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

Petition No.: **18-017-09-1-5-00017**
Petitioners: **C. Kurt & Catherine Alexander**
Respondent: **Delaware County Assessor**
Parcel No.: **18-10-14-178-008.000**
Assessment Year: **2009**

The Indiana Board of Tax Review ("Board") issues this determination in the above matter, and finds and concludes as follows:

Procedural History

1. C. Kurt & Catherine Alexander filed a Form 130 petition contesting the subject property's March 1, 2009 assessment. On July 15, 2011, the Delaware County Property Tax Assessment Board of Appeals ("PTABOA") issued its determination lowering the assessment, but not to the level that the Alexanders had requested.

2. The Alexanders then timely filed a Form 131 petition with the Board. They elected to have their appeal heard under the Board's small claims procedures.

3. On March 15, 2012, the Board held a hearing through its designated administrative law judge, Patti Kindler ("ALJ").

4. The following people were sworn in and testified:

    a) Catherine Alexander

    b) Kelly Hisle, Delaware County Deputy Assessor

Facts

5. The subject property is an unimproved lot in Woodland Trails Subdivision, in Yorktown.

6. Neither the Board nor the ALJ inspected the property.

7. The PTABOA determined the following assessment for March 1, 2009:

Land: $85,000 Improvements: $0 Total: $85,000[1]

8. On their Form 131 petition, the Alexanders requested the following values:

Land: $38,250 Improvements: $0 Total: $38,250

Summary of Parties' Contentions

9. The Alexanders' evidence and contentions:

a) The subject property was assessed too high in light of the sale and listing prices for three lots in the same subdivision: (1) a lot owned by John Yount (2) a lot owned by Scott and Kimberly Inks, and (3) a lot located at 0 Pinehurst. Unlike those lots, the subject property is not wooded and does not abut a golf course. In fact, the Alexanders only bought the subject property so they could have a larger yard. *Alexander testimony.*

b) The Alexanders pointed to the following information for their three purportedly comparable lots:

- Yount lot. This lot is just one block from the subject property and sold for $38,250 in January 2010. It abuts a golf course.
- Inks lot. This lot sold for $71,000 in June 2008. It is heavily wooded with mature trees and a sprinkler system.
- 0 Pinehurst. This lot was listed for $67,900 on March 11, 2012.

Alexander testimony; Pet'rs Exs. 2-4.

c) There are few empty lots left in the Alexanders' subdivision. In fact, the sales that the Assessor used in her analysis all have homes on them and are located on a golf course. *Alexander argument.*

10. The Assessor's evidence and contentions:

a) In determining the subject property's assessment, the Assessor followed Department of Local Government Finance ("DLGF") guidelines regarding annual adjustments. Those guidelines called for assessors to use sales data from 2007 and 2008 for the March 1, 2009 assessment date. *Hisle testimony; Resp't Ex. 1* (*citing* 50 IAC 21-3-3(a)).

[1] The PTABOA's Form 115 Notification of Final Assessment Determination lists the subject property's 2009 assessment as $85,000. *See Board Ex. A at 4.* The property record card that the Assessor offered lists a slightly different assessment—$85,500. *See Respondent Ex. 3.* The PTABOA's determination controls.

b) Thus, to support the subject property's March 1, 2009 assessment, the Assessor pointed to the following sales from the same subdivision:

- The Gregg Property, which has 16,200 square feet and sold on October 2, 2007 for $65,000, or $4.01 per square foot;
- The Inks property, which has 19,869 square feet and sold on June 4, 2008 for $71,000, or $3.57 per square foot;
- The Hembree property, which has 16,046 square feet and sold on October 9, 2007 for $65,000, or $4.05 per square foot; and
- The Myers property, which has 17,400 square feet and sold on November 27, 2006 for $72,500, or $4.17 per square foot.

Hisle testimony; Resp't Exs. 2, 4-12. Contrary to Ms. Alexander's testimony, all of the sales were for land only, and none of the properties abuts a golf course. *Hisle testimony.*

c) The four comparable properties sold for an average price of $3.77 per square foot. The subject property, which was 28,032 square feet, was assessed for only $3.05 per square foot. *Hisle testimony; Resp't Exs. 2-3.*

Record

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

a) The Form 131 petition,

b) A digital recording of the hearing,

c) Exhibits:

Petitioner Exhibit 1:	Form 131 petition
Petitioner Exhibit 2:	Data from beacon site for John D. Yount property
Petitioner Exhibit 3:	Data from beacon site for property owned by Scott A. & Kimberly J. Inks
Petitioner Exhibit 4:	March 11, 2012 listing for 0 Pinehurst from www.thestarpress.com

Respondent Exhibit 1:	50 IAC 21-3-3
Respondent Exhibit 2:	Sales comparison spreadsheet
Respondent Exhibit 3:	Property record card ("PRC") for the subject property
Respondent Exhibit 4:	PRC for property owned by the Greggs

Respondent Exhibit 5:	Screen shot from the Assessor's sales disclosure file for the Gregg property
Respondent Exhibit 6:	PRC for the Inks property
Respondent Exhibit 7:	Screenshot from the Assessor's sales disclosure file for the Inks property
Respondent Exhibit 8:	PRC for property owned by the Hembrees
Respondent Exhibit 9:	Screenshot from the Assessor's sales disclosure file for the Hembree property
Respondent Exhibit 10:	PRC for property owned by Steven Myers
Respondent Exhibit 11:	Listing sheet for the Myers property
Respondent Exhibit 12:	Map showing the location of the subject property and the Assessor's comparable sales

Board Exhibit A:	Form 131 petition
Board Exhibit B:	Hearing notice
Board Exhibit C:	Hearing sign-in sheet

d) These Findings and Conclusions.

