

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

Petition: 84-002-02-1-5-00134
Petitioners: John P. and Judith K. Torphy
Respondent: Harrison Township Assessor (Vigo County)
Parcel: 118-06-10-106-032
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. Petitioners initiated an assessment appeal with the Vigo County Property Tax Assessment Board of Appeals (the PTABOA) by written document dated October 10, 2003.
2. The PTABOA issued a notice of its decision on October 19, 2004.
3. Petitioners filed an appeal to the Board by filing a Form 131 with the county assessor on November 4, 2004. Petitioners elected to have this case heard in small claims.
4. The Board issued a notice of hearing to the parties dated September 8, 2005.
5. The Board held an administrative hearing on October 12, 2005, before the duly appointed Administrative Law Judge Rick Barter.
6. The following persons were sworn in as witnesses at the hearing:
For Petitioners - John P. Torphy, property owner,
For Respondent - Larry Auler, Harrison Township Assessor,¹
Richetta Hale, Harrison Township Chief Deputy Assessor,
Ann Akers, Vigo County PTABOA,
Gloria Donham, Vigo County PTABOA,
Susan J. McCarty, Vigo County Assessor's Office.

¹ The Harrison Township Assessor is the Respondent in the case. At the beginning of the hearing he testified it was his desire to include testimony and written evidence from the PTABOA and the county assessor's office, as well as his own.

Facts

7. The property is a single-family dwelling located at 3101 N. 10th Street in Terre Haute.
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:
land \$10,500 improvements \$104,300 total \$121,800.
10. The assessed value requested by Petitioners on the Form 131 is:
land \$10,500 improvements \$84,500 total \$95,000.

Issue

11. Summary of Petitioners' contentions in support of alleged error in the assessment:
 - a) Petitioners submitted an appraisal of their property by Larry D. Hos, a certified residential appraiser. This appraisal concluded the value of the property on March 1, 2002, was \$86,000. The appraised value was based on sales of comparable properties during the period January 1, 1998, through December 31, 1999. Sales prices of these comparable properties ranged from \$75,000 to \$96,000. Adjusted sales prices ranged from \$75,500 to \$93,000. *Petitioners Exhibit 1.*
 - b) A vacant lot next to Petitioners' property sold for \$7,500. The assessed value of Petitioners' land is appropriate, but the value placed on the improvements is excessive. *Torphy testimony.*
 - c) The realtor who sold the home to Petitioners in 1992 told them their property would list for \$95,000 to \$100,000 in the current market. *Id.*
12. Summary of Respondent's contentions in support of the assessment:
 - a) The appraisal submitted by Petitioners contains inconsistencies in square foot adjustments for comparable properties and is therefore inaccurate. For example, Petitioners' property is 1,295 square feet. Comparable Property 6 and Comparable Property 9 are both 1,200 square feet. These properties received an adjustment of \$3,000 for a difference of ninety-five feet of living area. In contrast, Comparable Property 5 received an adjustment of \$6,000 for a living area of 1,500 square feet. Adjustments range from \$27.27 to \$33.33 per square foot of living area. *Donham testimony; Akers testimony; Respondent Exhibits 1 and 2.*
 - b) There is no problem with the sales values used in the appraisal, only the adjustments. *Donham testimony.*

- c) Some of the purported comparable properties used in the appraisal are located in other townships and have different market adjustment rates. For example, Comparable Property 6 (6570 N. Fruitridge Avenue) is located in Otter Creek Township. *Akers testimony.*
- d) A home located next to Petitioners' property is assessed for \$114,000, which supports the current assessment. *Auler testimony.*
- e) After reviewing the explanation of the adjustments, the Township Assessor agreed the appraisal value of \$86,000 is fair and equitable. *Petitioners Exhibits 2, 3.*

Record

13. The official record for this matter is made up of the following:
- a) The Petition,
 - b) The compact disc recording of the hearing,
 - c) Petitioners Exhibit 1 - Appraisal of subject dated November 16, 2004,
 Petitioners Exhibit 1A - Copy 2 of above appraisal,
 Petitioners Exhibit 2 - Cover letter for additional evidence,²
 Petitioners Exhibit 2A - Appraiser's letter dated October 12, 2005, with copy 3 of appraisal,
 Petitioners Exhibit 3 - Statement signed by Harrison Township Assessor Auler regarding additional evidence,
 Petitioners Exhibit 4 - Computations related to 1998 market sales,
 Petitioners Exhibit 5 - Opinion of value by realtor Becky Busier,
 Petitioners Exhibit 6 - Multiple Listing Service (MLS) page for 3055 N. 15th Street,
 Petitioners Exhibit 7 - MLS list page for 4506 N. 15th Street,
 Petitioners Exhibit 8 - MLS list page for 4510 N. 15th Street,
 Petitioners Exhibit 9 - MLS list page for 2419 Cailynn,
 Petitioners Exhibit 10 - MLS list page for 2310 S. 21st Street,
 Respondent Exhibit 1 - Statement of contentions,
 Respondent Exhibit 2 - Computations of adjustments to appraisal,

² The parties agreed Petitioners should be allowed to provide additional evidence to explain the appraiser's adjustments to the comparable sales. Because both parties agreed to waive the restriction against the submission of additional evidence in small claims hearings (*see* 52 IAC 3-1-5(e)), the Administrative Law Judge allowed the limited submission of additional evidence solely to explain the adjustments. *Board Exhibit D.* In addition to evidence pertaining to the adjustments, however, Petitioners submitted supplemental evidence in support of their position. *Petitioners Exhibits 4 through 10.* Only the requested evidence concerning the adjustments was considered in the determination of this appeal.

Respondent Exhibit 3 – Statement from Gloria Donham regarding additional evidence,

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”).
15. After reviewing the explanation of the adjustments, Respondent agreed the appraisal value of \$86,000 is fair and equitable.

Conclusion

16. The Board accepts the agreement of the parties. The total assessment should be changed to \$86,000.

Final Determination

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

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>.