

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.:	49-101-02-1-5-06355
	)	Parcel:	1062566
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, 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 – three (3) properties
- Petitioner's Exhibit 4 – Property record card (PRC) for the subject property
- Petitioner's Exhibit 5 – Form 11 – Notice of Assessment of Land and Structures
- Petitioner's Exhibit 6 – Sales Disclosure for subject property dated April 20, 1996

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 single family residence located at 1330 W. Pruitt Street, 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: \$2,900 Improvements: \$30,900

11. For 2002, the Petitioner contends the assessed values of the property should be:

Land: \$1,900 Improvements: \$11,100

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 Township 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 sale of the subject property and of other properties in the subject's area demonstrate that the current assessment exceeds the subject property's market value. *Guyinn testimony*.

17. The Respondent stated that it would leave the decision regarding the appropriate value of the subject property to the State. *Unversaw testimony.*

18. The Petitioner presented the following evidence and testimony in regard to this issue:
 - A. The Petitioner compared the subject property to properties from the same area that sold in the market. *Guyinn testimony.*

 - B. A property located at 1427 W. Congress that is nicer than the subject was assessed for \$35,000. This property was not contested because it is worth \$35,000. It has the same type of design as the subject property, but it is in better condition. *Guyinn testimony.*

 - C. Seventy-five (75) properties from the same area as the subject property sold for below \$15,000 on the open market. *Id.* This is an indication of the “real world value” of the subject property. *Id.*

 - D. The Petitioner also compared the subject property to the following properties: 1526 Pruitt Street, which sold for \$13,000; 1249 W. 25th Street, which sold for \$13,950; and 970 W. 25th Street, which sold for \$11,500. Based on the sale prices of those properties, the Petitioner believes that the subject property should be valued at \$13,000. *Guyinn testimony; Petitioner’s Exhibit 3.*

 - E. The Petitioner purchased the subject property on April 20, 1996, for \$11,000. The property is rentable and is in the same condition as it was when he purchased it. *Guyinn testimony; Petitioner’s Exhibit 6.*

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. The Petitioner bases his claim, in part, upon a comparison of the subject property to other properties in the same area that sold for amounts substantially less than the amount for which the subject property is assessed. *Guyinn testimony; Petitioner's Exhibit 3*. According to the Petitioner, the sale prices for those other properties demonstrate that the subject property is assessed for more than its market value.
21. 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").
22. The market value-in-use of a property may be calculated utilizing several approaches, all of which have been used in the appraisal profession. *Id.* at 3; *Long v. Wayne Township Assessor*, 821 N.E.2d 466 (Ind. Tax Ct. 2005). One such approach is known as the "sales comparison approach." *Id.* The sales comparison approach "estimates the total value of the property directly by comparing it to similar, or comparable, properties that have sold in the market." *Id.*
23. In order to effectively use the sales comparison approach as evidence in a property assessment appeal, the proponent of such evidence must establish the comparability of the properties being examined. Conclusory statements that a property is "similar" or "comparable" to another property do not constitute probative evidence of the comparability of the two properties. See *Long*, 821 N.E.2d at 470. Instead, the proponent must identify the characteristics of the subject property and explain how those characteristics compare to the characteristics of the purportedly comparable properties. *Id.* at 471. The proponent likewise must explain how any differences between the properties affect their relative market values-in-use. *Id.*

24. As an initial matter, the Petitioner referenced seventy-five (75) properties from the same area as the subject property that sold for below \$15,000. The Petitioner, however, made absolutely no attempt to compare the characteristics of those properties to the characteristics of the subject property.
25. The Petitioner did compare several characteristics of the subject property to the characteristics of three properties located at 1526 Pruitt Street, 1249 W. 25th Street, and 970 W. 25th Street, respectively. *Petitioner's Exhibit 3*. The characteristics identified by the Petitioner include: year of construction, number of bedrooms and bathrooms, size of basement, lot size, kitchen size, total square footage, type of porch, type of exterior construction, and the existence and size of garages. *Id.* In many instances, the information provided by the Petitioner is incomplete. For example, he lists the subject property as having no basement, but does not provide any information regarding whether the other properties have basements. *Id.* The Petitioner also lists the subject property as having a lot of .09 acres but does not provide lot sizes for the other properties. *Id.*
26. Moreover, the Petitioner did not explain why he chose those particular characteristics for comparison, or why they are more reflective of value than characteristics such as the quality of design and construction or the condition of the respective dwellings. The Petitioner did not provide any pictures of the dwellings being compared, which might have aided in making comparisons with regard to the latter two characteristics.
27. The Petitioner adjusted the sale price of the property located at 1526 W. Pruitt Street downward by a total of \$9,500 to account for that dwelling having a covered porch, a detached garage, a brick exterior and a corner lot. *Id.* The Petitioner also adjusted the sale price of that property upward by a total of \$5,500 to account for its dwelling having one less bedroom and being forty-three (43) years older than the subject dwelling. *Id.* The Petitioner adjusted the sale price of the property located at 1249 W. 25th street upward by \$750 to account for its dwelling having 1,088 total square feet, although that is also the amount of square footage listed by the Petitioner for the subject dwelling. *Id.* Finally, the Petitioner adjusted the sale price of the property located at 970 W. 25th Street

