

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

Petitions: **03-011-06-1-5-00006**
 03-016-06-1-5-00007
Petitioner: **Ronald Felicijan**
Respondent: **Bartholomew County Assessor**
Parcels: **06-84-01.32-1701 (lot 283)**
 09-84-11.21-1200 (lot 172)
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 assessment appeals by filing two Form 130 petitions with the County Property Tax Assessment Board of Appeals (PTABOA) on February 2, 2007.
2. The PTABOA issued notice of its decisions on December 12, 2007.
3. The Petitioner appealed to the Board by filing two Form 131 petitions on January 25, 2008. The Petitioner elected small claims procedures.
4. The Board issued notices of hearing to the parties dated June 16, 2009.
5. Administrative Law Judge Alyson Kunack held the Board's administrative hearing on August 25, 2009. She did not inspect the property.
6. The Petitioner's Certified Tax Representative, Milo Smith, and Deputy County Assessor Robert Blessing were sworn as witnesses at the hearing.

Facts

7. Parcel 06-84-01.32-1701 (Grandview Lake lot 283) is a vacant lot at 10861 West Grandview Drive, Columbus, Indiana—the only improvement on it is a wood dock. Parcel 09-84-11.21-1200 (Grandview Lake lot 172) is a single-family residence at 11561 West Grandview Drive, Columbus, Indiana. They are not contiguous properties.
8. The PTABOA determined the assessed value of lot 283 is \$300,000 for the land and \$2,400 for the improvements (total \$302,400).

9. The PTABOA determined the assessed value of lot 172 is \$300,000 for the land and \$236,200 for the improvements (total \$536,200).
10. The Petitioner never specified what a more correct value would be for either parcel.

Record

11. The official record consists of the following:
 - a) The Petitions,
 - b) The digital recording of the hearing,
 - c) Exhibits regarding parcel 06-84-01.32-1701 (lot 283):
 - Petitioner Exhibit 1 – Copy of Ind. Code §6-1.1-4-4.5,
 - Petitioner Exhibit 2 – None,
 - Petitioner Exhibit 3 – Copy of 50 I.A.C. 21-2-6,
 - Petitioner Exhibit 4 – Map of Grandview Lake showing lot 283’s location,
 - Petitioner Exhibit 5 – PRC for lot 243A on Grandview Lake,
 - Petitioner Exhibit 6 – PRC for lot 245 on Grandview Lake,
 - Respondent Exhibit 1 – Subject PRC,
 - Respondent Exhibit 2 – Parcel characteristic report for Grandview Lake,
 - Respondent Exhibit 3 – Aerial photograph showing lot 283,
 - Respondent Exhibit 4 – Map of Grandview Lake with lot 283 indicated in yellow,
 - Respondent Exhibits 5A-J – PRCs for properties on Grandview Lake showing sales information,
 - Respondent Exhibit 6 – Plat map of Grandview Lake with sales information,
 - Board Exhibit A – Form 131 Petition,
 - Board Exhibit B – Notices of Hearing,
 - Board Exhibit C – Hearing sign-in sheet,
 - d) Exhibits regarding parcel 09-84-11.21-1200 (lot 172):
 - Petitioner Exhibit 1 – Copy of Ind. Code §6-1.1-4-4.5,
 - Petitioner Exhibit 2 – None,
 - Petitioner Exhibit 3 – Copy of 50 I.A.C. 21-2-6,
 - Petitioner Exhibit 4 – Map of Grandview Lake showing lot 172’s location,
 - Petitioner Exhibit 5 – PRC for lot 243A on Grandview Lake,
 - Petitioner Exhibit 6 – PRC for lot 245 on Grandview Lake,
 - Respondent Exhibit 1 – Subject PRC,
 - Respondent Exhibit 1A – Subject PRC showing 2008 sale,
 - Respondent Exhibit 2 – Parcel characteristic report for Grandview Lake,
 - Respondent Exhibit 3 – Aerial photograph showing lot 172,
 - Respondent Exhibit 4 – Map of Grandview Lake with lot 172 indicated in yellow,

Respondent Exhibits 5A-J – PRCs for properties on Grandview Lake
showing sales information,
Respondent Exhibit 6 – Plat map of Grandview Lake with sales
information,
Board Exhibit A – Form 131 Petition,
Board Exhibit B – Notices of Hearing,
Board Exhibit C – Hearing sign-in sheet,

- e) These Findings and Conclusions.

