

REPRESENTATIVE FOR PETITIONER:

Daniel Guyinn, Property Owner

REPRESENTATIVE FOR RESPONDENT:

Larry Unversaw, Center Township Representative

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

Daniel Guyinn,	)	Petition No.:	49-101-02-1-5-04485
	)	Parcel:	1022801
Petitioner,)		
)		
v.)		
	)	County:	Marion
James Maley,	)	Township:	Center
Center Township Assessor	)	Assessment Years:	2002
Respondent.)		

Appeal from the Final Determination of
Marion Property Tax Assessment Board of Appeals

August 16, 2005

FINAL DETERMINATION

The Indiana Board of Tax Review (the "Board") having reviewed the facts and evidence, and having considered the issues, now finds and concludes the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

ISSUE

1. The issue presented for consideration by the Board was:
Whether the assessed value of the subject property exceeds its market value as indicated by the sale of the subject property and of comparable properties from the same area.

PROCEDURAL HISTORY

2. Pursuant to Ind. Code § 6-1.1-15-3, Daniel Guyinn, filed Form 131 Petition for Review of Assessment (“Form 131 Petition”), petitioning the Board to conduct an administrative review of the above petition. The Form 131 was filed on May 23, 2004. The determination of the Marion County Property Tax Assessment Board of Appeals (PTABOA) was mailed to the Petitioner on April 23, 2004.

HEARING FACTS AND OTHER MATTERS OF RECORD

3. Pursuant to Ind. Code § 6-1.1-15-4 and § 6-1.5-4-1, a hearing was held on February 23, 2005, in Indianapolis, Indiana before Debra Eads, the duly designated Administrative Law Judge (the “ALJ”) authorized by the Board under Ind. Code § 6-1.5-3-3.
4. The following persons were sworn and presented testimony at the hearing:
For the Petitioner:
Daniel Guyinn, Property Owner¹

For the Respondent:
Larry Unversaw, Center Township Representative
5. The following exhibits were presented for the Petitioner:

¹ Reginald B. Bishop filed an appearance on behalf of the Petitioner. Mr. Bishop, however, did not appear at the hearing, and the Petitioner proceeded *pro se*.

- Petitioner's Exhibit 1 – Form 131 Petition
- Petitioner's Exhibit 2 – PTABOA Final Assessment Determination (Form 115) for the subject property
- Petitioner's Exhibit 3 – Comparative Market Analysis for the subject property – four (4) properties
- Petitioner's Exhibit 4 – Sales Disclosure for the subject property dated December 14, 2001

6. The following exhibits were submitted by the Respondent:
No exhibits were submitted by the Respondent.

7. The following additional items are officially recognized as part of the record of proceedings and labeled Board Exhibits:
 - Board's Exhibit A – Form 131 Petition
 - Board's Exhibit B – Notice of Hearing on Petition
 - Board's Exhibit C – Notice of Appearance

8. The subject property is a residential row type structure located at 3138 Guilford Avenue, Indianapolis, Center Township, Marion County, Indiana.

9. The ALJ did not conduct an on-site inspection of the subject property.

10. For 2002, the PTABOA determined the assessed values of the property to be:

Land: \$5,100	Improvements:	\$62,600
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11. For 2002, the Petitioner contends the assessed values of the property should be:

Land: \$3,000	Improvements:	\$32,000
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JURISDICTIONAL FRAMEWORK

12. The Indiana Board is charged with conducting an impartial review of all appeals concerning: (1) the assessed valuation of tangible property; (2) property tax deductions; and (3) property tax exemptions; that are made from a determination by an assessing official or a county property tax assessment board of appeals to the Indiana board under any law. Ind. Code § 6-1.5-4-1(a). All such appeals are conducted under Ind. Code § 6-1.1-15. See Ind. Code § 6-1.5-4-1(b); Ind. Code § 6-1.1-15-4.

ADMINISTRATIVE REVIEW AND THE PETITIONER'S BURDEN

13. A Petitioner seeking review of a determination of the county Property Tax Assessment Board of Appeals 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).
14. 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. 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.*; *Meridian Towers*, 805 N.E.2d at 479.

