

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

Petition No.: 18-003-06-1-5-01501
Petitioners: Jeffery & Kathleen Crabtree
Respondent: Delaware County Assessor
Parcel No.: 1107284006000
Assessment Year: 2006¹

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

Procedural History

1. The Crabtrees filed a Form 130 petition contesting the subject property’s assessment. On May 30, 2008, the Delaware County Property Tax Assessment Board of Appeals (“PTABOA”) issued its determination upholding the assessment.
2. On July 1, 2008, the Crabtrees 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 January 26, 2011, the Board held an administrative hearing through its designated Administrative Law Judge, Jennifer Bippus (“ALJ”).
4. The following people were sworn in and testified:

Jeffery Crabtree

Kelly Hisle, Deputy County Assessor

Facts

5. The subject property contains single-family home located at 3308 W. Devon Road in Muncie. The Crabtrees use it as a rental property.
6. Neither the Board nor the ALJ inspected the subject property.
7. The PTABOA determined the following values for the subject property:
Land: \$11,200 Improvements: \$74,100 Total: \$85,300

¹ At the hearing, the parties agreed that 2006 was the assessment year under appeal. The Crabtrees originally wrote “2007” in space provided on the Form 131 petition to list the assessment date under appeal. That was crossed out with “2006” written in its place. In response to a notice of defect, the Crabtrees provided a Form 115 determination from the PTABOA that references March 1, 2006, as the assessment date. The Crabtrees also provided their Form 130 petition, in which they listed the assessment date as March 1, 2007.

8. The Crabtrees did not request a specific value.

Parties' Contentions

9. The Crabtrees offered the following evidence and arguments:
 - a) The subject property's assessment is higher than the assessments for other homes in the area. *Crabtree testimony*. To support that claim, Mr. Crabtree offered photographs and assessment information for the subject property and 13 other properties located on Devon Road. *Pet'rs Exs. 1-14*. Mr. Crabtree got the assessment information from a website known as "Beacon-Delaware County." *Id*. He took the photographs himself. *Crabtree testimony*. All of the houses in the area are about the same size. The subject property has the highest assessed value of the 14 properties, but it does not have the largest house. *Id; Pet'rs Exs. 1-14*.
 - b) The Beacon data includes information for assessment years 2008 through 2010. For 2010, the assessments ranged from \$52,700 to \$90,500, with the subject property's assessment being the highest. *Crabtree testimony; Pet'rs Exs. 1-14*. A property with a 1,344-square-foot house located at 3204 W. Devon Road was assessed for only \$63,300. That is over \$25,000 less than the subject property's 2010 assessment (\$90,500). *Crabtree testimony; Pet'rs Exs. 5, 9*.
 - c) Although the Assessor claimed that Mr. Crabtree should have used data from 2004, houses are not selling for what they sold for then. *Crabtree testimony*. In 2004, when property values were higher, the Crabtrees could have gotten \$80,000-\$90,000 for the subject property. *Id*.
 - d) Finally, the Assessor included the subject house's back porch in calculating the property's finished living area. But you cannot live in that area; it is strictly for summer use. *Crabtree testimony*.
10. The Assessor offered the following evidence and arguments:
 - a) Mr. Crabtree's data addresses the wrong timeframe. *Hisle testimony and argument*. The Crabtrees have appealed the subject property's 2006 assessment. According to 50 IAC 21-3-3, assessing officials had to use sales from 2004 and 2005 to determine 2006 assessments. *Id*. Mr. Crabtree offered only information about 2008 through 2010. *Id*.
 - b) Contrary to what Mr. Crabtree claims, the subject house's back porch is assessed as an enclosed frame porch; it is not included in the house's 1,396 square feet of living area. *Hisle testimony; Resp't Ex. 1*.
 - c) To support the subject property's assessment, the Assessor's witness, Kelly Hisle, compared the subject property's 2006 assessment to the sale prices for what she described as three comparable properties in the same assessment neighborhood as the subject property. *Hisle testimony; Resp't Exs. 2-10*. The sales are verifiable and

occurred in 2004-2005. *Hisle testimony*. Ms. Hisle adjusted each sale price by 3% per year to reflect a January 1, 2005 value. *Id.*; *Resp't Ex. 11*. When expressed as a function of price per square foot of living area, those adjusted sale prices were \$69, \$82, and \$68 respectively. *Id.* The subject property, by contrast, was assessed at only \$61 per square foot of living area. *Id.*

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:

Petitioners' Exhibit 1: Assessment data and photo for 3300 W. Devon Road,
Petitioners' Exhibit 2: Assessment data and photo for 3301 W. Devon Road,
Petitioners' Exhibit 3: Assessment data and photo for 3304 W. Devon Road,
Petitioners' Exhibit 4: Assessment data and photo for 3305 W. Devon Road,
Petitioners' Exhibit 5: Assessment data and photo for 3308 W. Devon Road (the subject property),

