

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

Petition #: 42-022-02-1-5-00005
Petitioners: David & Catherine Lane
Respondent: Vincennes Township Assessor, Knox County
Parcel #: 022-012-OT01-009-059
Assessment Year: 2002

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

Procedural History

1. The Petitioners initiated an assessment appeal with the Knox County Property Tax Assessment Board of Appeals (PTABOA) by written document dated December 29, 2003.
2. The PTABOA issued notice of the decision on April 27, 2004.
3. The Petitioners filed an appeal to the Board by filing a Form 131 with the county assessor on May 19, 2004. Petitioners elected to have this case heard in small claims.
4. The Board issued a notice of hearing to the parties dated July 15, 2004.
5. The Board held an administrative hearing on August 19, 2004, before the duly appointed Administrative Law Judge Rick Barter.
6. Persons present and sworn in at hearing:
 - a. For Petitioner: Catherine M.M. Lane, Taxpayer
David J. Lane, Taxpayer
 - b. For Respondent: Rose Goodwin, Vincennes Township Assessor

Facts

7. The property is classified as improved residential duplex, as is shown on the property record card for parcel #022-012-OT01-009-059. The subject functions as a rental property.
8. The Administrative Law Judge (ALJ) did not conduct an inspection of the property.

9. Assessed Value of subject property as determined by the Knox County PTABOA:
Land \$6,500 Improvements \$42,600 Total \$49,100

10. Assessed Value requested by Petitioners:
Land \$6,500 Improvements \$26,000 Total \$32,500

Issues

11. Summary of Petitioner's contentions in support of alleged error in assessment:
- a. The assessed value of subject is over-stated at \$49,100. Subject property was fee appraised by a local professional appraiser at the time of purchase in mid-2003 who found the estimated market value to be \$24,500 as of May 23, 2003. *Lane testimony; Petitioner Exhibit 1.*
 - b. Subject property was purchased on June 27, 2003, for \$21,000 from an individual. It was not a "repo" (repossessed) or "bank sale" (mortgage default). The subject was listed for 24 months at \$29,900. *Lane testimony.*
 - c. Petitioners rent the property. Their tenants helped them clean up the property and now each unit is worth about \$15,000, which is high for this difficult location. *Lane testimony.*
 - d. A total of seven comparable properties used as rentals and currently listed for sale support the value sought by Petitioners. *Lane testimony. Petitioner Exhibits 4-10.*
12. Summary of Respondent's contentions in support of the assessment:
- a. Subject was appraised utilizing software approved by the state and the manual and directives from the Department of Local Government Finance. *Goodwin testimony.*
 - b. The subject property is assessed with a D grade, in fair condition, and an economic obsolescence factor was applied. *Goodwin testimony.*

Record

13. The official record for this matter is made up of the following:
- a. The Petition, and all subsequent pre-hearing, and post-hearing submissions by either party.
 - b. The tape recording of the hearing labeled BTR #5841.
 - c. Exhibits:
 - Petitioner Exhibit 1: Fee appraisal of subject dated May 23, 2003
 - Petitioner Exhibit 2: Homeowners insurance declaration dated July 23, 2004
 - Petitioner Exhibit 3: Street grid map with subject and comparables marked
 - Petitioner Exhibit 4: MLS listing sheet for 425 N. Second
 - Petitioner Exhibit 5: MLS listing sheet for 501 N. Third
 - Petitioner Exhibit 6: MLS listing sheet for 804-806 N. Seventh
 - Petitioner Exhibit 7: MLS listing sheet for 809 N. Fifth

Petitioner Exhibit 8: MLS listing sheet for 424 N. Second
Petitioner Exhibit 9: MLS listing sheet for 730 Perry
Petitioner Exhibit 10: MLS listing sheet for 210 N. Third

Respondent Exhibit: None submitted

- d. These Findings and Conclusions.

