

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

Petitions: 26-009-12-1-5-00005
Petitioners: George Gray, Jr.
Respondent: Gibson County Assessor
Parcel: 26-18-36-403-000-655-009
Assessment Years: 2012

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 Petitioner initiated an assessment appeal with the Gibson County Property Tax Assessment Board of Appeals (“PTABOA”) by filing a letter dated October 28, 2012.
2. The PTABOA issued notice of its decision regarding the 2012 assessment on May 06, 2013.
3. The Petitioner appealed the determination to the Board by timely filing a Form 131 petition. He elected to have the case heard according to small claims procedures.
4. Administrative Law Judge Paul Stultz held the Board’s administrative hearing on April 15, 2014. He did not inspect the property.
5. George Gray appeared *pro se*. County Attorney James McDonald represented the County Assessor. County Assessor Juanita Beadle, Kim Minkler, and the Petitioner George Gray were sworn as witnesses.

Facts

6. The subject property is a single family residence located at 103 North Jeremy Lane, Haubstadt, Indiana.
7. The PTABOA determined the assessed value was \$19,600 for land and \$163,000 for improvements (total \$182,600).
8. The Petitioner stated the assessment should be \$175,700. *Gray testimony.*

Record

9. The official record contains the following:
 - a. The Petition,
 - b. A digital recording of the hearing,
 - c. Petitioner Exhibits – None,
Respondent Exhibits 1– Subject property record card,
Respondent Exhibits 2 – Photo of subject property,
Respondent Exhibits 3 – Subject’s neighborhood ratio study,
Respondent Exhibits 4 – History of property sold in subject’s neighborhood,
Respondent Exhibits 5 – History of property sold in subject’s neighborhood,
Board Exhibit A – Form 131 Petitions,
Board Exhibit B – Notices of Hearing,
Board Exhibit C – Hearing Sign-In Sheet,
 - d. These Findings and Conclusions.

Burden of Proof

10. Generally, a taxpayer seeking review of an assessing official’s determination has the burden to prove that a property’s assessment is incorrect and what the correct assessment should 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). A burden-shifting statute creates two exceptions to that rule in Indiana Code § 6-1.1-15-17.2 as amended by P.L.97-2014.
11. First, I.C. § 6-1.1-15-17.2 “applies to any review or appeal of an assessment under this chapter if the assessment that is the subject of the review or appeal is an increase of more than five percent (5%) over the assessment for the same property for the prior tax year.” I.C. § 6-1.1-15-17.2(a) “Under this section, the county assessor or township assessor making the assessment has the burden of proving that the assessment is correct in any review or appeal under this chapter and in any appeals taken to the Indiana board of tax review or to the Indiana tax court.” I.C. § 6-1.1-15-17.2(b).
12. Second, I.C. § 6-1.1-15-17.2(d) “applies to real property for which the gross assessed value of the real property was reduced by the assessing official or reviewing authority in an appeal conducted under I.C. § 6-1.1-15.” Under those circumstances, “if the gross assessed value of real property for an assessment date that follows the latest assessment date that was the subject of an appeal described in this subsection is increased above the gross assessed value of the real property for the latest assessment date covered by the appeal, regardless of the amount of the increase, the county assessor or township assessor

(if any) making the assessment has the burden of proving that the assessment is correct.” This change is effective March 25, 2014, and has application to all appeals pending before the Board. These provisions may not apply if there was a change in improvements, zoning, or use, or if the assessment was based on an income capitalization approach.

13. Both parties agree that the 2011 assessed value was \$175,700 and the PTABOA determination for 2012 was \$182,600. The change is 3.9% and there is no evidence of an appeal in 2011. The Petitioner has the burden of proof.

