

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

Petition No.: 48-024-07-1-5-07583
Petitioner: Eric Horn
Respondent: Madison County Assessor
Parcel No.: 33 316-20-01
Assessment Year: 2007

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

Procedural History

1. On February 25, 2009, Eric Horn filed notice with the Madison County Assessor contesting the subject property’s 2007 assessment. On April 15, 2009, the Madison County Property Tax Assessment Board of Appeals (“PTABOA”) issued its determination lowering that assessment, but not to the level that Mr. Horn had requested.¹
2. On May, 1, 2009, Mr. Horn timely filed a Form 131 petition with the Board. He elected to proceed under the Board’s small claims rules.
3. On January 6, 2010, the Board’s Administrative Law Judge, Jennifer Bippus (“ALJ”), held a hearing on Mr. Horn’s appeal. Neither the Board nor the ALJ inspected the subject property.
4. The following people were sworn in as witnesses:

Eric Horn

For the Assessor: Cheryl Heath, Madison County Assessor
Jennifer Robbins, Madison County Deputy Assessor

Facts

5. The subject property is a residential rental property located at 26 Leota Street, Orestes, Indiana.

¹Attached to Mr. Horn’s Form 131 petition is the first page of a Form 133 petition that the Assessor signed as the petitioner. *See Bd. Ex. A.* Neither party discussed what, if anything, happened with that petition.

6. The PTABOA determined the following values for the subject property:

Land: \$6,500 Improvements: \$30,600 Total: \$37,100.

7. At the Board's hearing, Mr. Horn requested an assessment of \$4,000.²

Contentions

8. Summary of Mr. Horn's contentions:

a) The subject property should be assessed for no more than what Mr. Horn paid for it. Mr. Horn bought the property for \$4,000 on March 7, 2008.³ He bought the subject property through a realtor, although the realtor might have been selling the property for a bank. The property was originally listed for \$9,000, but the seller accepted Mr. Horn's offer of \$4,000 without making a counteroffer. *Horn testimony.*

b) The subject house was in terrible shape. The ceilings were falling down, the floor was falling in, and it needed new windows and plumbing. The garage was old and was not properly framed. Mr. Teach has re-roofed the garage, put new windows in the house, and re-worked the plumbing. But the property still needs a lot of work. *Teach testimony.*

c) The subject property's lot is also a problem. It is narrower in the front than in the back, and it goes through a neighboring property's garage. *Teach testimony; see also, Resp't Ex. 1.*

9. Summary of the Assessor's contentions:

a) Mr. Horn actually bought the subject property from Federal National Mortgage Association, so it had probably been repossessed. *Heath testimony.*

b) Because of the property's condition and lot shape, the PTABOA lowered the house's grade "D-1" and its condition rating to "poor." It also applied 40% obsolescence and added cost for air conditioning. *Heath testimony.*

Record

10. The official record for this matter is made up of the following:

a) The Form 131 petition,

² On his Form 131 petition, Mr. Horn requested values of \$4,000 for the land and \$9,000 for the improvements, for a total assessment of \$13,000.

³ Mr. Horn did not clearly testify about the date that he bought the property. The Assessor, however, testified that Mr. Horn bought the property on March 7, 2008. *Heath testimony.* When asked if that date was correct, Mr. Horn replied "I guess." *Horn testimony.*

b) A digital recording of the hearing,

c) Exhibits:⁴

Respondent's Exhibit 1: Aerial photograph of the subject property,
Respondent's Exhibit 2: Aerial photograph of the left side of the subject property,
Respondent's Exhibit 3: Aerial photograph of the right side of the subject
property,

Board Exhibit A: Form 131 petition,
Board Exhibit B: Hearing notice,
Board Exhibit C: Hearing sign-in sheet,

d) These Findings and Conclusions.

Analysis

11. The following cases outline the parties' respective burdens:

- a) A taxpayer seeking review of an assessing official's determination must make a prima facie case proving both that the current 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).
- b) In making its case, the taxpayer must explain how each piece of evidence relates to its 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").
- c) If the taxpayer establishes a prima facie case, the burden shifts to the respondent to rebut or impeach the taxpayer's evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004); *Meridian Towers*, 805 N.E.2d at 479.

12. Mr. Horn did not make a prima facie case for reducing the subject property's assessment. The Board reaches this conclusion for the following reasons:

- a) In Indiana, real property is assessed based on its "true tax value," which the 2002 Real Property Assessment Manual defines 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 at 2 (incorporated by reference at 50 IAC 2.3-1-2). Appraisers traditionally have used three methods to determine a property's market value: the cost, sales-comparison, and income approaches to value. *Id.* at 3, 13-15. Indiana assessing officials generally use a

⁴ Mr. Horn did not offer any exhibits.

mass-appraisal version of the cost approach set forth in the Real Property Assessment Guidelines for 2002 – Version A.

- b) A property's assessment, as determined using the Guidelines, is presumed to accurately reflect its market value-in-use. *See* MANUAL at 5; *Kooshtard Property VI, LLC v. White River Twp. Assessor*, 836 N.E.2d 501, 505 (Ind. Tax Ct. 2005). But a taxpayer may rebut that presumption with evidence that is consistent with the Manual's definition of true tax value. *Id.* A market value-in-appraisal prepared according to the Uniform Standards of Professional Appraisal Practice often will suffice. *Kooshtard Property VI*, 836 N.E.2d at 506 n. 6. A taxpayer may also offer actual constructions costs, sales information for the subject or comparable properties, and other information compiled according to generally accepted appraisal principles. MANUAL at 5; *Eckerling v. Wayne Twp. Assessor*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006).
- c) Regardless of the method used to rebut an assessment's presumption of accuracy, a party must explain how its evidence relates to the property's 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). The valuation date for 2007 assessments was January 1, 2006. Ind. Code § 6-1.1-31-6 (c); 50 IAC 21-3-3.
- d) Mr. Horn relied primarily on the fact that he bought the subject property for only \$4,000. But he bought the property on March 7, 2008—more than two years after the relevant January 1, 2006, valuation date for the March 1, 2007, assessment at issue in this appeal. And Mr. Horn did not attempt to explain how that \$4,000 sale price related to the property's market value-in-use as of January 1, 2006. That sale price therefore lacks probative value. *See Long*, 821 N.E.2d at 471 (finding that evidence lacked probative value where the taxpayers failed to explain how it related to their property's value as of the relevant valuation date).
- e) Mr. Horn also testified about the subject house's condition and the shape of its lot. But he offered nothing to quantify how either of those things affected the subject property's market value-in-use. Moreover, the property's assessment already reflects a condition rating of "poor"—the second lowest rating under the Guidelines. *See* GUIDELINES, App. B at 7 (listing condition ratings of excellent, good, average, fair, poor, and very poor). Although Mr. Horn generally described the house's condition by explaining that its roof and floors were falling in and that it needed new windows and plumbing, he did not offer any photographs. Nor did he compare the house's condition to the Guidelines' descriptions for houses in "poor" and "very poor" condition. Mr. Horn therefore failed to show that the "poor" rating reflected in the house's assessment was inaccurate.
- f) Thus, Mr. Horn offered no probative evidence to show that the subject property's assessment failed to accurately reflect its market value-in-use. He therefore failed to make a prima facie case for reducing that assessment.

Conclusion

13. Mr. Hood failed to make a prima facie case that the subject property's assessment should be reduced. The Board finds for the Assessor.

Final Determination

In accordance with the above findings and conclusions, the Indiana Board of Tax Review now affirms the assessment.

ISSUED: _____

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, 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>