

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

**Petition #:** 51-005-03-1-5-00005  
**Petitioners:** Elza E. and Patsy D. Quinn  
**Respondent:** Lost River Township Assessor (Martin County)  
**Parcel #:** 0051213018  
**Assessment Year:** 2003

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 Petitioners initiated an assessment appeal with the Martin County Property Tax Assessment Board of Appeals (the PTABOA) by written document dated May 3, 2005.
2. The PTABOA's Notification of Final Assessment Determination was mailed to the Petitioners on April 11, 2005.
3. The Petitioners filed an appeal to the Board by filing a Form 131 with the county assessor on May 4, 2005. Petitioners elected to have this case heard in small claims.
4. The Board issued a notice of hearing to the parties dated July 13, 2005.
5. The Board held an administrative hearing on September 14, 2005, before the duly appointed Administrative Law Judge (the ALJ) Jennifer Bippus.
6. Elza E. Quinn, one of the property owners, and Carolyn S. McGuire, the Martin County Assessor, appeared at the hearing and were sworn as witnesses.

**Facts**

7. The property is classified as residential as is shown on the property record card (the PRC) for parcel #0051213018.
8. The ALJ did not conduct an inspection of the property.

9. The Martin County PTABOA determined the assessed value of the subject property to be \$3,500 for the land and \$105,000 for the improvements for a total assessed value of \$108,500.
10. The Petitioners request an assessed value of \$3,500 for the land and \$77,000 for the improvements for a total assessed value of \$80,500.

### **Issues**

11. Summary of Petitioners' contentions in support of alleged error in assessment:
  - a) The Petitioners contend that the subject property is overstated. According to the Petitioners, Petitioner Exhibit 1 is a listing of the tax year, the assessed value, the tax rate, taxes paid, and the percentage of increase in taxes paid. The new reassessment value is 2.78 times the 2002 value resulting in a 42.5% increase in taxes. *Quinn testimony & Petitioner Exhibit 1.*
  - b) The Petitioners further argue that an appraisal done in 2004 shows that the property is over-valued. According to the Petitioners, the appraisal determined an appraised value of \$80,500 which is quite a bit lower than the assessed value of \$108,500. *Petitioner Exhibit 5.* The Petitioners allege that the property should not be assessed for more than what the appraisal states. *Quinn testimony.*
  - c) According to the Petitioners, the subject property has not been sold over the years and the Petitioners have lived at the property for fifty years. *Quinn testimony.*
  - d) Finally, the Petitioners argue that the Form 115, Section V, states that the construction date of the subject property is 1995, but the property was constructed in 1955. Further, Section VII of that form states that the PTABOA should fill this section out and it looks like the PTABOA did not look at the property. *Quinn testimony & Petitioner Exhibit 3.*
12. Summary of Respondent's contentions in support of the assessment:
  - a) According to the Respondent, the only property that the Respondent could find in the appraisal to compare the PRC with was Comparable 1. *McGuire testimony & Respondent Exhibit 1.* The PRC for Sales Comparable 1 shows a "C" grade and "good" condition for the dwelling. The Respondent alleges that this is in line with the subject property. *McGuire testimony & Respondent Exhibits 1 and 2.* The Respondent also submitted a photograph of this comparable property. *Respondent Exhibit 3.* According to the Respondent, Comparables 4 and 5 located on East State and West State Road 56 may not be in Martin County. The Respondent alleged that there was no way to know where these properties are located and if they are in the correct county. *McGuire testimony & Petitioner Exhibit 5.*

- b) The subject's PRC shows the correct date of construction is 1955, with an effective age of 1973 due to a new addition. The assessment was calculated correctly using the correct dates. The 1995 is a typographical error on the Form 115. It should have read 1955. *Id.* & *Respondent Exhibit 2*.
- c) The land is priced according to the land valuation commission. *McGuire testimony*.

### **Record**

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

- a) The Petition.
- b) The CD recording of the hearing labeled BTR 6251.
- c) Exhibits:

Petitioner Exhibit 1: A listing of the assessment years, assessments, tax rates, and taxes

Petitioner Exhibit 2: Copy of Form 130 Petition

Petitioner Exhibit 3: Copy of Form 115

Petitioner Exhibit 4: Copy of Form 131 Petition

Petitioner Exhibit 5: Appraisal

Respondent Exhibit 1: Copy of PRC for Comparable 1 from Petitioners appraisal

Respondent Exhibit 2: Copy of subject's PRC

Respondent Exhibit 3: Copy of photograph for Comparable 1

Board Exhibit A: Form 131 Petition and attachments

Board Exhibit B: Notice of Hearing on Petition

Board Exhibit C: Authorization letter from Norma J. Purkhiser, Lost River Township Assessor

Board Exhibit D: 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 Township Assessor*, 805 N.E.2d 475, 478

(Ind. Tax Ct. 2003); see also, *Clark v. State Board of Tax Commissioners*, 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 Township Assessor*, 802 N.E.2d 276 (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 did not provide sufficient evidence to support their contentions. This conclusion was arrived at because:
- a) The Petitioners contend that the assessment of the subject property is excessive. In support of this claim the Petitioners submitted an appraisal dated November 10, 2004, which indicated an appraised value of \$80,500. *Quinn testimony & Petitioner Exhibit 5*.
  - b) Real property in Indiana is assessed on the basis of its “true tax value”. See I.C. 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 2 (2001 (incorporated by reference at 50 IAC 2.3-1-2) (hereinafter “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 Petitioners failed to show the relevance of the appraisal dated November 10, 2004, to the January 1, 1999, valuation date. Further, all of the comparable

sales in the appraisal were from 2003. The Petitioners did not trend the appraisal back to the January 1, 1999, valuation date per *Long*, nor were the sales comparables used in the appraisal trended back to 1999.

- e) The Petitioners' appraisal tends to show the house is over-valued assuming that houses appreciated in the period between 1999 and 2003. However, no such evidence was presented regarding the housing market in that period. As such, we are bound by the Indiana Tax Court's ruling in *Long* and, thus, the Board finds that the appraisal lacks probative value.
- f) The Petitioners also alleged that their tax rate increased 42.5% in the last two years. *Quinn testimony & Petitioner Exhibit 1*. The Petitioners are mistaken in their reliance on the earlier assessment. Each assessment and each tax year stand alone. *Fleet Supply, Inc. v. State Bd. of Tax Comm'rs*, 747 N.E.2d 645, 650 (Ind. Tax Ct. 2001) (citing *Glass Wholesalers, Inc. v. State Bd. of Tax Comm'rs*, 568 N.E.2d 1116, 1124 (Ind. Tax Ct. 1991)). Thus, evidence as to a property's assessment in one tax year is not probative of its true tax value in a different tax year. *See, Id.*
- g) 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 Indus. v. Dep't of Local Gov't Fin.*, 799 N.E.2d 1215, 1221-1222 (Ind. Tax Ct. 2003).

### **Conclusion**

16. The Petitioners 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.

ISSUED: \_\_\_\_\_

\_\_\_\_\_  
Commissioner,  
Indiana Board of Tax Review

## **IMPORTANT**

### **- 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 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/trialproc/index.html>. The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>.**