

INDIANA BOARD OF TAX REVIEW
Final Determination
Findings and Conclusions

Petition #: 21-010-02-1-5-00238
Petitioner: Dale Jones
Respondent: Connersville Township Assessor
Parcel 010185200
Assessment Year: 2002

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

Procedural History

1. The Petitioner initiated an assessment appeal with the Fayette County Property Tax Assessment Board of Appeals (PTABOA) by written document dated October 31, 2003.
2. The Petitioner received notice of the decision of the PTABOA on April 15, 2004.
3. The Petitioner filed an appeal to the Indiana Board of Tax Review (IBTR) by filing a Form 131 with the county assessor on May 13, 2004. The petitioner elected to have this case heard in small claims.
4. The IBTR issued a hearing notice to the parties dated July 16, 2004.
5. The IBTR held an administrative hearing on August 31, 2004, before the duly appointed Administrative Law Judge Jennifer Bippus.
6. Persons present and sworn in at hearing:
 - A. For Petitioner: Sondra Sayers, Taxpayer Representative
 - B. For Respondent: Donna Chandler, Connersville Township Assessor
Virginia R. Whipple, Township Representative

Facts

7. The property is classified as a residential dwelling as is shown on the property record card.
8. The Administrative Law Judge (ALJ) did not conduct an inspection of the property.
9. Assessed Value of subject property as determined by the Fayette County PTABOA:

Land \$6,400 Improvements \$57,900.

10. Assessed Value requested by Petitioner:

Land \$3,000 Improvements: \$40,000.

Contentions

11. Summary of Petitioner's contentions in support of alleged error in assessment:

- a) The location of the property is not in a good area and there is a lot of crime in this neighborhood. *Sayers Testimony.*
- b) The house is the nicest house on the street and is situated on a corner lot, but the value should not be as high because of the neighborhood situation.
- c) Two comparables show sales in the area at \$17,500 in May of 2000 and \$41,400 in October of 2000. One of the houses was not in as good shape as the subject, but the sale values of these comparables reflect that the assessed value of the subject is too high. The comparable homes that sold were on the market 153 days and 393 days. *Sayers Testimony. Petitioner Ex's. 1 & 2.*

12. Summary of Respondent's contentions in support of assessment:

- a) Prior to the hearing, the Respondent requested any documents the Petitioner was going to present at the hearing. The Petitioner did not respond. *Whipple Testimony. Respondent Ex. 12.*
- b) The Respondent agreed to accept the two comparables presented by the Petitioner at the hearing as evidence. *Whipple Testimony.*
- c) The comparables relied upon by the Petitioner were on the market long enough that the sale values could have been compromised. *Whipple Testimony.*
- d) The Respondent presented evidence concerning the sale of three comparable properties within the neighborhood. Respondent contended that an analysis of the comparable properties as compared to the subject property demonstrates that sale prices were well within the assessed value of the subject property. *Whipple Testimony. Respondent Ex's. 1 - 5b & 8.*
- e) The subject property is not over assessed when compared to sales in the area at the time of the reassessment. *Whipple Testimony.*
- f) The neighborhood factor of 92% has been applied to the subject and this accounts for the difference in the sales at the time and the assessed values of the properties. The

properties were assessed at approximately 8% higher than the sales, but the adjustment has been made. *Whipple Testimony. Respondent Ex's 6a & 7.*

- g) The land value derived from sales is also presented as an exhibit. *Respondent Ex. 6.*

Record

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

- a) The Petition, and all subsequent pre-hearing, or post-hearing submissions by either party.
- b) The tape recording of the hearing labeled BTR # 5877.
- c) Exhibits:

Petitioner Exhibit 1:	Listing detail sheet for 608 Oak Street
Petitioner Exhibit 2:	Listing detail sheet for 500 W. 5 th Street
Petitioner Exhibit 3:	Authorization for Sondra Sayers to represent Petitioner
Respondent Exhibit 1:	Brief discussing land value, pricing and neighborhood
Respondent Exhibit 2:	Photographs of subject property
Respondent Exhibit 2a:	Map of subject property
Respondent Exhibit 3:	Photograph of 347 Junkin
Respondent Exhibit 3a:	Map of 347 Junkin
Respondent Exhibit 3b:	Sales disclosure form for 347 Junkin
Respondent Exhibit 4:	Photographs of 123 Huston
Respondent Exhibit 4a:	Map of 123 Huston
Respondent Exhibit 4b:	Sales disclosure form for 123 Huston
Respondent Exhibit 5:	Photographs of 325 Summit
Respondent Exhibit 5a:	Map of 325 Summit
Respondent Exhibit 5b:	Sales disclosure form for 325 Summit
Respondent Exhibit 6:	Fayette County CLVC worksheet
Respondent Exhibit 6a:	Fayette County land-to-building ratio
Respondent Exhibit 7:	Neighborhood factor calculation spreadsheet
Respondent Exhibit 8:S	Square foot analysis of comparable sales
Respondent Exhibit 9:	Form 131 petition
Respondent Exhibit 10:	Form 130 petition
Respondent Exhibit 11:	PTABOA findings (Form 115)
Respondent Exhibit 12:	Letter to Petitioner requesting evidence
Respondent Exhibit 13:	Notice of Appearance of Consultant on Behalf of Respondent
Board Exhibit A:	Copy of Form 131 petition
Board Exhibit B:	Notice of Hearing

