

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

Petition #: 39-009-02-1-5-00078
Petitioner: John F. Monroe
Respondent: Hanover Township Assessor (Jefferson County)
Parcel #: 0090051700
Assessment Year: 2003¹

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 Jefferson County Property Tax Assessment Board of Appeals (PTABOA) by written document dated September 18, 2003.
2. The Petitioners received notice of the decision of the PTABOA on December 9, 2003.
3. The Petitioners filed an appeal to the Board by filing a Form 131 with the county assessor on December 17, 2003. Petitioner elected to have this case heard in small claims.
4. The Board issued a notice of hearing to the parties dated February 5, 2004.
5. The Board held an administrative hearing on March 11, 2004, before the duly appointed Administrative Law Judge Jennifer Bippus.
6. Persons present and sworn in at hearing:
 - a) For Petitioner: John F. Monroe, Petitioner
 - b) For Respondent: E. Gail Sims, Jefferson County Assessor
Elbert Hinds, Jefferson County PTABOA
Margaret Hoffman, Jefferson County Assessor First Deputy

¹ The record is confusing on this point. The Form 131 and Form 130 signed by Petitioner indicate that he is appealing the assessment for March 1, 2003. The Form 11 and Form 115 refer to the assessment as of March 1, 2002. However, the administrative law judge questioned the parties at the hearing, and both parties agreed that they were arguing the March 1, 2003, assessment. Thus, this determination will be for assessment year 2003.

Facts

7. The property is classified as residential, as is shown on the property record card for parcel #009-00517-00.
8. The Administrative Law Judge (ALJ) did not conduct an inspection of the property.
9. The Respondent submitted a witness and evidence list prior to the hearing. The Petitioner did not submit a witness and evidence list as required. However, the parties agreed to waive the rules of submission of the lists and continue with the hearing.
10. Assessed Value of subject property as determined by the Jefferson County PTABOA:
Land: \$ 42,000 Improvements: \$ 146,000.
11. Assessed Value as of date of hearing, after changes were made by the Hanover Township Assessor: Land: \$42,000 Improvements: \$124,600.
12. Assessed Value requested by Petitioner: Land: \$ 42,000 Improvements: \$ 113,000.

Issues

13. Summary of the Petitioner's contentions in support of the alleged error in the assessment:
 - a) The Petitioner presented an appraisal done on August 7, 2000, requesting the property be valued at no more than the appraisal price. The appraisal was done for the purpose of an equity loan.
 - b) The Petitioner presented several comparables, stating that all of the properties were either larger than his own or had better views of the river. The Petitioner stated that the other homes were valued at less than his own and that his property was actually not as nice as some of the comparables.
 - c) The Petitioner contended that the square footage of his home is incorrect on the property record card.
 - d) The Petitioner contends that the grade is incorrect, but this was not an issue that was raised at the PTABOA hearing, nor an issue listed on the Form 131.
14. Summary of the Respondent's contentions in support of the assessment:
 - a) The Respondent contended that all of the land in the area is priced according to the Neighborhood Valuation Form. *Respondent Exhibit 4*. This form represents land valuation performed according to the rules set forth in the 2002 REAL PROPERTY ASSESSMENT MANUAL at 12, (incorporated by reference at 50 IAC 2.3-1-1(a)).
 - b) The Respondent cited the Collier comparable as having some agricultural land included, which would make the land value lower for this property.
 - c) The Respondent provided a copy of the new property record card showing the square footage corrected for the basement area. *Respondent Exhibit 3*.

- d) The Respondent provided a new property record card showing the value of the property at a total of \$166,600 for changes made by the township after the PTABOA hearing. *Respondent Exhibit 3.*
- e) The Respondent contended that the final value of \$166,600 is within a reasonable range of the \$155,000 appraisal value that was submitted.
- f) The Respondent contended that the value of the home is in line with the ratio study done for the area and county.
- g) The Respondent contended that the total square foot value for “living area” was incorrect on the appraisal on the sketch calculations. Respondent contends that portions of the basement should be included.
- h) The Respondent told the Petitioner that the Township Trustee Assessor would be glad to meet with the Petitioner to re-measure the home and correct the square footage, if necessary.
- i) The Respondent did not address the issue of grade. It was not an issue listed at the PTABOA hearing, nor on the Form 131.

Record

15. 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 #5861.
- c) Exhibits:

Petitioner Exhibit 1: A copy of the appraisal done for the subject property dated August 7, 2000.

Petitioner Exhibit 2: Comparable property record card for Collier.

Petitioner Exhibit 3: Comparable property record card for Hanson.

Petitioner Exhibit 4: Comparable property record card for Jenson.

Petitioner Exhibit 5: Comparable property record card for Graves.

Petitioner Exhibit 6: Comparable property record card for Haverkamp.

Petitioner Exhibit 7: Comparable property record card for Rhoten.

