

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

Petition #: 49-901-03-1-5-00582
Petitioner: Mark Puttkammer
Respondent: Wayne Township Assessor (Marion County)
Parcel #: 9019194
Assessment Year: 2003

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 an assessment appeal with the Marion County Property Tax Assessment Board of Appeals (the “PTABOA”) by filing a Form 130 dated April 23, 2004.
2. The Petitioner received notice of the decision of the PTABOA on September 24, 2004.
3. The Petitioner filed an appeal to the Board by filing a Form 131 on October 1, 2004. The Petitioner elected to have this case heard according to the small claims procedures.
4. The Board issued a notice of hearing to the parties dated January 3, 2005.
5. The Board held an administrative hearing on February 3, 2005, before the duly appointed Administrative Law Judge Paul Stultz.
6. Mark Puttkammer was present and sworn as a witness at the hearing.
7. No representative from the Wayne Township Assessor’s office appeared at the hearing. Prior to the hearing, the Respondent mailed three written exhibits to the Board in support of its contentions. *Respondent Exhibits 1, 2, 3.*

Facts

8. The property is classified as a multi-family residence on the property record card (“PRC”) for parcel # 9019194.
9. The Administrative Law Judge (“ALJ”) did not conduct an inspection of the property.

10. Assessed value of subject property as determined by the Marion County PTABOA:
Land \$5,200 Improvements \$67,200 Total \$72,400.

11. Assessed value requested by Petitioner:
Land \$5,200 Improvements \$33,700 Total \$38,900.

Issue

12. Summary of the Petitioner's contentions in support of alleged error in assessment:

- a. The subject property's assessed value is greater than its market value.
- b. The Petitioner purchased the subject property in May of 1994 for \$15,000. He presented copies of the title insurance policy and the warranty deed from that transaction. *Puttkammer testimony; Petitioner Exhibit 2.*
- c. The Petitioner contends the subject property is in need of repairs and would require spending \$6,500 to prepare the property for sale. The Petitioner presented a copy of a Home Inspection Report dated May 22, 2003, in support of this contention. *Puttkammer testimony; Petitioner Exhibit 1.*
- d. The Petitioner used a digital camera to present current photographs of the subject area and property to the ALJ. The photographs demonstrated that the property is located on a busy street and that some siding had fallen off.¹ *Puttkammer testimony.*
- e. The Petitioner reviewed a copy of the revised property record card reflecting proposed changes Respondent would make to the assessment. These changes result in a revised total assessed value of \$45,400. *Respondent Exhibit 1.*
- f. Petitioner and Respondent had discussed these proposed revisions to the assessment. Petitioner agreed with those changes. Nevertheless, Petitioner contended the improvement value still needed to be reduced by an additional \$6,500 to reflect needed repairs. *Puttkammer testimony.*

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

- a. Respondent was not present at the hearing. Prior to the hearing, the Respondent presented three exhibits by mail for consideration. *Respondent Exhibits 1, 2, 3.*
- b. The revised property record card indicates the total assessed value had been reduced to \$45,400. *Respondent Exhibit 1.*
- c. The reduction in the total assessed value was the result of the following changes: "the township discovered this home to be a multi-family home, discovered that

¹ No printed copies of these photographs were introduced into the record.

the grade of C-1 was not correct therefore changed it to D, and due to the property classification being changed the neighborhood factor was also changed. With all of the changes the current assessed value is land - [\$]5200 [,] improvements – [\$]40200 for a total assessed value of [\$]45,400.” *Respondent Exhibit 3.*

- d. The Respondent also submitted the neighborhood factor sheet and a list of features of each home included in the determination of the neighborhood factor. *Respondent Exhibit 2.*
- e. The Respondent's letter described these documents as follows: “The second exhibit enclosed is the neighborhood factor sheet indicating the sales used to derive the neighborhood factor in the subject’s defined assessing neighborhood. Attached to the back of the neighborhood factor sheet is the breakdown of each home used to derive the neighborhood factor. As noted there are two sales highlighted to use as comparables to the subject property. Lines seven and twelve are both two family homes therefore the square footage indicated is only half of the actual square footage of the home. As you can see the selling prices of these two homes are \$35,000 and \$53,075.” *Respondent Exhibit 3.*
- f. The Respondent’s letter contains an explanation of the other two Respondent exhibits and concludes: “The township contends that the assessed value established for the subject property is according to Indiana Code and is also fair and just which is proven by the two sales that occurred in the mandated time period of January 1, 1998 to December 31, 1999 in the subject properties neighborhood.” *Respondent Exhibit 3.*

Record

- 14. 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 STB 5627,
 - c. Exhibits:
 - Petitioner Exhibit 1 — Copy of Home Inspection Report and Independent Inspection Response,
 - Petitioner Exhibit 2 — Copies of Title Insurance and Warranty Deed,
 - Respondent Exhibit 1 — Copy of the revised property record card,
 - Respondent Exhibit 2 — Copy of two worksheets used to determine the subject neighborhood factor,
 - Respondent Exhibit 3 — Letter from the Township Assessor’s Office,
 - d. These Findings and Conclusions.

Analysis

15. The most applicable governing regulations 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 did not provide sufficient evidence to support his contentions. This conclusion was arrived at because:
- a. Petitioner testified he purchased the property for \$15,000 in May 1994. He did not explain how the 1994 purchase price of \$15,000 is indicative of value as of January 1, 1999, the valuation date for the 2002 reassessment. Without such a connection, the testimony regarding purchase price is not probative. *Long v. Wayne Township Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005).
 - b. Petitioner contended that the home needed \$6,500 in repairs and supported this contention with a Home Inspection Report dated May 27, 2003. Again, Petitioner failed to explain how the 2003 inspection report is relevant to the January 1, 1999, valuation date. Without demonstrating a link to the valuation date, such evidence has no probative value. *Id.*
 - c. The home was constructed in 1930 and was assessed with a condition rating of average. Petitioner presented no evidence of comparable properties to demonstrate the extent, if any, that the deterioration experienced by the home has exceeded the deterioration normally found in a home almost seventy years old. Petitioner’s conclusions do not constitute probative evidence. *Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).

- d. The Petitioner also used a digital camera to present current photographs to establish that the street is busy and that the subject property has some missing siding. He did not, however, enter copies of those photographs into evidence. Petitioner did not prove how these facts specifically relate to the market value of this property or how much they might lower that value. Photographs without explanation are merely conclusory statements and not probative. *Bernacchi v. State Board of Tax Commissioners*, 727 N.E.2d 1133 (Ind. Tax Ct. 2000).
- e. After inspecting the property as a result of the appeal, Respondent discovered several errors in the original assessment and presented a proposed corrected property record card. Petitioner agreed with the revisions made by the Respondent, although he contended an additional reduction in the assessed value was needed. Petitioner failed, however, to make a prima facie case for any further changes on this assessment. Therefore, Respondent's burden to support the assessment with substantial evidence was not triggered. *Lacy Diversified Indus. v. Dep't of Local Gov't Fin.*, 799 N.E.2d 1215, 1222 (Ind. Tax Ct. 2003).
- f. Accordingly, the Board determines the assessment should be changed to show an improvement value of \$40,200 and a total assessed value of \$45,400.

Conclusion

- 17. The Petitioner failed to make a prima facie case. Nevertheless, both parties agreed to revisions contained on the corrected property record card offered by the Respondent. Accordingly, the Board concludes the assessed value of the improvements should be reduced to \$40,200 and the total assessed value reduced to \$45,400.

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.