downward by \$3,500 to account for that dwelling being eight (8) years newer than the subject dwelling and having a covered porch. *Id.*

28. The Petitioner, however, did not explain how he determined the amount of his adjustments or why he chose to make adjustments for some differences between the properties but not for others.
29. In short, although the Petitioner engaged in some level of comparison of the properties in question, he did not provide sufficient explanation to render his analysis probative of the subject property's market value-in-use.
30. The Petitioner also submitted evidence that he purchased the subject property for \$11,000 on April 20, 1996. *Guyinn testimony; Petitioner's Exhibit 6.*
31. In many instances, the sale of a subject property will present the most compelling evidence of its market value-in-use. The Manual, however, requires property to be valued as of January 1, 1999, for purposes of the 2002 general reassessment. MANUAL, at 4. This provision has significant consequences for evidence reflecting a property's market value as of a date substantially removed from the relevant valuation date. In order for such evidence to be probative of a property's true tax value, there must be some explanation as to how it relates to the property's market value as of January 1, 1999. *See Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005) (holding that an appraisal indicating a property's value for December 10, 2003, lacked probative value in an appeal from a 2002 assessment). This is particularly true where a taxpayer relies upon evidence addressing the value of the subject property as of a date substantially before January 1, 1999, due to the general tendency of real property to appreciate in value over time.
32. Here, the Petitioner bought the subject property almost three years prior to the relevant valuation date. The Petitioner did not explain how that sale price related to the subject

property's value as of January 1, 1999. Consequently, the April 20, 1996, sale price of the subject property lacks probative value.

33. The Petitioner finally contends that the current assessment is erroneous because it is based upon "reproduction" costs rather than "real world values." *Guyinn testimony*.
34. As set forth above, the Manual defines "true tax value" for purposes of assessment. MANUAL at 2. The underlying concept of the Manual, however, is to allow local assessing officials to select an acceptable mass appraisal method to arrive at that value. *Id.* at 7; *see also*, 50 IAC 2.3-1-1. The Manual and 50 IAC 2.3 incorporate the Real Property Assessment Guidelines for 2002 – Version A ("Guidelines") as a pre-approved mass appraisal method. 50 IAC 2.3-1-2; PROPERTY ASSESSMENT GUIDELINES FOR 2002 – VERSION A, intro at 1. As with many mass appraisal methods, the Guidelines are based upon the cost approach to value, one of the three approaches to value traditionally used in the appraisal profession. *Id.*; MANUAL at 3.
35. Thus, a valuation performed in accordance with the Guidelines, such as the assessment at issue in this case, is a specifically recognized method by which to determine a property's true tax value. It is not the exclusive method, and a taxpayer in a given case may present even more persuasive evidence, such as a fee appraisal performed in accordance with generally accepted appraisal principles. The Petitioner, however, did not present any such evidence in this case.
36. Based on the foregoing, the Petitioner failed to establish a prima facie case of error.

SUMMARY OF FINAL DETERMINATION

37. The Petitioner failed to make a prima facie case. The Board finds in favor of the Respondent².

² The Petitioner's failure to establish a prima facie case mandates a finding in favor of the Respondent. The Respondent's position that it will leave the determination "to the State," however, is an unacceptable response in proceedings before the Board. It is the Respondent's responsibility, not the Board's, to assess property within the Respondent's jurisdiction. Similarly, it is the Respondent's duty to defend its assessment before the Board. The Board will not make the Respondent's case for it.

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>.