

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

Petition: 49-400-02-1-5-07385
Petitioner: Dale Armbruster
Respondent: Lawrence Township Assessor (Marion County)
Parcel: 4-027272
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 Marion County Property Tax Assessment Board of Appeals (PTABOA) by filing Form 130 dated September 12, 2003.
2. Notice of the PTABOA decision was mailed on August 27, 2004.
3. The Petitioner initiated an appeal to the Board by filing a Form 131 with the Marion County Assessor on September 27, 2004. The Petitioner elected to have the case heard according to small claim procedures.
4. The Board issued a notice of hearing to the parties dated April 26, 2006.
5. The Board held an administrative hearing on June 7, 2006, before Administrative Law Judges Paul Stultz and Ted Holaday.
6. Persons present and sworn as witnesses at the hearing:
For Petitioner – Dale Armbruster, property owner,
For Respondent – Beth Brown, Lawrence Township Deputy Assessor.

Facts

7. The subject property is a brick house on 0.60 acres located at 12141 Admirals Pointe Circle, Indianapolis.
8. The Administrative Law Judges did not conduct an inspection of the property.

9. The PTABOA determined that the assessed value is:
- | | | | | | |
|------|-----------|--------------|-----------|-------|------------|
| Land | \$270,800 | Improvements | \$322,500 | Total | \$593,300. |
|------|-----------|--------------|-----------|-------|------------|
10. The Petitioner requested a change of assessed value to:
- | | | | | | |
|------|-----------|--------------|-----------|-------|------------|
| Land | \$270,800 | Improvements | \$289,200 | Total | \$560,000. |
|------|-----------|--------------|-----------|-------|------------|

Issue

11. Summary of Petitioner's contentions in support of alleged error in assessment:
- a. The Petitioner purchased the subject property for \$585,000 in August 1999. *Armbruster testimony; Pet'r Ex. 1.* The purchase was an arm's-length transaction reflecting the market value-in-use. *Armbruster testimony; Pet'r Ex. 1.* The appraisal supporting the purchase indicated a market value of \$595,000 as of August 1999. *Armbruster testimony; Pet'r Ex. 1.*
 - b. The purchase price included certain personal property such as area rugs, extra carpeting, alarm system, freezer, pool table, boat dock, boat lift, and other items. *Armbruster testimony; Pet'r Ex. 1.* The value of the personal property included in the purchase was estimated at \$25,000 based on the opinions of both the buyer and the seller. *Armbruster testimony.* An itemized list showing the value of each item included in the sale was not prepared. *Armbruster testimony.*
 - c. The correct assessed value of the property should be \$560,000 (purchase price minus \$25,000 for personal property). *Armbruster testimony; Pet'r Ex. 1.*
12. Summary of Respondent's contentions in support of the assessment:
- a. The appraisal of the property supports the current assessed value. *Brown testimony; Resp't Ex. 4.* The appraisal indicates a 1999 value of \$595,000. The assessed value is \$593,300. *Brown testimony; Resp't Ex. 2; Resp't Ex. 4.*
 - b. Typically, items such as the boat dock, boat lift, jet ski lift, and alarm system would be included in the sale of real estate. *Brown testimony.* Items such as a pool table or area rugs would not normally be included in the sale. *Brown testimony.* The actual purchase price includes a value for the personal property items included in the sale, but the appraisal does not include any value for personal property. *Brown testimony; Resp't Ex. 4.*
 - c. A prior final determination by the Board arrived at its conclusion based on an appraisal. *Brown testimony; Resp't Ex. 5.* The value of a property determined by an appraisal should be given more weight than the actual sale price of a property when establishing the correct market value-in-use because, while the actual sale price may be an indicator of value, it is not necessarily an indicator of market value. *Brown testimony Resp't Ex. 3.* The sales prices of comparable properties

have more weight as evidence of value than the actual sales price of the property being valued. *Brown testimony.*

- d. The property located at 12151 Admirals Pointe Circle, which is adjacent to the Petitioner's property to the east, was constructed in 1994 with 6,898 square feet of living area on a 0.60 acre lot and sold in 1997 for \$700,000. *Brown testimony; Resp't Ex. 2.* The property located at 12161 Admirals Pointe Circle, which is the second property to the east of the Petitioner's property, was constructed in 1990 with 6,063 square feet of living area on a 0.50 acre lot and sold in 2002 for \$660,000. *Brown testimony; Resp't Ex. 2.* The property located at 12209 Admirals Pointe Circle, which is the third property east of the Petitioner's property, was constructed in 1988 with 5,644 square feet of living area on a 0.50 acre lot and sold in 1999 for \$745,000. *Brown testimony; Resp't Ex. 2.* While these properties are not comparable to the property in regard to water frontage, they are comparable in terms of the lot size. *Brown testimony; Resp't Ex. 2.* The square footage, construction date, and lot sizes are provided for comparison to the Petitioner's property. *Brown testimony.*
- e. An appraisal is sufficient to make a prima facie case. *Brown testimony; Resp't Ex. 5.* The PTABOA relies on appraisals to determine the correct market value-in-use of a property. *Brown testimony; Resp't Ex. 5.*

