

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

Petition #: 83-010-06-1-5-00116
Petitioner: James N. Jones
Respondent: Vermillion County Assessor
Parcel #: 010-019-0014-00
Assessment Year: 2006

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

Procedural History

1. On June 23, 2007, the Petitioner appealed his property’s assessment to the Vermillion County Property Tax Assessment Board of Appeals (“PTABOA”). The PTABOA issued its determination on August 21, 2007.
2. The Petitioner then timely filed a Form 131 petition with the Board. He elected to proceed under the Board’s rules for small claims.
3. On January 29, 2008, the Board held an administrative hearing through its Administrative Law Judge, Alyson Kunack (“ALJ”).
4. Persons present and sworn in at hearing:
 - a) For Petitioner: James N. Jones, property owner
Shelia M. Jones
 - b) For Respondent: Patricia L. Richey, Vermillion County Assessor

Facts

5. The property is a single-family residence located at 362 Depot Street, Perrysville, Indiana.
6. Neither the Board nor the ALJ inspected the subject property.
7. The PTABOA’s determination lists the following assessment:

Land: \$15,500	Improvements: \$85,900	Total: \$101,400
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8. The Petitioner requested a total assessment of \$81,000.

Parties' Contentions

9. The Petitioner offered the following evidence and arguments:
- a) According to a comparable-sales analysis performed by Ella Spring, a real-estate broker with the Warren Agency, Inc., the subject property was worth \$81,000 as of December 31, 2005. *J. Jones testimony; Pet'r Ex. 6*. In making her estimate, Ms. Spring examined three comparable properties and adjusted their sale prices to reflect various ways in which they differed from the subject property. *See Pet'r Ex. 6*.
 - b) After filing his original appeal to the PTABOA, the Petitioner believed that he and the township trustee had agreed to an \$85,000 assessment. *J. Jones testimony*. They based their agreement on the Petitioner having bought the property for \$65,000 in 2001. *Id.* The PTABOA, however, rejected the agreement, finding that the 2001 sale price was too old to rely on. *Id.*
 - c) At the PTABOA's direction, the Petitioner compiled a list of values for comparable properties. *Pet'r Ex. 3*. He identified 16 properties from Perrysville that sold for over \$45,000 between 2003 and 2005. *Id.* Six of those properties contained houses that, like the Petitioner's house, were single-story frame construction with two bedrooms and one bath. *Id.; J. Jones testimony*. All six houses were built in the 1960s and had lots comparable to the subject lot. *Id.* Some had basements and others did not, but not all garages. *Id.* None of the homes sold for anything approaching the subject property's current assessment of \$101,400. *Id.*
 - d) The Petitioner concluded that, on average, assessments increased 26% from 2002 to 2006, but that his own assessment increased 50% during that same period. *Id at 4*. He also concluded that, on average, 2003-2005 sale prices were 45% higher than assessments. *Id.*
 - e) Despite the Petitioner's analysis, the PTABOA did not change the subject property's assessment. The Petitioner believes that the PTABOA either did not see his analysis, or wanted a "professional" market comparison. *J. Jones testimony*. Mr. Jones then employed Ms. Spring to perform her analysis. *Id.*
10. Summary of Respondent's contentions in support of the assessment:
- a) Ms. Richey testified that, in her view, Ms. Spring's analysis was a "good comparable-sales analysis," and that she "accept[ed]" it. *Richey testimony*.
 - b) Many people in the townships were very surprised to see such a large increase in assessments. *Id.*

Record

11. The official record for this matter is made up of the following:
 - a) The Form 131 petition.
 - b) The digital recording of the hearing.
 - c) Exhibits:
 - Petitioner Exhibit 1: Form 11 Notice of Assessment
 - Petitioner Exhibit 2: Form 130 Petition to the PTABOA for Review of Assessment
 - Petitioner Exhibit 3: Petitioner's market comparison and analysis
 - Petitioner Exhibit 4: Form 115 Notice of Assessment
 - Petitioner Exhibit 5: Form 131 petition
 - Petitioner Exhibit 6: Analysis by Ella Spring

 - Board Exhibit A: Form 131 petition
 - Board Exhibit B: Notice of Hearing
 - Board Exhibit C: Hearing sign-in sheet
 - d) These Findings and Conclusions.