ANALYSIS

Whether the assessed value of the subject property exceeds its market value as indicated by the sale of the subject property and of comparable properties from the same area.

Parties' Contentions

16. The Petitioner contends that the assessed value of the subject property exceeds its market value. *Guyinn testimony*.

17. The Respondent stated that the Township would leave the decision regarding the appropriate value of the subject property to the State and that the assessed values should stand. *Unversaw testimony.*

18. The Petitioner presented the following evidence and argument in support of his position:
 - A. The Petitioner compared the subject property to properties from the same area that sold in the market. The Petitioner stated that he obtained his information from sales disclosures and links used in the real estate market. *Guyinn testimony.*

 - B. The Petitioner compared the subject property to the following properties: 3319 Ruckle Street, which sold for \$35,000; 3114 Winthrop Avenue, which sold for \$30,000; 2838 N. New Jersey, which sold for \$34,000; and 2640 Guilford Avenue, which sold for \$28,000. *Guyinn testimony; Petitioner's Exhibit 3.*

 - C. The Petitioner also submitted a sales disclosure statement indicating that he purchased the subject property for \$35,000 on December 14, 2001. *Guyinn testimony & Petitioner's Exhibit 4.*

 - D. The Petitioner contends that \$35,000 represents a “real world” value for the subject property. *Guyinn testimony.* The County did not appraise the subject property but instead used reproduction costs. *Id.* The County’s valuation therefore does not reflect “real world values.” *Id.*

19. The Respondent failed to present any evidence in support of the current assessment. The Respondent’s representative stated that he would leave the assessed values up to the State. *Unversaw testimony.*

Discussion

20. Real property in Indiana is assessed on the basis of its “true tax value.” *See* I.C. § 6-1.1-31-6(c). “True tax value” is defined as “[t]he 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) (“Manual”).

21. In many instances, the sale of a subject property will present the most compelling evidence of its market value-in-use. Here, the Petitioner submitted evidence that he purchased the subject property for \$35,000 on December 14, 2001. The Board notes that the sellers listed on the disclosure statement have the same last name as the Petitioner. The Respondent, however, did not inquire into that matter or otherwise present any evidence regarding the relationship between the Petitioner and the sellers. The Board does not find that the similarity in names between the parties to the transaction, by itself, demonstrates that the transaction was not at arms length.

22. It is true that the Petitioner bought the subject property almost three years after January 1, 1999 – the relevant valuation date for the 2002 general reassessment. *See* MANUAL at 4. Nonetheless, the Board recognizes that real property normally appreciates in value over time. Thus, it is likely that the December 14, 2001, sale price actually exceeded the subject property’s market value as of January 1, 1999. Even if the subject property depreciated between January 1, 1999, and the date of the sale, that depreciation could not account for the enormous disparity between the sale price and the current assessment. Thus, under these circumstances, the Board finds that the sale of the subject property constitutes probative evidence that the current assessment is in error.

23. Based on the foregoing, the Petitioner established a prima facie case that the current assessment of \$62,600 is incorrect, and that the correct assessment should not exceed \$35,000. The Respondent offered no evidence or argument to impeach or rebut the

Petitioner's evidence. Thus, the preponderance of the evidence supports a finding that the current assessment should be reduced to \$35,000.

SUMMARY OF FINAL DETERMINATION

24. The Preponderance of the evidence supports a reduction in the assessment from \$62,600 to \$35,000. The Board finds in favor of the Petitioner and orders that the current assessment be changed to \$35,000.

This Final Determination of the above captioned matter is issued by the Indiana Board of Tax Review on the date first written above.

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. You must name in the petition and in the petition's caption the persons who were parties to any proceeding that led to the agency action under Indiana Tax Rule 4(B)(2), Indiana Trial Rule 10(A), and Indiana Code 4-21.5-5-7(b)(4), 6-1.1-15-5(b). The Tax Court Rules provide a sample petition for judicial review. The Indiana Tax Court Rules are available on the Internet at <http://www.in.gov/judiciary/rules/tax/index.html>. The Indiana Trial Rules are available on the Internet at <http://www.in.gov/judiciary/rules/trialproc/index.html>. The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code>.