Analysis

14. The most applicable governing statutes and cases are:

- a. True tax value is defined 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, page 2.*
- b. There shall be a presumption that the value determined according to rules prescribed in this manual is the true tax value of the subject property. However, the taxpayer shall be permitted to offer evidence relevant to the fair market value-in-use of the property to rebut such presumption and to establish the actual true tax value of the property as long as such information is consistent with the definition of true tax value provided in this manual and was readily available to the assessor at the time the assessment was made. Such evidence may include actual construction costs, sales information regarding the subject or comparable properties, appraisals that are relevant to the market value-in-use of the property, and any other information compiled in accordance with generally accepted appraisal principles. *2002 Real Property Assessment Manual, page 5.*
- c. The Board will not change the determination of the PTABOA unless the petitioner has established a prima facie case and, by a preponderance of the evidence proven, both the alleged errors in the assessment, and specifically what assessment is correct. *See Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998); *North Park Cinemas, Inc. v. State Bd. of Tax Comm'rs*, 689 N.E.2d 765 (Ind. Tax Ct. 1997).
- d. The petitioner must sufficiently explain the connection between the evidence and petitioner's assertions in order for it to be considered material to the facts. *See generally, Heart City Chrysler v. State Bd. of Tax Comm'rs*, 714 N.E.2d 329, 333 (Ind. Tax Ct. 1999).
- e. 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.

15. The Petitioners presented sufficient evidence to support their contentions. This conclusion was arrived at because:

- a. The Petitioners presented a fee appraisal of the subject property, performed by G. Jeffrey Palmer dated May 23, 2003, and performed for financing purposes near the time Petitioner purchased subject. The appraisal expresses the real market value of the subject at \$24,500. *Petitioner Exhibit 1*. Petitioners purchased subject in 2003 for \$21,000. *Lane testimony. Board Exhibit A*.
- b. The Petitioners submitted a copy of the homeowners' Declaration of Insurance dated "July 23, 2004 to June 26, 2005"; the insured value of the dwelling is \$32,490. *Petitioner Exhibit 2*.
- c. The Petitioners presented seven multiple listing service listing sheets for properties in an area of Vincennes near the subject. Petitioners also presented a street grid map with the subject and the seven comparables highlighted. *Petitioner Exhibit 3*.
- d. The fee appraisal submitted by Petitioners is a full appraisal and was prepared in accordance with Uniform Standards of Professional Appraisal Practice (USPAP). The value conclusions reported were: a cost approach value of \$45,800, a sales comparison approach value of \$24,500 and an income approach value, the most heavily weighted for income-producing property, of \$20,800. The value of \$24,500 was based on the market approach. *Petitioner Exhibit 1*.
- e. The seven listings offered by Petitioner as evidence are all within five blocks of the subject. Four are duplexes, like the subject; one is a triplex and two are four units. Considering the Petitioners' assertion that a rental unit in the subject area is worth about \$15,000, all the comparables fall within \$12,500 and \$20,000, with the mean being \$15,000. *Petitioner Exhibits 4-10*.
- f. The appraisal, in addition to the sale and the group of additional neighborhood sale listings of similar income properties make a prima facie case that the market value in use of the subject is less than the assessed value.
- g. The assessment year under appeal is 2002. The 2002 assessed value of the subject is best indicated by the appraisal performed prior to any improvements or physical changes to the property. As such, an assessed value of \$24,500 is appropriate.
- h. Once Petitioner makes a prima facie case, the burden shifts to the Respondent to rebut the evidence. *See Meridian Towers*, 805 N.E.2d at 479.
- i. The Respondent testified that subject was assessed according to the state issued manual and DLGF guidelines. The Respondent also stated that economic obsolescence was applied. *Goodwin testimony*.

j. No evidence was submitted to counter Petitioners' probative evidence.

Conclusion

16. The Petitioners made a prima facie case. The Respondent did not rebut Petitioner's evidence. The Board finds in favor of Petitioner.

Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the 2002 assessment should be changed to \$24,500.

ISSUED: _____

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.