

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

Petition: 91-010-12-1-5-00035
Petitioner: Melvin Blades
Respondent: White County Assessor
Parcel: 91-83-10-000-021.600-010
Assessment Year: 2012

The Indiana Board of Tax Review (“Board”) issues this determination, finding and concluding as follows:

Procedural History

1. The Petitioner initiated his assessment appeal with the White County Property Tax Assessment Board of Appeals (“PTABOA”) by filing a Form 130 petition on May 24, 2012.
2. The PTABOA issued a notice of its determination on March 11, 2013.
3. The Petitioner timely filed his Form 131 petition with the Board. He elected to have this appeal heard under the Board’s small claims procedures.
4. The Board issued a notice of hearing to the parties on September 11, 2013.
5. On October 11, 2013, Administrative Law Judge (“ALJ”) Ellen Yuhan held the administrative hearing. The ALJ did not inspect the subject property.
6. Scott Potts, representative for the Respondent, and Melvin Blades were sworn as witnesses and testified at the hearing.

Facts

7. The subject property is a mobile home on a residential parcel located at 6770 Leasure Court, Monticello, Indiana.
8. The PTABOA determined the 2012 assessment is \$16,500 for land and \$13,500 for improvements (total \$30,000).
9. On the Form 131 Petition, the Petitioner contended the land should be assessed at \$16,500 and the improvements at \$5,000 (total \$20,000).

Record

10. The official record contains the following:
- a. The Form 131 petition,
 - b. Digital recording of the hearing,
 - c. Petitioner Exhibit 1 – Market analysis prepared by Bev Tatlock,¹
Petitioner Exhibit 2 – Photographs of the subject property (6) and the neighbor's property (2),
Petitioner Exhibit 3 – Mobile home listing from Homes & Lifestyles of Monticello, October 2, 2013,

Respondent Exhibit 1 – Sales comparison of the subject property with the neighboring parcel,

Board Exhibit A – Form 131 petition,
Board Exhibit B – Notice of Hearing,
Board Exhibit C – Hearing Sign-In Sheet,
 - d. These Findings and Conclusions.

Burden

11. Generally, a taxpayer seeking review of an assessing official's determination has the burden of proving that a property's assessment is wrong 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). Recently, the Indiana General Assembly enacted a statute that in some cases shifts the burden of proof:

This section applies to any review or appeal of an assessment under this chapter if the assessment that is the subject of the review or appeal increased the assessed value of the assessed property by more than five percent (5%) over the assessed value determined by the county assessor or township assessor (if any) for the immediately preceding assessment date for the same property. The county assessor or township assessor making the assessment has the burden of proving that the assessment is correct in

¹ Petitioner Exhibit 1 contains a market analysis with sales information for three comparable properties. The sales information was apparently compiled on September 21, 2013, as noted on the cover letter and also by the printing date shown on the individual properties' data sheets. Also included in Petitioner Exhibit 1 is a portion of a second market analysis printed on November 13, 2012. This second analysis indicates Ms. Tatlock used two properties for her analysis, but sales information is included for only one property.

any review or appeal under this chapter and in any appeals taken to the Indiana board of tax review or to the Indiana tax court.

Ind. Code § 6-1.1-15-17.2.

12. Here, the assessed value decreased from \$41,000 in 2011 to \$30,000 in 2012. *See Tax Bill, Board Evid. Log, Ex. A.* Therefore, Indiana Code section 6-1.1-15-17.2 does not apply. The Petitioner has the burden of proof.

Contentions

13. Summary of the Petitioner's case:
- a. A real estate broker prepared a market analysis showing the market value of the subject property to be \$16,667. *Blades testimony; Petitioner Exhibit 1.*
 - b. The property next door sold for \$27,000. But the neighbors were shocked when the property flooded. Had they been aware of the flooding issue, they would probably not have paid as much for the property. *Blades testimony. Petitioner Exhibit 2.*
 - c. A three-bedroom mobile home up the river from the subject property is listed at \$16,900. *Blades testimony; Petitioner Exhibit 3.*
14. Summary of the Respondent's case:
- a. The subject property is located in an area subject to annual flooding. The Petitioner's photographs were taken in 2009, which was a year of unusually heavy flooding. Therefore, the photographs do not necessarily show a normal flood year. *Potts testimony; Petitioner Exhibit 2.*
 - b. The Petitioner contends his neighbor was surprised that the area flooded. The property is on a river and anyone with reasonable knowledge of rivers knows they flood. Further, while mobile homes are generally elevated off the ground, the fact that the utility sheds on both the neighbor's property and the subject property are built on stilts is a good indicator that the area is prone to flooding. *Potts testimony.*
 - c. Flooding is not unique to the Petitioner's property. Flooding of occupied property and improved properties occurs frequently up and down the Tippecanoe River. Individuals buy and sell properties in these flood areas and pay a premium price compared to properties not on the water. *Potts testimony.*
 - d. The Petitioner's market analysis is comprised of sales that occurred in 2013, which is after the assessment date of March 1, 2012. Comparable #1 is a 1 ½-story cottage, not a mobile home like the subject property. Comparable # 2 is not located in White County and is further up the Tippecanoe River, away from Lake Shafer. Comparable # 3 depicts a travel trailer on vacant ground. The final comparable property, which

