

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

Petition #: 84-002-02-1-5-00803
Petitioner: G.X. Thompson
Respondent: Harrison Township Assessor (Vigo County)
Parcel #: 118-06-22-229-014
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 Petitioner initiated an assessment appeal with the Vigo County Property Tax Assessment Board of Appeals (the PTABOA) by written document dated October 18, 2003.
2. The Petitioner received notice of the decision of the PTABOA on October 25, 2004.
3. The Petitioner filed an appeal to the Board by filing a Form 131 with the county assessor on November 24, 2004. The Petitioner elected to have this case heard in small claims.
4. The Board issued a notice of hearing to the parties dated December 7, 2005.
5. The Board held an administrative hearing on February 21, 2006, before the duly appointed Administrative Law Judge (the ALJ) Rick Barter.
6. Persons present and sworn in at hearing:
 - a) For Petitioner: G.X. Thompson, Petitioner
Beverley Thompson, Petitioner's wife
Larry Bohnert, Witness for Petitioner
 - b) For Respondent: Larry Auler, Harrison Township Assessor
Richetta Hale, Harrison Township Chief Deputy

Facts

7. The subject property is a single-family residence located at 512 N. 16th Street, Terre Haute in Harrison Township.

8. The ALJ did not conduct an on-site visit of the property.
9. The PTABOA determined the assessed values of the subject property to be \$5,000 for land and \$600 for improvements, for a total assessed value of \$6,100.
10. The Petitioners requested an assessment of \$2,000 for the land and a negative \$2,000 for improvements, for a total assessed value of \$0.

Issue

11. Summary of Petitioners' contentions in support of an error in the assessment:
 - a. The Petitioner contends that because of the deteriorating condition of the vacant house for more than thirty years, that the structure has a negative value on the subject property. *G.X. Thompson testimony*. In support of this contention, the Petitioner submitted exterior photographs of the subject structure. *Petitioner Exhibit 4*.
 - b. The Petitioner further contends that even though the subject property was purchased in 1975 for \$750, the Petitioner has never been able to rent the one-bedroom house because it lacks a sewer line. *G.X. Thompson testimony; Petitioner Exhibit 1*. The Petitioner testified that the property owner to the south of the subject property refuses to allow a new sewer line to be installed across his property thus making it impossible to ever have a sewer on the subject property. *G.X. Thompson testimony*.
 - c. The Petitioner testified that in 1988 a potential buyer considered a contract purchase of the subject property for \$2,000 but backed out when the potential buyer confirmed that the neighboring property owner would not allow installation of a sewer line to the subject property across his property. *Id.; Petitioner Exhibit 2*.
 - d. The Petitioner concluded that the subject property is worth \$2,000 or less. *Id.; Petitioner Exhibit 1*.
12. Summary of Respondent's contentions in support of the assessment:
 - a. The Respondent agrees that the property's assessment is over-stated, even though the subject property was assessed following the state's Guidelines and the Vigo County Land Order. *Hale testimony*. The Respondent further contends that the lot could not be built upon because of its size, a violation of city building codes and the fact that it has no sewer. *Id*. The Respondent testified that the Petitioner's written offer to sell the subject for \$2,000 is the best evidence of the property's market value. *Id*.

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 Thompson 84002021500803 022106,

c. Exhibits:

Petitioner Exhibit 1 - Summary of contentions,
Petitioner Exhibit 2 - Purchase Agreement dated April 18, 1975,
Petitioner Exhibit 3 - Unsigned 1988 agreement to buy subject for \$2,000,
Petitioner Exhibit 4 - Copies of 13 photographs of subject structure

Respondent Exhibit – None were submitted

Board Exhibit A - Form 131 petition,
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 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 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 failed to provide sufficient evidence to establish a prima facie case for a reduction in value. The Respondent, however, agreed the property was over-assessed. The Board reached this decision for the following reasons:

- a. The Petitioner contends that the evidence wherein he offered to sell the subject for \$2,000 in 1988 is sufficient to make a prima facie case that the subject property's assessed value is over-stated. *G.X. Thompson testimony; Petitioner Exhibit 1.*

- 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).
- 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.
- d. Here the Petitioner argues that his offer to sell the subject for \$2,000 in 1988 is sufficient to show that the assessed value is over-stated. *G.X. Thompson testimony; Petitioner Exhibit 1*. The Board finds, however, that an unconsummated sale of the subject property has little probative value to establish the property’s market value. Further, even if the Petitioner sold the property in 1988, the Petitioner presented no evidence that relates the 1988 offer to the January 1, 1999, valuation date pursuant to the Indiana Tax Court ruling in *Long*. Thus, the Petitioner has failed to raise a prima facie case that the subject property is over-valued.¹
- e. 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). Here the Respondent had no duty to support the current assessed value. Despite this, however, the Respondent agreed that the property was over-valued and that a more appropriate value for the property would be \$2,000. We commend the Respondent’s candor and find that the subject property should be valued at \$2,000.

Conclusion

- 16. Though the Petitioner failed to provide sufficient evidence to establish a prima facie case, the Respondent agreed that the subject property’s assessment was over-valued. The Board, therefore, finds that the assessment should be changed to \$2,000.

Final Determination

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

¹ The Petitioner also provided pictures of the house on the property. To the extent that the Petitioner raises an issue with the condition of the property, the Board notes that the house is currently rated “very poor.” There is no lower condition rating upon which the improvements could be assessed.

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>.