- d) These Findings and Conclusions.

Analysis

14. The most applicable governing cases/laws/regulations are:
- a) A petitioner seeking review of a determination of a county property tax assessment board of appeals has the burden to establish a *prima facie* case proving, by a preponderance of the evidence, 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); *North Park Cinemas, Inc. v. State Board of Tax Commissioners*, 689 N.E.2d 765 (Ind. Tax Ct. 1997).
 - b) A petitioner may offer evidence relevant to the fair market value-in-use of his or her property to rebut an assessment and to establish the actual true tax value of the property. This evidence includes, but is not limited to, actual construction costs, sales information regarding the subject or comparable properties, and appraisals prepared in accordance with generally recognized appraisal practices. *See*, 2002 REAL PROPERTY ASSESSMENT MANUAL at 5 (incorporated by reference at 50 IAC 2.3-1-2).
 - c) Regardless of the type of evidence offered, a petitioner must explain how each piece of evidence is relevant to the requested assessment. *See, Indianapolis Racquet Club, Inc. v. Wash. Twp. Assessor*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004). Thus, it is insufficient for a petitioner to put forth evidence, such as photographs, calculations or assessment rules without an explanation. *Id.* Instead, it is the petitioner's duty to walk the Board through every element of the analysis. *See, Id., citing Clark v. State Bd. Of Tax Comm'rs*, 779 N.E.2d 1277, 1282, n.4 (Ind. Tax Ct. 2002). Conclusory statements do not constitute probative evidence of a property's value. *Whitley Products, Inc. v. State Board of Tax Commissioners*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).
 - d) 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.*
15. The Petitioner did not provide sufficient evidence to support his contentions.
- a) The Petitioner asserted that the subject property could not be sold for the assessed value due to the amount of crime in the neighborhood in which it is situated. *Sayers Testimony*. However, the Petitioner did not attempt to quantify the amount of crime in his neighborhood or to compare it to the amount of crime in other neighborhoods. The Petitioner likewise failed to explain the degree to which the unquantified crime level related to property value in his neighborhood. The Petitioner therefore failed to explain the relevance of this evidence to the assessment value he requests. *See, Indianapolis Racquet Club, supra*, 802 N.E.2d at 1022.

- b) The Petitioner also presented sales information regarding two homes that the Petitioner contends are comparable to the subject property. *Sayers Testimony. Petitioner's Ex's. 1 & 2.* The first home, located at 500 W. 5th Street in Connersville, Indiana sold for \$17,500 on or about May 25, 2000 after having been on the market for 393 days. *Id.* The second home, located at 608 Oak in Connersville, Indiana, sold for \$41,400.00. *Id.* The Petitioner conceded that the homes are somewhat different than the subject property. *Sayers Testimony.* For example, the Petitioner indicated that the 500 W. 5th Street home was a little smaller than the subject property, had a partial basement and was not in as good shape as the subject property. *Sayers Testimony.* Similarly, the Petitioner conceded that the 608 Oak Street home had a smaller basement than the subject property, although he also indicated that it is located in a slightly better area. *Sayers Testimony.*
- c) The Petitioner did not explain how the sale prices for the allegedly comparable properties should be adjusted to reflect the differences between those properties and the subject property. Thus, even if the Petitioner's evidence concerning the sale of the two allegedly comparable properties were sufficient to demonstrate that the assessed value of the subject property is too high, the Petitioner has failed to present probative evidence to support his asserted valuation of \$43,000.00 (land and improvements). *See Meridian Towers, supra, 805 N.E.2d at 478* (a taxpayer must demonstrate both that the assessment is incorrect and what a correct assessment would be).

Conclusion

16. The Petitioner failed to establish a prima facie case.

IBTR Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should not be changed.

ISSUED: _____
(date)

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.