Analysis

Burden of Proof

12. Generally, a taxpayer seeking review of an assessing official's determination must make a prima facie case proving both that the current assessment is incorrect and what the correct assessment should 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).

13. In making its case, the taxpayer must explain how each piece of evidence relates to its 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").

14. If the taxpayer makes a prima facie case, the burden shifts to the assessor to offer evidence to impeach or rebut the taxpayer's evidence. *See American United Life Ins. Co v. Maley,* 803 N.E.2d 276 (Ind. Tax Ct. 2004); *Meridian Towers,* 805 N.E.2d at 479.

Discussion

15. The Alexanders did not make a prima facie case for reducing the subject property's assessment. The Board reaches this conclusion for the following reasons:

a) Indiana assesses real property based on its true tax value, which the 2002 Real Property Assessment Manual defines as "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." 2002 REAL PROPERTY ASSESSMENT MANUAL 2 (incorporated by reference at 50 IAC 2.3-1-2 (2009)). Appraisers traditionally have used three methods to determine a property's market value: the cost, sales-comparison, and income approaches. *Id.* at 3, 13-15. Indiana assessing officials generally use a mass-appraisal version of the cost approach set forth in the Real Property Assessment Guidelines for 2002 – Version A.

b) A property's market value-in-use, as determined using the Guidelines, is presumed to be accurate. *See* MANUAL at 5; *Kooshtard Property VI, LLC v. White River Twp. Assessor*, 836 N.E.2d 501, 505 (Ind. Tax Ct. 2005) *reh'g den. sub nom.; P/A Builders & Developers, LLC*, 842 N.E.2d 899 (Ind. Tax Ct. 2006). But a taxpayer may rebut that presumption with evidence that is consistent with the Manual's definition of true tax value. MANUAL at 5. A market-value-in-use appraisal prepared according to the Uniform Standards of Professional Appraisal Practice ("USPAP") often will suffice. *Kooshtard Property VI*, 836 N.E.2d at 506 n.6. A taxpayer may also offer actual construction costs, sales information for the subject or comparable properties, and any other information compiled according to generally accepted appraisal principles. MANUAL at 5.

c) Regardless of the method used to challenge an assessment's presumed accuracy, a party must explain how its evidence relates to the property's market value-in-use as of the relevant valuation date. *O'Donnell v. Dep't of Local Gov't Fin.,* 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006). Otherwise, the evidence lacks probative value. *See id.* For March 1, 2009 assessments, the valuation date was January 1, 2008. 50 IAC 21-3-3(b)(2009).

d) Here, the Alexanders primarily relied on sales and listing information for properties located in the subject property's addition. Of course, sale prices for other properties do not, by themselves, show the value for a given property. But when one analyzes those sales prices using generally accepted appraisal principles, such as the sales-comparison approach, that raw data can be transformed into a reliable value indicator. *See generally,* MANUAL at 13-14 (describing the sales-comparison approach).

e) In order to effectively use a comparison approach as evidence in an assessment appeal, one must first show that the properties being examined are comparable to each other. Conclusory statements that a property is "similar" or "comparable" to another property are not probative of the properties' comparability. *Long v. Wayne Twp. Assessor,* 821 N.E.2d 466, 470-471 (Ind. Tax Ct. 2005). Instead, one must identify the characteristics of the property under appeal and explain how those characteristics compare to the characteristics of the purportedly comparable properties. Similarly, one must explain how any differences between the properties affect their relative market values-in-use. *Id.*

f) The Alexanders did not offer the type of analysis contemplated by the Indiana Tax Court in *Long*. At most, Ms. Alexander testified that two of the purportedly comparable properties are better than the subject property. For example, she claimed

that the Yount property had a better location because it backs up to the golf course, and that the Inks property has mature trees and a sprinkler system while the subject property is located next to a field and has only one small tree. But Ms. Alexander did little to quantitatively or qualitatively show how those differences affect the properties' relative values. More importantly, Ms. Alexander simply ignored other relevant differences, most notably that the subject property is much larger than any of the three purportedly comparable properties.

g) Even if Ms. Alexander had offered a more reasoned analysis of her purportedly comparable sales and listings, only the sale price for the Inks property bears any relationship to the January 1, 2008 valuation date at issue in this appeal. The Yount property sold on January 7, 2010, more than two years after the relevant valuation date. And the listing for 0 Pinehurst was from March 11, 2012, more than four years after the valuation date. Yet Ms. Alexander did not try to explain how either the 2010 sale or 2012 listing relates to the subject property's market value-in-use as of January 1, 2008. Thus, the sale and listing prices for those two properties lack probative value.

h) Because the Alexanders did not offer probative evidence of the subject property's market value-in-use, they failed to make a prima facie case for reducing the property's assessment.

Conclusion

16. The Alexanders failed to make a prima facie case for reducing the subject property's assessment. The Board therefore finds for the Assessor.

Final Determination

In accordance with the above findings and conclusions, the Indiana Board of Tax Review now affirms the assessment.

ISSUED: June 8, 2012

_____
Chairman, Indiana Board of Tax Review

_____
Commissioner, Indiana Board of Tax Review

_____
Commissioner, Indiana Board of Tax Review

IMPORTANT NOTICE
- APPEAL RIGHTS -

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5, as amended effective July 1, 2007, by P.L. 219-2007, and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice. The Indiana Tax Court Rules are available on the Internet at <http://www.in.gov/judiciary/rules/tax/index.html>. The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code>. P.L. 219-2007 (SEA 287) is available on the Internet at <http://www.in.gov/legislative/bills/2007/SE/SE0287.1.html>.