Petitioner Exhibit 8: Comparable property record card for Emery.

Petitioner Exhibit 9: Comparable property record card for Hiatt.

Petitioner Exhibit 10: Comparable property record card for Ligon.

Petitioner Exhibit 11: Property record card for the subject property – Monroe.

Respondent Exhibit 1: A copy of the Respondent’s witness and exhibit list given to the ALJ on March 1, 2004, along with a corrected property record card done by the Township Trustee after the PTABOA hearing. The new assessed values were Land: \$ 42,000 Improvements: \$124,600.

Respondent Exhibit 2: A copy of the old property record card with the old square footages of the property.

Respondent Exhibit 3: A copy of the new property record card with corrected square footages of the property.

Respondent Exhibit 4: A copy of the Residential Neighborhood Valuation Form with the site value of the subject property listed.

The Respondent was going to submit a tape of the PTABOA hearing to both the ALJ and the Petitioner, but was not able to do so. There will be no tape from the PTABOA hearing added as evidence.

- d) These Findings and Conclusions.

Analysis

16. The most applicable governing cases are:

- a) The Board will not change the determination of the County Property Tax Assessment Board of Appeals (PTABOA) unless the petitioner has established a prima facie case and, by a preponderance of the evidence proven, both the alleged error(s) 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).
- b) 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).

17. The Petitioner failed to present a prima facie case in support of his proposed assessment. This conclusion was arrived at because:

- a) Petitioner presented an appraisal that was performed for the purposes of an equity loan. *Petitioner Exhibit 1; Monroe testimony*. An appraisal performed in accordance with generally recognized appraisal principles is enough to establish a prima facie case. *See Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d 475, 479 (Ind. Tax Ct. 2003).
- b) Petitioner's appraisal is seriously flawed. *Sims testimony; Hoffman testimony*. On its face, it is apparent that a mistake was made regarding the Gross Living Area for the subject property. *See Petitioner Exhibit 1, at 5*. The appraisal shows only 578 square feet of gross living area, while the new property record card has 1450 square feet of finished area for the first story and 874 square feet of finished area in the basement.² *Id.*; *c.f., Respondent Ex. 3*. This error is carried to the extreme when the 578 square feet are compared to properties consisting of 1,900, 1,800, and 2,300 square feet. *Petitioner Exhibit 1, at 5*. This absurd difference caused the appraiser to adjust the comparables downward by amounts ranging from \$7,860 to \$17,860. *Id.* Clearly the appraisal is erroneous and is not performed in compliance with generally recognized appraisal practices.

² The revisions to the property record card involve the extent to which portions of the basement were previously underassessed or assessed incorrectly. The Respondent gave considerable testimony regarding the corrections made to the assessment. *See Sims testimony*. The validity of the changes was not at issue in this appeal.

- c) The Board cannot ignore the factual errors within this appraisal as pointed out by the Respondent. The Board fully appreciates the impropriety of questioning an appraisal performed in accordance with generally recognized appraisal practices, as addressed in *Meridian Towers*. However, the facts of this case show that this appraisal of value is premised on inaccurate data regarding the objective physical characteristics of the subject property (i.e., the square footage of living area). Consequently, the appraisal represents a judgment of value for a fictitious property substantially dissimilar to the subject. An appraisal based on an evaluation of a property 578 square feet in size cannot be considered probative evidence of the value of the substantially larger subject property. In short, the Board is not questioning the appraisal, so much as what exactly was being appraised. Again, the error is evident in the evidence (on the face of the appraisal).
- d) The Petitioner also provided property record cards and photographs of several properties he alleged to be comparable. However, Petitioner did not specify how or why the properties are actually comparable. The Petitioner offered only vague statements that the homes were better than his and that they offered a better view of the river. Instead Petitioner needed to explain how the physical features of his property compare to each of the allegedly comparable properties. *Blackbird Farms Apts., LP v. Dep't of Local Gov't Fin.*, 765 N.E.2d 711, 715 (Ind. Tax Ct. 2002) (stating that “A taxpayer's conclusory statement that something is comparable does not constitute probative evidence.”). The petitioner must make the requisite connections between the evidence and his assertions. See *Indianapolis Racquet Club, Inc. v. Washington Twp. Assessor*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004); *Heart City Chrysler* at 333.
- e) Petitioner contended that other lots in the neighborhood had “better views and more land.” *Monroe testimony*. However, Petitioner did not explain why this should reduce the assessment of his land. All of the land in the subdivision is valued at \$42,000 per homesite, with only a few receiving influence factors. *Sims testimony*.
- e) The grade issue was not addressed at the hearing because it was not presented as an issue on the Form 131, nor was it an issue at the PTABOA hearing. See 52 IAC 3-1-2(b). The Petitioner made only conclusory statements that the grade may be incorrect.

Conclusion

18. The Petitioner failed to present a prima facie case. The Board finds in favor of the Respondent.

Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should not be changed.

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.