- was presented at a prior hearing, is a mobile home located on a canal and not on the Tippecanoe River. This property sat vacant for three years before it sold indicating it is not a desirable property. *Potts testimony; Petitioner Exhibit 1.*
- e. The real estate listing for Petitioner Exhibit 3 is for a mobile home that has access to the Tippecanoe River and Lake Shafer, but it is on a canal. In contrast, the Petitioner's property is on the Tippecanoe River. *Potts testimony; Petitioner Exhibit 3.*
 - f. The Petitioner's street is unique because there are not many properties on it. There are five mobile homes on his street and, until the sewer system is put through, if something happens to the mobile homes they cannot be replaced. So the value-in-use is higher for a property with a mobile home than for a vacant lot because you cannot build on the vacant property. *Potts testimony.*
 - g. The Petitioner's neighbor purchased his property in September of 2011 for \$27,000. While the subject property and the neighboring property are very similar, there are differences such as lot size and the square foot area of the decks. In addition, the Petitioner's lot has a pole barn that covers his mobile home and adds a carport/shelter to the side of his mobile home. The neighbor's property does not. The Respondent used the Indiana cost manual to adjust for the differences in the properties' improvements, depreciated accordingly, and applied the proper neighborhood factor. In adjusting the land, the Respondent used the land value current in the neighborhood. At \$31,000 the adjusted value for the neighboring property is comparable to the Petitioner's assessed value. *Potts testimony; Respondent Exhibit 1.*

Analysis

15. The Petitioner failed to provide sufficient evidence to establish a prima facie case that his property was over-valued for the 2012 assessment. The Board reached this decision for the following reasons:
 - a. Real property is assessed based on its "true tax value," which means "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." Ind. Code § 6-1.1-31-6(c); 2011 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.4-1-2). The cost approach, the sales comparison approach, and the income approach are three generally accepted techniques to calculate market value-in-use. *Id.* at 2. Assessing officials primarily use the cost approach. *Id.* at 3. The cost approach estimates the value of the land as if vacant and then adds the depreciated cost new of the improvements to arrive at a total estimate of value. *Id.* at 2. Any evidence relevant to the true tax value of the property as of the assessment date may be presented to rebut the presumption of correctness of the assessment, including an appraisal prepared in accordance with generally recognized appraisal standards. *Id.* at 3.

- b. Regardless of the method used, a party must explain how its evidence relates to the required valuation date. *O'Donnell v. Dep't of Local Gov't Fin.*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006); *see also Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). The valuation date for a 2012 assessment is March 1, 2012. Ind. Code § 6-1.1-4-4.5(f); 50 IAC 27-5-2(c). Any evidence of value relating to a different date must have an explanation about how it demonstrates, or is relevant to, value as of that date. *Long*, 821 N.E.2d at 471.
- c. First, the Petitioner presented a comparative market analysis based on three properties. The analysis indicated a market value of \$16,667 for the subject property. To effectively use any kind of comparison approach to value a property, one must establish that the properties are truly comparable. Conclusory statements that properties are "similar" or "comparable" is not sufficient. *Long*, 821 N.E.2d at 470. The Petitioner is "responsible for explaining to the Indiana Board the characteristics of their own property, how those characteristics compared to those of the purportedly comparable properties, and how any differences affected the relevant market value-in-use of the properties." *Id.* at 471.
- d. In this case, the Petitioner failed to identify how the properties in the comparative market analysis were comparable to his property. The broker who prepared the analysis simply provided the high and low listing prices, the high and low selling prices, the median values, the average values, and the days on market of the comparable properties. There was no information at all regarding the characteristics of the comparable properties as they relate to the subject property. Additionally, the cover letter of this document is dated September 21, 2013, and it failed to offer an explanation to relate this analysis to the relevant valuation date of March 1, 2012. Accordingly, the comparative market analysis is not probative. *See Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119, (Ind. Tax Ct. 1998) (explaining that unsupported conclusory statements are not probative evidence).
- e. Next, the Petitioner presented a listing of mobile homes that appeared in a real estate magazine dated October 2, 2013. Again, he failed to relate that evidence to a March 1, 2012, value. And he failed to value any differences between the subject property and the listed property.
- f. Photographs from 2009 show flooding that occurred in the area where the subject property is located; however, the Petitioner failed to prove the impact of the flooding on the value of the property.
- g. The Petitioner failed to make a prima facie case for any change to the existing assessed value. Where a 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. LTD v. Department of Local Government Finance*, 799 N.E.2d 1215, 1221-1222 (Ind. Tax Ct. 2003).

Conclusion

16. The Petitioner failed to present any evidence relevant to the true tax value of the property as of the assessment date, and did not meet his burden of proof. The Board finds for the Respondent.

Final Determination

In accordance with the above findings of fact and conclusions of law, the 2012 assessed value is affirmed.

ISSUED: November 15, 2013

Commissioner, Indiana Board of Tax Review

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- APPEAL RIGHTS -

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5 and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required not later than forty-five (45) days after the date of this notice. The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>. The Indiana Tax Court's rules are available at <<http://www.in.gov/judiciary/rules/tax/index.html>>.