

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

Petition #: 84-002-02-1-5-00010
Petitioners: John E. & MaryEllen Christeson
Respondent: Harrison Township Assessor (Vigo County)
Parcel #: 1180615261026
Assessment Year: 2002

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 Vigo County Property Tax Assessment Board of Appeals (the PTABOA) by written document dated September 17, 2003.
2. The Petitioners received notice of the decision of the PTABOA on August 2, 2004.
3. The Petitioners filed an appeal to the Board by filing a Form 131 with the county assessor on August 31, 2004. The Petitioners elected to have this case heard in small claims.
4. The Board issued a notice of hearing to the parties dated March 23, 2005.
5. The Board held an administrative hearing on May 24, 2005, before the duly appointed Administrative Law (the ALJ) Judge Joan Rennick.
6. Persons present and sworn in at hearing:
 - a) For Petitioners: John E. Christeson, Owner
 - b) For Respondent: Deborah J. Lewis, Vigo County Assessor
Ann Akers, Vigo County PTABOA
Gloria Donham, Vigo County PTABOA
Larry Auler, Harrison Township Assessor
Richetta J. Hale, Harrison Township Deputy Assessor

Facts

7. The property is classified as other residential structure, as is shown on the property record card for parcel #1180615261026. The subject property consists of two detached garages and a utility shed.
8. The ALJ did not conduct an inspection of the property.
9. The Vigo County PTABOA determined the assessed value of the subject property to be \$10,600 for the land and \$18,900 for the improvements for a total assessed value of \$29,500.
10. The Petitioners requested an assessed value of \$8,000 for the land and \$14,000 for the improvements for a total assessed value of \$22,000.

Issue

11. Summary of Petitioners' contentions in support of alleged error in assessment:
 - a) The Petitioners contend that the subject property is over-valued. According to the Petitioners, they purchased the subject property for \$22,000 in December 2001. *Christeson testimony; Pet'r Ex. 4.*
 - b) Further, according to the Petitioners, the subject property was listed on October 9, 2000. The original list price was \$28,000; the price was later reduced to \$23,500. The subject property was on the market for over a year before the Petitioners purchased it for \$22,000 in December 2001. *Christeson testimony; Pet'r Ex. 3, 4.*
 - c) The Petitioners testified that they do not own any property adjacent to the subject property. The Petitioners use the subject property for storage. *Christeson testimony.*
12. Summary of Respondent's contentions in support of the assessment:
 - a) According to the Respondent, the Petitioners purchased the subject property from Mr. Corona, who owned for a little over a year. Mr. Corona purchased the subject property for \$23,000 from Ms. Eley. *Hale testimony.*
 - b) As a result of the PTABOA hearing, the land was corrected to reflect three lots and the utility shed was changed to an E grade. *Board Ex. A, Form 115.*

Record

13. The official record for this matter is made up of the following:
 - a) The Petition.

b) The recording of the hearing.

c) Exhibits:

Petitioner Exhibit 1: Subject Property Record Card (the PRC)

Petitioner Exhibit 2: Form 131 petition

Petitioner Exhibit 3: MLS listing sheet

Petitioner Exhibit 4: Real estate settlement statement

Petitioner Exhibit 5: Form 115

The Respondent presented no exhibits

Board Exhibit A: Form 131 petition

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 Township 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 Township 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) The Petitioners contend the assessment of the subject property is too high. To support their contention, the Petitioners presented a settlement statement dated

- December 4, 2001, showing a contract sales price of \$22,000 for the purchase of the subject property. *Pet'r Ex. 4.*
- b) The sale of a subject property is often the most compelling evidence of its market value. The \$22,000 purchase price is approximately 25% below its assessed value of \$29,500. Further, undisputed testimony shows that the previous owner purchased the property in April of 2000 for \$23,000. *Pet'r Ex. 1.* Therefore, the Board finds that the Petitioners raised a prima facie case that the property is over-valued.
 - 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). Here the Respondent presented no evidence in support of its assessment. The Respondent merely alleged that the Petitioners' evidence was not trended back to January 1, 1999, and therefore did not comply with the requirements of *Long*.
 - d) It is true, as the Respondent asserts, that for the 2002 general reassessment, real estate is to be valued as of January 1, 1999. *See 2002 REAL PROPERTY ASSESSMENT MANUAL 4* (incorporated by reference at 50 IAC 2.3-1-2). Absent evidence to the contrary, however, the Board will not assume that the subject property depreciated substantially between January 1, 1999, and the date that the Petitioners bought the property. However, in this case, there is evidence in the record that the market has declined somewhat since the January 1, 1999, valuation date. Here, the Petitioners asserted in their Form 131 that property values are falling and the previous owner purchased the subject property in 2000 for \$23,000. Thus, while Petitioners purchase price is some evidence that the property is over-valued, the Board does not accept the Petitioners' purchase price as the best evidence of the subject property's value.
 - e) However, undisputed testimony shows that the property was sold in April of 2000 for \$23,000. To determine the land value for each neighborhood, a township assessor selects representative sales disclosure statements or written estimations of a property value. *REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 – VERSION A, Chap.2, pg. 7* (the GUIDELINES), According to the GUIDELINES, “representative disclosure statements ... refer to a transaction, or written estimations of value must refer to an estimation of value, that is dated no more than eighteen (18) months prior or subsequent to January 1, 1999.” Accordingly, sales that occurred within eighteen months of the January 1, 1999 assessment valuation date have evidentiary value. Thus, the Board determines that the sale that occurred April 25, 2000 is a better indicator of the property's value as of January 1, 1999, than Petitioners' purchase of the subject property on December 4, 2001. Therefore, the Board determines the value of the subject property to be \$23,000.

Conclusion

16. The Petitioners made a prima facie case. The Respondent did not rebut Petitioners' evidence. The Board finds in favor of the Petitioners and determines the value of the subject property to be \$23,000.

Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should be changed.

ISSUED: **December 20, 2005**

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>>.