Petitioners' Exhibit 6: Assessment data and photo for 3309 W. Devon Road,
Petitioners' Exhibit 7: Assessment data and photo for 3201 W. Devon Road,
Petitioners' Exhibit 8: Assessment data and photo for 3203 W. Devon Road,
Petitioners' Exhibit 9: Assessment data and photo for 3204 W. Devon Road,
Petitioners' Exhibit 10: Assessment data and photo for 3205 W. Devon Road,
Petitioners' Exhibit 11: Assessment data and photo for 3206 W. Devon Road,
Petitioners' Exhibit 12: Assessment data and photo for 3207 W. Devon Road,
Petitioners' Exhibit 13: Assessment data and photo for 3208 W. Devon Road,
Petitioners' Exhibit 14: Assessment data and photo for 3209 W. Devon Road,

Respondent Exhibit 1: Subject property record card ("PRC"),
Respondent Exhibit 2: PRC for Comparable 1,
Respondent Exhibit 3: MLS listing for Comparable 1,
Respondent Exhibit 4: Sales Disclosure Form for Comparable 1,
Respondent Exhibit 5: PRC for Comparable 2,
Respondent Exhibit 6: MLS listing for Comparable 2,
Respondent Exhibit 7: Sales Disclosure Form for Comparable 2,
Respondent Exhibit 8: PRC for Comparable 3,
Respondent Exhibit 9: MLS listing for Comparable 3,
Respondent Exhibit 10: Sales Disclosure Form for Comparable 3,
Respondent Exhibit 11: Table showing comparable sales and computation of sale price per square foot,

Board Exhibit A: Form 131 petition,
Board Exhibit B: Hearing notice dated November 30, 2010,
Board Exhibit C: Letter granting Assessor's request for continuance,

Board Exhibit D: Assessor's request for continuance of December 1, 2010 hearing,
Board Exhibit E: Hearing notice dated September 29, 2010,
Board Exhibit F: Hearing sign-in sheet,

d) These Findings and Conclusions.

Analysis

Burden of Proof

12. 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 respondent to offer evidence to rebut or impeach 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.
15. The Crabtrees failed to 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). Appraisers traditionally have used three methods to determine a property's 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 as 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). 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 often will suffice. *Id.*; *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 subject 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), *see also Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). Otherwise, that evidence lacks probative value. *Id.* For March 1, 2006 assessments, the valuation date was January 1, 2005. 50 IAC 21-3-3 (2006).
- d) The Crabtrees claim that the subject property was assessed too high in comparison to 13 other properties from the same neighborhood. The Crabtrees did not specify whether they were claiming that the other assessments showed that the subject property was assessed for more than its market value-in-use or that assessments were not uniform and equal. In either case, the Crabtrees' evidence was insufficient. Even if one assumes that information about another property's assessment (as opposed to its sale price) is probative of an appealed property's market value-in-use, the party offering that evidence would have to show both that the properties are generally comparable to each other and how any relevant differences affect the properties' relative values. *See Long*, 821 N.E.2d at 470-71 (holding that, in applying the sales-comparison approach, the taxpayers needed to explain how any differences between their property and the properties to which they sought to compare it affected the properties' relevant market values-in-use). The same is true for a claim that properties are not assessed in a uniform and equal manner.
- e) The Crabtrees did not make such a showing. They offered some, but not all, of the raw data from assessments for the subject property and the 13 properties to which they sought to compare the subject property. While the subject property is similar to the 13 neighborhood properties in some ways, it differs from those properties in other ways. For example, the subject house is larger than all but two of the 13 comparators, and only one of those comparators has an enclosed porch. *Pet'rs Exs. I-14*. All of those things affect the properties' relative values, and Mr. Crabtree did not deal with them in his analysis.
- f) Also, the Crabtrees' data relates to assessments from 2008-2010. As the Assessor pointed out, the Crabtrees have appealed from the subject property's March 1, 2006 assessment. Thus, the Crabtrees needed to explain how their 2008-2010 data related to the subject property's market value-in-use as of January 1, 2005. They did not offer any probative evidence to do so. Instead, Mr. Crabtree conclusorily asserted that prices had been declining and that the Crabtrees could have sold the subject property for \$80,000 to \$90,000 in 2004. If true, however, that would actually make the property's assessment of \$85,300 just about right.
- g) Finally, Mr. Crabtree claimed that the Assessor included the subject house's back porch in calculating the house's total finished living area. The property record card, however, shows otherwise.

- h) Because the Crabtrees did not offer any probative evidence to dispute the subject property's assessment, they failed to make a prima facie case.

Conclusion

16. The Crabtrees failed to offer sufficient evidence to make a prima facie case. The Board therefore finds in favor of the Assessor.

Final Determination

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

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>.