

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

Petition: 48-003-06-1-5-06592
Petitioners: Joseph and Carla Kingery
Respondent: Anderson Township Assessor
Parcel: 18 18-1035-1-024Z
Assessment Year: 2006

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 Petitioners initiated an assessment appeal with the Madison County Property Tax Assessment Board of Appeals (PTABOA) by written document dated March 20, 2007.
2. The PTABOA mailed the notice of its decision on May 31, 2007.
3. The Petitioners appealed to the Board by filing a Form 131 petition with the Madison County Assessor on June 26, 2007, and elected small claims procedures.
4. The Board issued a notice of hearing to the parties dated September 11, 2007.
5. Administrative Law Judge Patti Kindler held the hearing on November 1, 2007.
6. The Petitioners, Joseph and Carla Kingery, were present and sworn as witnesses.
7. The Respondent did not appear at the hearing.

Facts

8. The subject property is a single family residential dwelling located at 5833 Marble Court in Anderson, Indiana.
9. The Administrative Law Judge did not conduct an inspection of the property.
10. The PTABOA determined the assessed value is \$14,300 for land and \$148,000 for improvements (total \$162,300).
11. The Petitioners requested a total assessed value of \$126,000.

Issue

12. Summary of the Petitioners' contentions:
- a) In 2005, the previous owner first listed the subject property on the open market. The property was on the market for six months without selling. In 2006, the home was listed on the market for an additional four months before the Petitioners purchased the property. On May 11, 2006, the Petitioners purchased the property for \$124,000. *Joseph Kingery testimony; Pet'rs Ex. 1.*
 - b) A certified appraisal of the subject property estimated its market value was \$126,000 on June 22, 2007. Residential home values in the neighborhood have shown little to no change since 2005. Therefore, the appraisal represents the market value of the property in 2005. *Joseph Kingery testimony; Pet'rs Ex. 1.*
 - c) The appraiser identified all sales of two story homes in the subject's subdivision between June 22, 2006, and June 22, 2007. *Pet'rs Ex. 1, addendum page 1.* The sale prices of homes built between the years of 2001 and 2003 ranged from \$64,610 to \$134,000. *Joseph Kingery testimony.*

Record

13. The official record for this matter is made up of the following:
- a) The Form 131 Petition with attachments,
 - b) The digital recording of the hearing,
 - c) Petitioners Exhibit 1 – Certified real estate appraisal,
Petitioners Exhibit 2 – Form 131 Petition,
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 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.
15. The Petitioners provided sufficient evidence to support their 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 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. MANUAL 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*. 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) The Petitioners purchased the property for \$124,000 on May 11, 2006. The Respondent failed to present any evidence or argument that they did not do so, or that this price was not good evidence of value.
 - c) The Petitioners presented an appraisal that estimated the property’s value at \$126,000 as of June 22, 2007. This estimate of value was determined using the sales comparison approach, a generally recognized method of valuing property. The appraisal was based on the sales prices of comparable residential properties during the period August 2006 to March 2007. The appraisal provided by the Petitioners supports the reliability of their purchase price as an indication of the property’s value in 2006.

- d) Standing alone, however, the 2006 purchase price and the 2007 appraisal value do not satisfy the Petitioners' burden because the 2006 assessment must reflect value as of January 1, 2005. Ind. Code § 6-1.1-4-4.5; 50 IAC 21-3-3. Any evidence of value relating to a different date must have an explanation about how it demonstrates, or is relevant to, the proper valuation date. *See Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005).
- e) Testimony that home values within the subdivision remained essentially unchanged between 2005 and 2007 is supported by the appraisal. *See Pet'rs Ex. 1*. Evidence of no change in property values for homes within the subject property's subdivision establishes the required link between January 1, 2005, the 2006 purchase, and the 2007 appraisal.
- f) The Petitioners established a prima facie case for their requested value of \$126,000.

Conclusion

16. The Board finds in favor of the Petitioners.

Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should be changed to \$126,000.

ISSUED: _____

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>>