

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

Petitions: 84-002-02-1-5-00622 and
84-002-02-1-5-00623
Petitioner: Lois I. Griffith¹
Respondent: Harrison Township Assessor (Vigo County)
Parcels: 118-06-09-285-002 and
118-06-09-285-003
Assessment Year: 2002

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 the assessment appeals with the Vigo County Property Tax Assessment Board of Appeals (the PTABOA) by written document dated October 27, 2003.
2. The Petitioner received notice of the decisions of the PTABOA on August 2, 2004.
3. The Petitioner filed an appeal to the Board by filing a Form 131 with the county assessor on August 25, 2004. The Petitioner elected to have the cases heard according to small claim procedures.
4. On February 1, 2005, the Board issued a notice of hearing for Petition 84-002-02-1-5-00622 setting a hearing for March 9, 2005.
5. On March 4, 2005, the Petitioner contacted the Board by telephone and requested the Board to conduct the hearing for Petition 84-002-02-1-5-00623 on March 9, 2005. By agreement, the parties waived the required 30-day notice and Petition 84-002-02-1-5-00623 also was scheduled for hearing on March 9, 2005.
6. Administrative Law Judge Rick Barter held the administrative hearing for both of these petitions in Terre Haute on March 9, 2005.

¹Lois I. Griffith is also known as Lois I. Scheid.

7. Persons present and sworn as witnesses at the hearing:
Vickie Jill Hathaway, owner's daughter-in-law,
Larry Auler, Harrison Township Assessor,
Richette J. Hale, Harrison Township Chief Deputy Assessor,
Jenny Becker, Vigo County Assessor's representative,
Shari Arvin, Vigo County Assessor's office,
Susan McCarty, Vigo County Assessor's office.

Facts

8. The properties are improved residential lots located at 500 Florida Avenue and 2709 N. 5th Street in Terre Haute. Parcel 118-06-09-285-003 is a lot measuring 110 feet by 142 feet with a 1,638 square foot home and utility shed. Parcel 118-06-09-285-002 is a lot measuring 110 feet by 142 feet with a 576 square foot detached garage.
9. The Administrative Law Judge (the ALJ) did not conduct an inspection of the property.
10. The assessed values as determined by the Vigo County PTABOA are:
Parcel 118-06-09-285-003 Land \$19,300 Improvements \$38,500 Total \$57,800,
Parcel 118-06-09-285-002 Land \$13,500 Improvements \$ 7,300 Total \$20,800.
11. The assessed values requested by Petitioner are:
Parcel 118-06-09-285-003 Land \$4,500 Improvements \$38,500 Total \$43,000,
Parcel 118-06-09-285-002 Land \$4,500 Improvements \$ 7,300 Total \$11,800.

Issues

12. Summary of Petitioner's contentions in support of alleged error in assessment:
 - a) Only the assessed land value is disputed in this case, not the improvements. The land value is over-stated when compared to the land values established by a certified appraisal of similar nearby land. Land sales between 1999 and 2004 of similar nearby property also establish that the assessed land value is too high. *Hathaway testimony; Petitioner Exhibit 1, 3, 9.*
 - b) A number of factors, including comparable property sales, inflation factors, area employment and available appraisal data, should be considered in determining the appropriate assessed value. *Petitioner Exhibit 1.*
 - c) A 1998 appraisal for the property located at 500 Elizabeth Avenue (the Elizabeth Avenue property) gives an estimated value of \$7,500 for that land, or \$1,500 for each lot. Each lot of 500 Elizabeth Avenue measures 39 feet by 142 feet. These lots are comparable to the lots composing the subject properties. Each of the subject properties are comprised of three platted lots, with each lot measuring 37 feet by 142 feet. The topography of the comparable lots and the subject

properties is similar. The comparable lots and subject properties are located only two blocks apart. *Hathaway testimony; Petitioner Exhibit 3, 8.*

