

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

Petition: 84-016-06-1-1-00025
Petitioner: F. L. Wilson, Inc.
Respondent: Vigo County Assessor
Parcel: 84-12-21-100-011.000-016
Assessment Year: 2006

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

Procedural History

1. The Petitioner initiated an assessment appeal regarding the subject property by filing a Form 130 petition with the Vigo County Property Tax Assessment Board of Appeals (“PTABOA”) on April 18, 2007.
2. The PTABOA issued notice of its decision for the 2006 assessment on March 31, 2008.
3. The Petitioner appealed to the Board by filing a Form 131 on April 22, 2008. It elected to have this case heard according to small claims procedures.
4. The Board issued a notice of hearing to the parties dated February 10, 2009.
5. Administrative Law Judge Paul Stultz held the Board’s administrative hearing on March 19, 2009.
6. Fred Wilson, president of F. L. Wilson, Inc., and Edward Bisch, the Respondent’s tax representative, were present and sworn as witnesses at the hearing.

Facts

7. The subject property (land and a mobile home) is located at 7268 West Evans Drive in Terre Haute.
8. The Administrative Law Judge did not conduct an inspection of the property.
9. The PTABOA determined the assessed value is \$17,500 for land and \$26,500 for improvements (total \$44,000).

10. The Petitioner verbally withdrew its land issue at the hearing. The parties also agreed the assessment erroneously included a house that no longer existed on March 1, 2006. That house was assessed for \$6,500. Regardless of anything else, the value of the non-existent house must be removed from the assessment. The corrected assessment will include only the land and the mobile home. The assessed value of the improvements would change to \$20,000 for this agreed change. The Petitioner, however, maintains that \$20,000 for the mobile home is too much. Valuation of the mobile home is the only remaining issue. *Wilson testimony; Bisch testimony; Pet'r Ex. 5.*

Contentions

11. Summary of the Petitioner's case:
 - a. The assessed value of the subject property is more than its market value-in-use. The property was acquired in 2003 for a total purchase price of \$40,000. Just \$10,000 of that amount was attributable to the mobile home. The value of the mobile home has not increased to \$20,000 since the Petitioner bought it. The assessed value is excessive compared to the purchase price. *Wilson testimony.*
 - b. Since mobile homes are not appraised, retail sales are used to determine the value of these types of dwellings. The National Auto Dealers Association (NADA) Value Report dated January 14, 2009, for the quarter of January to April 2009, estimates the subject property has a retail value of \$8,985. This information is close to the 2006 assessment time—the NADA Guides for previous years were not available. A mobile home dealer said that although the NADA estimates \$8,985 as the retail value, it would realistically sell for an amount between \$5,000 and \$8,000. While unable to come up with a “good, firm, realistic value,” the current value of \$20,000 is incorrect. *Wilson testimony; Pet'r Ex. 1.*
12. Summary of the Respondent's case:
 - a. The Petitioner owned the mobile home and the land under it, so the mobile home is assessed as part of the real property for 2006. *Bisch testimony.*
 - b. The ratio study for Prairie Creek Township shows how the trend factor was developed for 2006. In Prairie Creek Township, there were only three sales during 2004 and 2005. The ratio study shows that the factor for Prairie Creek Township is 99%. The property record card shows that 99% factor was used for the 2006 assessment of the subject property. *Bisch testimony; Resp't Ex. 1.*
 - c. Respondent Exhibit 2 lists all the 2004 and 2005 mobile home sales in Vigo County. The rural mobile home sales are marked with a check. The column on the far right shows that the assessment/sale ratios start at approximately 60% and end at approximately 118%. Under the State's rules for establishing value using sale prices, the sales ratio should be in a range of 50% to 150%. The assessments

used for the ratio study fall within an acceptable range. This fact supports the subject property's current assessed value. *Bisch testimony; Resp't Ex. 2.*

- d. The valuation date of the NADA Value Sheet provided by the Petitioner does not satisfy the required valuation date of January 1, 2005. The Petitioner purchased the subject property in 2003, which is also beyond the appropriate timeframe for a 2006 assessment. *Bisch testimony.*

Record

13. The official record for this matter is made up of the following:
 - a. Petition for Review of Assessment (Form 131) with attachments,
 - b. Notice of Hearing,
 - c. Hearing Sign-in Sheet,
 - d. A digital recording of the hearing,
 - e. Petitioner Exhibit 1 – NADA Value Report,
Petitioner Exhibit 2 – Photograph of subject property,
Petitioner Exhibit 3 – Photograph of subject property,
Petitioner Exhibit 4 – Mobile home permit,
Petitioner Exhibit 5 – Property record card,
Respondent Exhibit 1 – 2006 Trending Report for Prairie Creek Township,
Respondent Exhibit 2 – Vigo County sales/assessment ratio data for mobile homes,
Respondent Exhibit 3 – Notice of Appearance,
 - f. These Findings and Conclusions.