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. Petitioner Exhibit 1 –
 - a) Statement of grounds for appeal,
 - b) Appraisal,
 - c) Closing Statement and addendum to purchase agreement,Petitioner Exhibit 2 – Aerial photo of the property and surrounding area,
Respondent Exhibit 1 – Overview map of the property and comparables with property data sheets attached,
Respondent Exhibit 2 – Property record cards and sales disclosure forms for the property and comparables,
Respondent Exhibit 3 – Excerpt from Mass Appraisal of Real Property by IAAO,
Respondent Exhibit 4 – Appraisal,
Respondent Exhibit 5 – Page from determination for Petition 49-400-02-1-5-04115,
Respondent Exhibit 6 – Aerial photograph of the property and surrounding area,
Board Exhibit A – Form 131 Petition,
Board Exhibit B – Notice of Hearing on Petition,
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 Petitioner provided sufficient evidence to support one contention, but he did not provide sufficient evidence to support the other 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 party present any evidence of value relating to a different time, the evidence must also provide some explanation about 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 Petitioner purchased the property in August 1999 in an arm's-length transaction for \$585,000. The parties also presented an appraisal of the property for \$595,000 as of August 1999. Both the sale of the subject property and the appraisal of the subject property have close proximity to the valuation date. The price paid for the subject property and the appraisal are both acceptable alternative approaches to determining the market value-in-use. Both are probative evidence. Consequently, the Board must determine which one constitutes the most persuasive and best evidence in this case.¹
- d. An arm's-length sale of the subject property is often the best evidence of its value on the open market. The Petitioner presented substantial evidence that he bought the subject property in such a transaction. Furthermore, the Respondent did not dispute the total amount paid or attempt to prove that the circumstances of the transaction were anything other than an arm's-length sale. In this case, the purchase price provides direct evidence of how market participants valued the property.
- e. The Respondent claimed that the appraisal of the property is a stronger indicator of value than the actual selling price, but failed to provide substantial support for that proposition. The Respondent's only witness, Beth Brown, admitted that she was not a qualified appraiser. Her opinion that the appraisal is better or more reliable evidence has little, if any, weight. The fact that the Board accepted an appraisal as substantial evidence in another appeal does not establish that an appraisal is always the best evidence or that the appraisal is the best evidence in this case.
- f. The best evidence in this case is the sale of the subject property. It indicates that the property is overvalued by the current assessed value (\$593,300) because the market determined its value was no more than \$585,000 in August 1999.

¹ The Respondent also attempted to support the current assessment with three purportedly comparable properties. According to Respondent, the assessments and sales disclosures for 12151 Admirals Point Circle, 12161 Admirals Point Circle, and 12209 Admirals Point Circle demonstrate that the current assessed value for the subject property (12141 Admirals Point Circle) is correct. The record contains photographs of these properties along with their property record cards and sales disclosure forms. The record, however, does not contain the kind of detailed comparison and analysis of the similarities and differences between these properties that would be necessary to give the evidence probative value. *Long*, 821 N.E.2d at 471. The purported comparables do not support the Respondent's case.

- g. The purchase price included some personal property items. The Petitioner is conceptually correct that the value of personal property should be excluded from the market value-in-use of the real property. Nevertheless, the Petitioner must establish what personal property items were included in the sale and establish the value of that personal property.
- h. Some of those items such as the pool table are clearly personal property, but the record does not prove the proper classification of other items on the list. The Petitioner admitted there was no breakdown into values for specific items. Therefore, the record does not permit the Board to make any reductions based on individual items, even if some of them clearly are not part of the real estate value. In this case, it is unnecessary to determine precisely which of the listed items are personal property because the Petitioner also failed to introduce probative evidence of value for those items, either individually or as a whole. The Petitioner testified that he and the seller determined the total value for all the items listed in the addendum, but there is no appraisal or any other kind of probative evidence of value for the items listed as personal property. The addendum and the testimony that the value for these items should be \$25,000 remain only conclusory statements that lack probative value. *Whitley Products v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).
- i. The Petitioner failed to make a prima facie case for a reduction based on the value of personal property included when he bought the subject property because the evidence fails to establish what the adjustment should be even if all the listed items were personal property.

Conclusion

- 16. The best evidence of the value is the purchase price, but the Petitioner failed to substantiate the value of the personal property included in the purchase price.

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 \$585,000.

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>.