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

Petition: **49-800-03-1-5-01508**
Petitioner: **Harriet M. Ivey, Trustee**
Respondent: **Washington Township Assessor (Marion County)**
Parcel: **8-053197**
Assessment Year: **2003**

The Indiana Board of Tax Review (Board) issues this determination in the above matter. It 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 a Form 130 on October 15, 2004.

2. The PTABOA issued notice of its decision on October 28, 2005.

3. The Petitioner filed an appeal to the Board by filing a Form 131 with the county assessor on November 28, 2005. The Petitioner elected small claims procedures.

4. The Board issued a notice of hearing to the parties dated July 28, 2006.

5. The Board held an administrative hearing on September 14, 2006, before the duly appointed Administrative Law Judge Ronald Gudgel.

6. The following persons were sworn as witnesses at the hearing:
   For the Petitioner – John L. Johantges, Property Tax Group 1, Inc.,
   For the Respondent – Brian Rash.

Facts

7. The subject property is a residence located at 7914 Beaumont Green, West Drive, Indianapolis.

8. The Administrative Law Judge did not conduct an inspection of the property.

9. The assessed value of the subject property as determined by the PTABOA is $59,400 for land and $351,100 for improvements. The total assessed value is $410,500.

10. The Petitioner requested a total assessed value of $369,000.

Issue

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

    a) An appraisal determined the value of the property was $450,000 as of September 28, 2005. *Pet'r Ex. 5*. Trending this amount by three percent, a trending factor developed by township officials, results in value of $369,000 as of January 1, 1999. *Johantges testimony; Pet'r Ex. 1*.

    b) The Petitioner's parcel and nine additional parcels were used to determine the neighborhood factor. *Pet'r Ex. 3*. In previous appeals, the Washington Township Assessor accepted the value from appraisals, sales disclosure forms, U.S. Department of Housing and Urban Development statements, and purchase agreements. These values were then reduced by three percent to arrive at a value as of January 1, 1999. *Johantges testimony; Pet'r Exs. 4, 6*. Three specific examples illustrate this contention. The Jones' assessment was reduced based on a 2002 appraisal trended by an annual rate of three percent. *Johantges testimony; Pet'r Exs. 1, 6*. The assessments of Wightman and Shula were reduced after a sales disclosure form (Wightman) and an appraisal (Shula) established 2000 values, which were then reduced by the annual three percent trending factor. *Johantges testimony; Pet'r Exs. 1, 4*. The Petitioner's trended appraisal should be used to determine the assessed value to maintain uniformity in the assessment methodology used in the neighborhood. *Johantges testimony*.

    c) When the pool was removed from the assessment, the amount of reduction did not account for the increased value of the pool produced by application of the neighborhood factor. The reduction was based only on the cost of the pool. The correct reduction is $12,400 rather than $9,500. *Johantges testimony*.

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

    a) The Petitioner purchased the parcel on December 30, 1998, for $420,000. *Resp't Ex. 3*. The parcel was originally assessed for this amount. At the PTABOA hearing, the Petitioner established the pool was included in the sale price, but it had been removed before the assessment date. The PTABOA reduced the assessment by $9,500 to account for this change. *Rash testimony; Resp't Ex. 4*. The correct reduction to the assessment to account for the removal of the pool should be $12,400. *Rash testimony*.

    b) Although the appraisal appears to be a reasonable indication of the 2005 value of the property, the actual sale of the property a few days before the valuation date is better evidence of its value on January 1, 1999. *Rash testimony*.

    c) Without reviewing the files, the Respondent is unable to discuss or explain the reasons behind any changes in other appeals. *Rash testimony*.

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 IBTR 6484,

    c) Petitioner Exhibit 1 – Summary of contentions,
    Petitioner Exhibit 2 – Residential neighborhood valuation form,
    Petitioner Exhibit 3 – List of sales used to establish the neighborhood factor,
    Petitioner Exhibit 4 – Property record cards (PRCs) for nine properties used to determine the neighborhood factor,
    Petitioner Exhibit 5 – PRC, Form 115, and appraisal for the subject property,
    Petitioner Exhibit 6 – PRCs and related documents for other neighborhood parcels,
    Respondent Exhibit 1 – PRC for the Petitioner's parcel,
    Respondent Exhibit 2 – Appraisal,
    Respondent Exhibit 3 – Sales disclosure form for the Petitioner's parcel,
    Respondent Exhibit 4 – Notification of Final Assessment Determination (Form 115),
    Board Exhibit A – Form 131,
    Board Exhibit B – Notice of Hearing,
    Board Exhibit C – 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 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 weight of the evidence does not support the Petitioner's claim. This conclusion was arrived at because:

a) Real property is assessed based on 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. *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 (incorporated by reference at 50 IAC 2.3-1-2). 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. Thus, a taxpayer may establish a prima facie case based upon an appraisal quantifying the market value of a property through use of generally recognized appraisal principles. *Meridian Towers*, 805 N.E.2d at 479.

b) For the 2002 reassessment, an assessment is to reflect the 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 Petitioner presented an appraisal, prepared by a certified licensed appraiser in accordance with the Uniform Standards of Professional Practice, to establish a $450,000 total value of the property as of September 28, 2005. Using the local officials' three percent trending factor, the Petitioner adjusted the appraisal value to value of $369,000 as of January 1, 1999. This evidence is sufficient to make a prima facie case.

d) In rebuttal, the Respondent established that the Petitioner purchased the property for $420,000 on December 30, 1998. Local officials reduced this amount to account for a pool that was removed prior to March 1, 2002.

e) The Petitioner argued that the PTABOA has adjusted purchase prices in other appeals. The Petitioner specifically addressed the purchase of the Jones property (purchase date of December 17, 2002), Wightman property (purchase date of April 28, 2000), and Shula property (purchase date of February 29, 2000). All of these three sales occurred after January 1, 1999, and the PTABOA trended those sale prices to the valuation date. In contrast, the Petitioner purchased the property only two days prior to the valuation date. Accordingly, no trending of this purchase price is appropriate.

f) Evidence of the actual sale price of a property is often the best indication of its value-in-use. In this appeal, the actual purchase price paid by the Petitioner only two days prior to the January 1, 1999, valuation date appears to be a more reliable indication of market value-in-use than the appraisal estimate of value trended back from 2005 to 1999.

g) The parties agreed $12,400 should be deducted based on the removal of the pool. Accordingly, the assessment should be $407,600 (the purchase price of $420,000 minus $12,400 for the pool).

Conclusion

16. The Board finds in favor of the Respondent because the purchase price of the subject property has close proximity to the valuation date and is more persuasive evidence than the appraisal. In addition, the parties agreed the adjustment for the removal of the pool should be $12,400.

Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the total assessment will be reduced to $407,600.

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>.