Analysis

14. The Respondent primarily attempted to support the current assessment with assessment/sale ratio data.¹ The Respondent claims that the assessment draws some sort of general validity from the fact that the assessment/sale ratio of other properties is within an acceptable range. The Respondent provides no authority or substantial explanation for the conclusion that there is an acceptable range for finally establishing the assessed value of the subject property. Apparently that position is based on the standards for evaluating

¹ Interestingly, the Respondent's evidence shows that of the three sales in Prairie Creek Township, one property was assessed for 82% of its selling price, one was assessed for 101% of its selling price, and one was assessed for 122% of its selling price. The Respondent's evidence relating to all the mobile home sales in Vigo County demonstrates an even greater amount of variation with assessments that range from 54% of selling price to 149% of selling price. This type of evidence does nothing to prove that the assessment of the subject property is correct. To the contrary, the dispersion indicates that many individual assessments do not correspond with their sale prices.

the accuracy and uniformity of a mass appraisal for equalization purposes, which is an entirely different matter. *See* 2002 REAL PROPERTY ASSESSMENT MANUAL at 20-21 (incorporated by reference at 50 IAC 2.3-1-2). The Respondent's argument would not overcome probative evidence that is more precise because taxpayers are specifically permitted to offer relevant evidence that includes appraisals and any other information compiled in accordance with generally accepted appraisal principles.

15. The Petitioner, however, did not make a prima facie case for any change to the assessed value of the mobile home.
 - a. A Petitioner seeking review of a determination of an assessing official 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).
 - b. Real property is assessed on the basis of its "true tax value," which does not mean fair market value. It means "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." Ind. Code § 6-1.1-31-6(c); MANUAL at 2. There are three generally accepted techniques to calculate market value-in-use: the cost approach, the sales comparison approach, and the income approach. The primary method for assessing officials to determine fair market value-in-use is the cost approach. MANUAL at 3. Indiana promulgated Guidelines that explain the application of the cost approach. The value established by use of the Guidelines, while presumed to be accurate, is merely a starting point. A taxpayer is permitted to offer evidence relevant to market value-in-use to rebut that presumption. Such evidence may include actual construction costs, sales information regarding the subject or comparable properties, appraisals, and any other information compiled in accordance with generally accepted appraisal principles. MANUAL at 5.
 - c. A 2006 assessment must have a value as of January 1, 2005. Ind. Code § 6-1.1-4-4.5; 50 IAC 21-3-3. Evidence relating to a different date must have an explanation about how it demonstrates or is relevant to the value as of the required valuation date. *See Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005).
 - d. Sale information regarding the subject property is a possibility for proving what the assessed value should be, but the record contains no probative evidence that establishes only \$10,000 from the total purchase price of \$40,000 was for the mobile home. Furthermore, Mr. Wilson simply states the mobile home value could not have increased from \$10,000 to \$20,000 from the purchase in 2003. Such conclusory testimony is not probative evidence. *See Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).

- e. The NADA value of \$8,985 is for 2009. While noting the time difference, the Petitioner did not establish how that NADA value might relate to value as of January 1, 2005. The Petitioner merely invited the Board to interpolate, which is something the Board will not do. *See Meridian Towers*, 805 N.E.2d at 480 (stating that it is improper for the Board to make a case for a party). The NADA value does not help prove what the assessment should be. The testimony that a mobile home dealer said the mobile home would sell for \$5,000 to \$8,000 also fails to make the Petitioner's case because the Petitioner failed to relate that statement to the required valuation date of January 1, 2005. More importantly, such conclusory statements are not probative evidence. *Whitley Products*, 704 N.E.2d at 1119.
- f. The Petitioner did not prove any specific lower market value-in-use for the mobile home.

Conclusion

- 16. The Petitioner failed to make a prima facie case for changing the assessed value of the mobile home. The Board finds in favor of the Respondent on that point. Nevertheless, by agreement, part of the assessment (\$6,500 for a dwelling) is incorrect and must be removed. Thus, the corrected improvement value will be \$20,000.

Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines the total assessment for land and improvements will be changed to \$37,500.

ISSUED: June 12, 2009

Commissioner, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

- 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>>