted to the Respondent to impeach or rebut the Petitioner's evidence.
- i. The Respondent presented the property record cards for five properties and claimed that the assessments for these properties support the current assessment

for the subject property. While the Respondent certainly could use comparable properties as support, a sufficient basis for comparability must be established. *Id.* The Respondent's comparables suffer from the same problem as the Petitioner's comparables. The Respondent did little more than state that the five properties are duplexes of similar age and are similar to the subject property. The Respondent did not offer enough evidence to prove how or why these properties are comparable. Without a detailed explanation showing how the properties are comparable, the testimony that properties are similar or comparable is conclusory and does not constitute probative evidence. *Long*, 821 N.E.2d 466.

Conclusion

- 17. The Petitioner made a prima facie case. The Respondent did not rebut the Petitioner’s evidence. The Board finds in favor of the Petitioner.

Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the total assessment for the subject property should be changed to \$76,500.

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>>.