

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

Petition: 41-015-06-1-5-00004
Petitioner: Charles Laughner
Respondent: Johnson County Assessor
Parcel: 41 10 27 031 006.000 015
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 an assessment appeal with the Johnson County Property Tax Assessment Board of Appeals (“PTABOA”) by written notice dated July 30, 2007.
2. The PTABOA issued notice of its decision on November 16, 2007.
3. The Petitioner appealed to the Board by filing a Form 131 on December 28, 2007, and elected to have this case heard according to small claims procedures.
4. The Board issued a notice of hearing to the parties dated October 7, 2008.
5. Administrative Law Judge Paul Stultz held the Board’s administrative hearing on November 20, 2008.
6. The following persons were present and sworn as witnesses at the hearing:
For the Petitioners—Charles Laughner, Petitioner,
Carla Bishop, a certified tax representative,
For the Respondent—Michael Watkins, an employee of the Johnson
County Assessor’s Office.

Facts

7. The property is a single family residence at 4611 Pitcher Drive, Trafalgar, Indiana.
8. The Administrative Law Judge did not conduct an inspection of the property.
9. The PTABOA determined the assessed value is \$47,800 for land and \$595,000 for improvements (total \$642,800).
10. The Petitioner contends the total assessed value should be \$430,000.

Contentions

11. Summary of the Petitioner's case:
 - a. The subject property's assessed value is greater than its fair market value. *Bishop testimony.*
 - b. A licensed appraiser determined the property's value was \$430,000 on the valuation date of January 1, 2005. *Bishop testimony; Pet'r Ex. 2.* The appraisal complies with the requirements of the Uniform Standards of Professional Appraisal Practice and is the best indicator of the property's market value. *Bishop testimony; Pet'r Ex. 1.*
 - c. The appraiser did not inspect the interiors of the comparable properties identified in the appraisal, but that is common appraisal practice. *Bishop testimony.*
12. Summary of the Respondent's case:
 - a. The Respondent cannot agree with the appraisal value because the appraiser did not inspect the interiors of the comparable homes. *Watkins testimony.*
 - b. The property record card reflects the current assessment. *Resp't Ex. 1.*

Record

13. The official record for this matter is made up of the following:
 - a. The Petition,
 - b. A digital recording of the hearing,
 - c. Petitioner Exhibit 1—Summary of issues,
Petitioner Exhibit 2—Appraisal report,
Petitioner Exhibit 3—Form 131 Petition,
Respondent Exhibit 1—Property record card of the subject property,
Board Exhibit A—Form 131 Petition for Review of Assessment,
Board Exhibit B—Notice of Hearing,
Board Exhibit C—Hearing Sign In Sheet,
 - d. These Findings and Conclusions.

Analysis

14. The most applicable governing cases are:
 - a. 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).
 - b. 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”).
 - c. 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.
15. The Petitioner made a prima facie case for an assessment change. This conclusion was arrived at because:
 - a. Indiana assesses real property based on its “true tax value”, which is “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 (incorporated by reference at 50 IAC 2.3-1-2). The appraisal profession traditionally uses three methods to determine value: the cost approach, the sales comparison approach, and the income approach. 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 (incorporated by reference at 50 IAC 2.3-1-2).
 - b. A property’s market value-in-use as determined using those 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). Nevertheless, 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 often will suffice. *Id.*; *Kooshtard Property VI*, 836 N.E.2d at 505, 506 n.1.

- c. When a party relies on evidence of value as of a date substantially removed from the relevant valuation date, the record also must relate such evidence to the relevant valuation date. *See Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005); *see also O'Donnell v. Dep't of Local Gov't Fin.*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006). For a 2006 assessment, that valuation date is January 1 of the preceding year. IAC 50-21-3-3. Thus, for this case, the relevant valuation date was January 1, 2005.
 - d. The Petitioner introduced a certified appraisal that established the market value-in-use of the subject property was \$430,000 as of January 1, 2005. The appraisal used the sales comparison and cost approach to arrive at this figure, but did not use the income approach because the property was not rental property. The evidence is sufficient to make a prima facie case for changing the assessment.
16. The Respondent questioned the Petitioner's tax representative regarding her fee arrangement and asked if the appraiser viewed the interiors of the comparable properties, but such questions did very little to impeach or rebut the Petitioner's case. The Respondent failed to present probative evidence against the appraisal. Furthermore, the Respondent failed to present probative evidence in support of the current assessed value. Consequently, the Respondent did not overcome the Petitioner's prima facie case.

Conclusion

17. The Board finds in favor of the Petitioner.

Final Determination

The total assessment must be changed to \$430,000.

ISSUED: _____

Commissioner, 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>