- d) The Moreman Estate property (the Moreman property), 5 platted lots measuring 37 feet by 142 feet each, sold in April 1999 for \$10,000. That sale is equivalent to \$2,000 for each lot. *Hathaway testimony; Petitioner Exhibit 4, 5, 6, 8.*
- e) The 1998 appraisal of comparable land, the 1999 sale of comparable land, and the statistical market evidence more accurately reflect the market value of the subject property than the 2002 reassessment does. *Hathaway testimony; Petitioner Exhibit 1, 3, 6, 9.*

13. Summary of Respondent's contentions in support of the assessment:

- a) The land values for the current reassessment are based on property sales occurring 18 months before and after January 1, 1999. In establishing the base rate for the land value of the subject, the assessor followed the guidelines set forth by the Department of Local Government Finance. By analyzing all sales in the neighborhood, for the period allowed, the base rate per foot was determined to be \$170 per front foot. *Respondent Exhibit 1.*
- b) The site value reflected on the appraisal was \$7,500, but should have been \$12,500 for those five lots because the "as is" value of site improvements (\$5,000) also should be considered. Thus, the value established by that appraisal would be \$2,500 per lot. Each of these appeals includes three lots. The Petitioner requests \$4,500 assessed value for the land on each code on the Form 131 appeal. Based on that appraisal, the correct request would be \$7,500 for each parcel. *Becker testimony; Respondent Exhibit 1; Petitioner Exhibit 3.*
- c) The land is valued according to the approved assessment guidelines. The appraiser did not include his calculation of the land value, or the sales used in determining that value. Therefore, no reduction is warranted on the subject land. *Becker testimony; Respondent Exhibit 1.*

Record

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

- a) The Petition,
- b) The tape recording of the hearing labeled BTR 6197,
- c) Petitioner Exhibit 1 – Summary of contentions,
Petitioner Exhibit 2 – Form 131 petitions,
Petitioner Exhibit 3 – A copy of the cover sheet and two pages from a 1998 appraisal for a property located at 500 Elizabeth Avenue,

Petitioner Exhibit 4 – A copy of a check from Vickie J. Hathaway payable to the Escrow Account of Richard Rennick,
 Petitioner Exhibit 5 – A copy of a letter regarding the purchase of five lots,
 Petitioner Exhibit 6 – A copy of a letter from Meachum & Meachum to Merchants National Bank concerning the Hathaway purchase of five lots,
 Petitioner Exhibit 7 – A copy of a receipt from Hendrich Title Co.,
 Petitioner Exhibit 8 – A copy of the plat map of the subject neighborhood,
 Petitioner Exhibit 9 – Sales data for seven vacant residential lots in Terre Haute,
 Petitioner Exhibit 10 – The demographic data for Terre Haute,
 Petitioner Exhibit 11 – A copy of Final Determination issued in the matter of Marion J. and Antoinette J. Hobson-Smith v. Washington Twp. Assessor, Pike County,
 Petitioner Exhibit 12 – A copy of Final Determination issued in the matter of Kevin M. Lutes v. Madison Twp. Assessor, Montgomery County,
 Petitioner Exhibit 13 – Power of Attorney,
 Respondent Exhibit 1 – A summary of contentions,
 Respondent Exhibit 2 – Form 115 issued for parcel #118-06-09-285-003,
 Respondent Exhibit 3 – Property record card for parcel #118-06-09-285-003,
 Respondent Exhibit 4 – A copy of chapter 2, pages 7, 8, and 9 from the REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002—VERSION A,
 Respondent Exhibit 5 – A copy of the Summary Report from the Vigo County Land Order for neighborhood 06-101-02,
 Respondent Exhibit 6 – A copy of the sales data sheet for neighbor 06-101-02,
 Board Exhibit A – Form 131 petitions,
 Board Exhibit B – Notice of Hearing,
 Board Exhibit C – Sign In Sheet,
 Board Exhibit D – Waiver of Notice,

d) These Findings and Conclusions.

