

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

Petition: 83-006-06-1-5-00195
Petitioners: Albert and Joyce Clark
Respondent: Vermillion County Assessor
Parcel: 006-003-0025-00
Assessment Year: 2006

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

Procedural History

1. The Petitioners initiated an assessment appeal with the Vermillion County Property Tax Assessment Board of Appeals (PTABOA) by written document on June 21, 2007.
2. The PTABOA issued notice of its decision on November 13, 2007.
3. The Petitioners appealed to the Board by filing a Form 131 on December 31, 2007, and elected to have this case heard according to small claims procedures.
4. The Board issued a notice of hearing to the parties dated April 1, 2008.
5. Paul Stultz, the appointed Administrative Law Judge, held the administrative hearing on May 1, 2008, in Newport, Indiana.
6. Albert Clark and County Assessor Patricia Richey were present and sworn as witnesses.

Facts

7. The property is a residence located at 119 N. Eugene Avenue in Cayuga, Indiana.
8. The Administrative Law Judge did not inspect the property.
9. The PTABOA determined the assessed value is \$12,600 for the land and \$230,200 for the improvements (total \$242,800).
10. The Petitioners contended the assessed value should be \$12,600 for the land and \$142,000 for the improvements (total \$154,600).

Contentions

11. The Petitioners presented the following evidence:
 - a. The property appraised for \$188,000 as of January 1, 2005, but this value is too high. *Clark testimony; Pet'rs Ex. 1.*
 - b. The house was built in 1978. It would bring no more than \$140,000 to \$150,000 if sold today. *Clark testimony.*
 - c. The land is correctly assessed at \$12,600. The improvements should be assessed at \$142,000, for a total assessment of \$154,600. *Clark testimony.*
12. The Respondent agreed the appraisal would be sufficient evidence to justify an assessment change to \$188,000. *Richey testimony.*

Record

13. The official record for this matter is made up of the following:
 - a. The Petition,
 - b. A digital recording of the hearing,
 - c. Petitioners Exhibit 1 – Appraisal by John W. Malone as of January 1, 2005, Board Exhibit A - Form 131 Petition for Review, Board Exhibit B - Notice of Hearing, Board Exhibit C - Hearing Sign In Sheet,
 - d. These Findings and Conclusions.

Analysis

14. 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). 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. The evidence proves the assessment should be changed because:
 - a. A taxpayer can rebut the presumption an assessment is correct. Probative evidence to do so can include actual construction costs, sales information

regarding the subject or comparable properties, appraisals, and any other information compiled in accordance with generally accepted appraisal principles. 2002 REAL PROPERTY ASSESSMENT MANUAL at 5 (incorporated by reference at 50 IAC 2.3-1-2).

- b. The Petitioners introduced a professional, certified appraisal that estimated the value of the subject property was \$188,000 as of January 1, 2005. It conforms to the correct valuation date and otherwise provides probative evidence of what the assessment should be. Furthermore, the Respondent agreed this appraisal is a valid basis for reducing the total assessment to \$188,000. It is enough to establish a prima facie case for what the assessment should be.
- c. Although the Petitioners claimed the appraised value was too high, they did not identify any specific errors in the appraisal or present any additional market evidence of a lower value. The Petitioners presented only conclusory statements that the value should be \$154,600. Conclusory statements, however, do not constitute probative evidence. *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 470 (Ind. Tax Ct. 2005); *Whitley Products v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).

Conclusion

16. The Board finds the appraisal is the best evidence of the property's market value-in-use.

Final Determination

In accordance with the above findings and conclusions, the assessment should be changed to \$188,000.

ISSUED: _____

Commissioner, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

- 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>>