Contentions

14. Summary of the Petitioner’s case:
 - a. The assessed value increased in 2006. There were no changes or improvements done so the increase was not justified. *Gray testimony.*
 - b. The property was appraised for \$180,000 by an appraiser in 2006. The assessed value increased to \$175,700 in 2008 and stayed at that value through 2011. *Gray testimony.*
 - c. The assessment increased 3.9 % to \$182,600 in 2012. The Respondent told the Petitioner she was directed by the State to raise a certain amount of money and to increase the assessments by a certain factor. *Gray testimony.*
 - d. Of the comparisons provided by the Respondent, only a couple of those taxpayers received notice of their 2013 assessment. The Petitioner’s 2013 assessment was raised to \$185,300 without any notification. Individuals in the Petitioner’s neighborhood have told him their assessed values did not increase. *Gray testimony.*
 - e. The Respondent’s records show a higher purchase price (\$160,000) than paid for the property in 2000. The value includes personal items like a TV, surround sound system, and other furniture that added up to \$3,000 or more. *Gray testimony.*
 - f. The Petitioner feels he has been singled out because he appealed the 2012 assessment and keeps the property looking nice. There have been no changes to the property to increase its value. The 2012 assessment should be \$175,700 as it was in 2011. *Gray testimony.*
15. Summary of the Respondent’s case:
 - a. The subject property was assessed using mass appraisal methods including the cost tables provided by the State and ratio studies. *Beadle testimony; Resp’t Ex. 1.*
 - b. The Petitioner did not disagree with any of the data on the property record card (PRC). *Beadle testimony; Resp’t Ex. 1.*

- c. The trending factor is determined by ratio studies. The study uses actual sales in the subject neighborhood. The statistical data falls within the ranges required by the state guidelines. The ratio study indicates market values increased from 2011 to 2012. *Minkler testimony; Beadle testimony; Resp't Ex.3.*
- d. The sales history of the subject neighborhood supports the ratio data that market values have been increasing. *Beadle testimony; Resp't Exs.4, 5.*
- e. There were 430 appeals for the 2012 assessment year. The Petitioner was not the only taxpayer challenging the 2012 assessed values in Gibson County. *Beadle testimony.*
- f. The Petitioner has not met his burden of proof by failing to indicate what the property's market value should be. He has not provided any evidence to indicate the assessor's assessed value is not correct. He did not object to any of the values on the PRC to determine the assessed value, and he holds the inaccurate opinion that he is being picked on. *McDonald argument.*

Analysis

- 16. The Petitioner did not make a prima facie case for a change in the assessment.
 - a. Real property is assessed based on its "true tax value," which 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); 2011 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.4-1-2). The cost approach, the sales comparison approach, and the income approach are three generally accepted techniques to calculate market value-in-use. *Id.* at 2. Assessing officials primarily use the cost approach. *Id.* at 3. The cost approach estimates the value of the land as if vacant and then adds the depreciated cost new of the improvements to arrive at a total estimate of value. *Id.* at 2. Any evidence relevant to the true tax value of the property as of the assessment date may be presented to rebut the presumption of correctness of the assessment, including an appraisal prepared in accordance with generally recognized appraisal standards. *Id.* at 3.
 - b. A mere opinion or conclusion does not constitute probative evidence. *Inland Steel Co. v. State Bd. of Tax Comm'rs*, 739 N.E.2d 201, 211 (Ind. Tax Ct. 2000). The fact that the subject property had no physical changes between the 2011 assessment and the 2012 assessment does not necessarily indicate that the market value of the property did not change.
 - c. Regardless of the method used to challenge an assessment's presumption of accuracy, a party must explain how its evidence relates to market value-in-use as of the relevant valuation date. *O'Donnell v. Dep't of Local Gov't Fin.*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006); *see also Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). For the 2012 assessment, the valuation date was March 1, 2012. 50 IAC 21-3-3 (2010).

- d. The Petitioner stated he purchased the property for \$165,500 in 2000. He also stated the property appraised for \$180,000 in 2006. He failed to relate either of these values to the valuation date for 2012.
- e. The Petitioner did not support his conclusory statement with any evidence that he was being singled out. Because the Petitioner has failed to present probative evidence of the correct assessment, he has failed to meet the burden of proof for a change in the assessment.
- f. When a taxpayer fails to provide probative evidence 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); *Whitley Products*, 704 N.E.2d at 1119. Under these circumstances, the Board will not review the Respondent's case.

Conclusion

- 17. The Petitioner failed to prove the correct assessment. The Board finds in favor of Respondent and sustains the 2012 assessment of record.

Final Determination

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

ISSUED: September 10, 2014

Chairman, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

IMPORTANT NOTICE

- APPEAL RIGHTS -

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5 and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required not later than forty-five (45) days after the date of this notice. The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>. The Indiana Tax Court's rules are available at <<http://www.in.gov/judiciary/rules/tax/index.html>>.