Analysis

Burden of Proof

12. A petitioner seeking review of an assessing official's determination must establish a prima facie case proving both that the current assessment is incorrect, and specifically 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).
13. In making its case, the petitioner 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”).
14. Once the petitioner establishes a prima facie case, the burden shifts to the respondent to impeach or rebut the petitioner'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.

The Petitioner's Case

15. The Petitioner demonstrated that the subject property's assessment should be reduced to \$81,000. The Board reaches this conclusion for the following reasons:
- a) Indiana assesses real property 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. *Id.* at 3, 13-15. Indiana assessing officials generally use a mass-appraisal version of the cost approach, as set forth in the Real Property Assessment Guidelines for 2002 – Version A.
 - b) A property's market value-in-use, as determined using the Guidelines, is presumed to be accurate. *See* MANUAL at 5; *Kooshtard Property VI, LLC v. White River Twp. Assessor*, 836 N.E.2d 501, 505 (Ind. Tax Ct. 2005) *reh'g den. sub nom. P/A Builders & Developers, LLC*, 842 N.E.2d 899 (Ind. Tax 2006). But a taxpayer may rebut that presumption with evidence that is consistent with the Manual's definition of true tax value. MANUAL at 5. A market-value-in-use appraisal prepared according to the Uniform Standards of Professional Appraisal Practice ("USPAP") often will suffice. *Id.*; *Kooshtard Property VI*, 836 N.E.2d at 505, 506 n.1. A taxpayer may also offer sales information for the subject or comparable properties and other information compiled according to generally accepted appraisal principles. MANUAL at 5.
 - c) Regardless of the method it uses to rebut an assessment's presumption of accuracy, a party must explain how its evidence relates to the subject 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). For the March 1, 2006 assessment, that valuation date is January 1, 2005. IND. ADMIN. CODE tit. 50, r. 21-3-3.
 - d) Here, the Petitioner relied on three things to rebut his property's current assessment: (1) the property's \$65,000 sale price from 2001; (2) his own analysis of 16 other properties and their assessments and sale prices; and (3) Ms. Spring's sales-comparison analysis. The first two lack probative value. The sale price was four years removed from the relevant January 1, 2005, valuation date and the Petitioner did not explain how that sale price related to the subject property's value as of that date.
 - e) The Petitioner's analysis of comparable properties suffers, at least in part, from the same problem. It relies on sales from as early as 2003. And it suffers from other flaws as well. Most importantly, the Petitioner did not adjust the purportedly comparable properties' sale prices to reflect relevant differences

between those properties and the subject property. *See Long*, 821 N.E.2d at 470-471 (requiring taxpayers to identify differences between their property and purportedly comparable properties and to explain how those differences affected the properties market values-in-use); *see also* MANUAL at 13-14 (explaining that appraisers applying the sales-comparison approach adjust comparable properties' sale prices to reflect differences between those properties and the subject property that affect value).

- f) By determining assessed-value-to-sale-price ratios, the Petitioner may also have intended to address the uniformity and equality of assessments within Perrysville. But the Petitioner did not show that his analysis, in which he examined only 16 selected properties, was statistically reliable. And he did not explain what, if any, adjustment was necessary to equalize the purported disparity.
- g) Ms. Spring's analysis, however, is more probative. She estimated the subject property's value using the sales-comparison approach. And unlike the Petitioner, she adjusted the comparable properties' sale prices to reflect relevant ways in which they differed from the subject property. *See Pet'r Ex. 6*. True, Ms. Spring did not explain how she quantified those adjustments. And the record does not show that she followed USPAP. But those potential flaws must yield to the Respondent's own acceptance of Ms. Spring's analysis. Indeed, the Respondent testified that Ms. Spring's analysis was a "good comparable-sales analysis" and that she "accept[ed]" it. *Richey testimony*.
- h) In light of the Respondent's testimony, the Board finds that the Petitioner proved both that the subject property is incorrectly assessed and that it should properly be assessed for \$81,000.

Conclusion

16. The Petitioner established a prima facie case, which the Respondent did not rebut. The Board finds in favor of the Petitioner.

Final Determination

In accordance with the above findings and conclusions, the Indiana Board of Tax Review now determines that the assessment should be changed to \$81,000.

ISSUED: **April 14, 2008**

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>