Contentions

12. Summary of the Petitioner's case:

- a) The assessed value of the subject property is incorrect because there was no adjustment percentage applied to account for changes from the 2002 assessment. Indiana Code §6-1.1-4-4.5 states, in part, that the assessment rules must promote uniform and equal assessments. The Department of Local Government Finance (DLGF) must review and certify each annual adjustment. *Smith testimony; Petitioners Exhibit 1.* There is no indication that the DLGF ever approved the annual adjustment. It appears to have been simply changing the base rate. *Id.; Petitioners Exhibit 2.*
- b) According to 50 IAC 21-2-6, the subject property and others like it should be broken down into a uniform group by location as part of the assessment process. There is no evidence of such a stratification process having been applied. *Smith testimony; Petitioners Exhibit 3.*
- c) The land value for lakefront parcels directly on the main body of water is \$300,000 per lot. The subject parcels have the same value, but are in less ideal locations. The parcels on the main body of the lake are much more valuable than those such as the subject parcels. They should be priced accordingly. *Smith testimony; Petitioners Exhibits 4-6.*

13. Summary of Respondent's case:

- a) For the 2006 assessment, all lots at Grandview Lake initially were raised to \$300,000. Then adjustments were made through the appeals process for reasons such as limited lake access, location far back in a cove, or lack of a lake view. *Blessing testimony.*
- b) The PTABOA did not find sufficient grounds to make a change to either of the Petitioner's assessments. Both parcels are in good locations with plenty of access to the main body of the lake. *Blessing testimony; Respondent Exhibits 3, 4.*

- c) Land at Grandview Lake is appreciating. A number of those properties sold between October 1999 and July 2008. *Respondent Exhibits 2, 5A-J, 6*. Five sold twice within that timeframe, and each of those had a substantial increase in price for the second sale. *Blessing testimony; Respondent Exhibits 5A-J*.
- d) Lot 55A sold for \$300,000 on June 29, 2005. It is a vacant lot that is “not really a desirable type location.” *Blessing testimony; Respondent Exhibit 5H*.
- e) These sales support the base price of \$300,000 per lot. *Blessing testimony; Respondent Exhibits 2, 5A-J, 6*.
- f) In the county appeals, the main complaint was that the land value increased so much and so quickly. Few people had an issue with the improvement values. *Blessing testimony*.

Objection

- 14. The Petitioner objected to the admission of Respondent’s Exhibit 1A because it showed a sale of lot 172 in 2008. The Petitioner argued that the information was outside of the year of appeal and lacked relevance. The objection is overruled.
- 15. Its probative value and weight in reaching a final determination, however, is another matter. Because nothing establishes how the 2008 price might relate to a value as of January 1, 2005, that sale price does not help to prove what the value of the subject property should be in this case. *See Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005).

Analysis

- 16. 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).
- 17. 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”).
- 18. 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.

19. The Petitioner did not make a prima facie case for any assessment change.
- a) Real property is assessed based on 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); 2002 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.3-1-2). 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 value-in-use is the cost approach. MANUAL at 3. Indiana promulgated a series of guidelines that explain the application of the cost approach. REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002—VERSION A (incorporated by reference at 50 IAC 2.3-1-2). 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.
 - b) A 2006 assessment must reflect value as of January 1, 2005. Ind. Code § 6-1.1-4-4.5; 50 IAC 21-3-3. Any evidence relating to a different date must also have an explanation about how it demonstrates, or is relevant to, the value as of that required valuation date. *See Long*, 821 N.E.2d at 471.
 - c) Much of the Petitioner's case focuses on assessment methodology. The Petitioner argues that there was no annual adjustment percentage applied as required by Ind. Code § 6-1.1-4-4.5. He also argues that Grandview Lake properties were not properly broken down into uniform groups by location as part of a stratification process mandated by 50 IAC 21-2-6. But a taxpayer cannot rebut an assessment's presumed accuracy simply by arguing about the methodology that the assessor used to compute the assessment. To be successful, a taxpayer must show that the assessment does not accurately reflect the property's market value-in-use. *O'Donnell v. Dep't of Local Gov't Fin.*, 854 N.E.2d 90, 94-95 (Ind. Tax Ct. 2006); *Eckerling v. Wayne Twp. Assessor*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006). The evidence about the annual adjustment percentage and stratification does not help to prove what a more accurate valuation of the subject properties might be. Consequently, those points do not make the Petitioner's case.
 - d) The Petitioner also attempted to prove his case by comparing the assessed value of his lots to the assessed value of other lots on Grandview Lake. The evidence established that lots on the main body of the lake generally have an assessed value of \$300,000. According to Mr. Smith, some of those lots are in better locations and should be more valuable than the subject properties, but they are assessed with the same value. Such sketchy, conclusory attempts to make comparisons do not support any valid determination about the relative values of the properties.

See Long, 821 N.E.2d at 471 (explaining that the taxpayers were responsible for explaining the characteristics of their own property, how those characteristics compared to those of the purportedly comparable properties, and how any differences affected the relevant values). Furthermore, even if Mr. Smith's conclusion about relative value of the Petitioner's lots and main body lots is accurate, it does not prove the current assessments are wrong and it does not prove what a more accurate market value-in-use might be for either lot.

- e) The Petitioner failed to address the actual market value-in-use of the subject properties in any meaningful way.

- 20. When a taxpayer fails to provide probative evidence supporting his position that an assessment should be changed, the Respondent's duty to support the assessment with substantial evidence is not triggered. *See Lacy Diversified Indus. v. Dep't of Local Gov't Fin.*, 799 N.E.2d 1215, 1221-1222 (Ind. Tax Ct. 2003).

Conclusion

- 21. The Petitioner failed to make a prima facie case. The Board finds in favor of the Respondent.

Final Determination

In accordance with the above findings and conclusions the assessments will not be changed.

ISSUED: _____

Chairman,
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>.