Analysis

15. 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.

16. The Petitioner provided sufficient evidence to support her contentions. This conclusion was arrived at because:

- a) The Petitioner offered evidence regarding several residential lot sales, but failed to introduce facts or explanation to establish how they compare to the subject properties. Therefore, those other sales have no probative value in this case. *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005).
- b) The Petitioner offered evidence regarding employment statistics and economic problems in the Terre Haute area, but failed to introduce probative evidence regarding what those factors do to the market value of these properties. Conclusory statements in that regard do not qualify as probative evidence. *Lacy Diversified Indus. v. Dep't of Local Gov't Fin.*, 799 N.E.2d 1215, 1221 (Ind. Tax Ct. 2003); *Whitley Products v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).
- c) The 1998 appraisal land value for the Elizabeth Avenue property and the 1999 sale price of \$10,000 for the Moreman property indicate that lots measuring 39 feet by 142 feet are valued at \$1,500 to \$2,500. The subject properties have a per lot value of \$4,500 to \$6,400.
- d) The subject properties are each comprised of three lots with each lot measuring 37 feet by 142 feet. The Elizabeth Avenue property and the Moreman property are each comprised of five platted lots with each lot measuring 39 feet by 142 feet. The Elizabeth Avenue property and the Moreman property are similar to the subject properties in topography and size and are located within two blocks of the subject property.
- e) Collectively, the 1998 appraisal of the Elizabeth Avenue property and the 1999 sale of the Moreman property are sufficient to establish a prima facie case. This evidence established comparability between the subject properties and the properties offered as comparables. This evidence shows that comparable properties are valued at a lower amount than the subject properties.
- f) Thus, the burden shifted to the Respondent to present evidence to rebut or impeach the Petitioner's prima facie case. *American United*, 803 N.E.2d 276; *Meridian Towers*, 805 N.E.2d at 479.

- g) The land value for platted residential lots includes certain site improvements. REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002—VERSION A, ch. 2 at 18 (incorporated by reference at 50 IAC 2.3-1-2). The Respondent correctly argued that the Rusk appraisal does not support the land value that Petitioner claims. The value for site improvements should be added to the site value of the appraisal that the Petitioner submitted in order to determine the appraised value of each lot. Thus, the appraisal indicates a land value of \$12,500 for five lots. Otherwise, the Respondent did not offer any significant rebuttal of the Petitioner’s evidence regarding land value or comparability. The Respondent merely stated that the land values were determined through an analysis of sales over an 18-month period surrounding the valuation date in accordance with the assessment guidelines established by the Department of Local Government Finance. An explanation of how land values are established does nothing to rebut evidence showing that comparable lots are valued at \$1,500 to \$2,000. The Respondent did not overcome the Petitioner’s prima facie case.
- h) The most relevant and convincing evidence of the market value in this case is provided by the Scott Rusk Appraisal, which is \$12,500 for five comparable lots. Each of the subject properties in this appeal includes three comparable lots. Therefore, the assessed land value for each parcel should be changed. The land value on parcel 118-06-09-285-002 is \$7,500 and the land value on parcel 118-06-09-285-003 is \$7,500.

Conclusions

17. The Board finds in favor of Petitioner. The assessed land value for each parcel must be changed.

Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should 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. You must name in the petition and in the petition's caption the persons who were parties to any proceeding that led to the agency action under Indiana Tax Court Rule 4(B)(2), Indiana Trial Rule (10)(A), and Indiana Code §§ 4-21.5-5-7(b)(4), 6-1.1-15-5(b). The Tax Court Rules provide a sample petition for judicial review. The Indiana Tax Court Rules are available on the Internet at <http://www.in.gov/judiciary/rules/tax/index.html>. The Indiana Trial Rules are available on the Internet at http://www.in.gov/judiciary/rules/trial_proc/index.html. The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code>.