

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

Petition: 55-005-08-1-4-00021
Petitioner: Meadow Lake of Mooresville, LLC
Respondent: Morgan County Assessor
Parcel: 55-02-30-321-004.000-005
Assessment Year: 2008

The Indiana Board of Tax Review (Board) issues this determination in the above matter, finding and concluding as follows:

Procedural History

1. The Petitioner initiated an assessment appeal with the Morgan County Property Tax Assessment Board of Appeals (PTABOA) by written document on June 22, 2009.
2. The PTABOA issued notice of its decision on October 29, 2009.
3. The Petitioner appealed to the Board by filing a Petition for Review of Assessment (Form 131) on November 18, 2009. The Petitioner elected to have this case heard according to small claims procedures. While typically small claims procedures are reserved for appeals of parcels with an assessed value not in excess of one million dollars, the Respondent did not object or exercise its option to remove this matter from the small claims procedures.
4. The Board issued a notice of hearing to the parties dated August 24, 2010.
5. Administrative Law Judge Ronald Gudgel held the Board's administrative hearing on November 16, 2010.
6. Certified Tax Representative Paul Kropp represented the Petitioner. County Assessor Brenda Brittain appeared *pro se*. Reva Brummett, a PTABOA member, also represented the Respondent. All three were sworn as witnesses.

Facts

7. The property is a nursing home located at 200 Meadow Lake Drive in Mooresville.
8. The Administrative Law Judge did not conduct an inspection of the property.

9. The PTABOA determined the 2008 assessed value is \$3,461,200 for land and \$6,349,200 for improvements (total \$9,810,400).
10. The Petitioner claimed the total assessed value should be \$6,000,000.

Record

11. 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 – Sales disclosure form dated June 3, 2005,
Petitioner Exhibit 2 – Sales disclosure form dated August 11, 2006,
Petitioner Exhibit 3 – Sales disclosure form dated April 13, 2007, and property record card,
Petitioner Exhibit 4 – Property record cards for the subject parcel,
Petitioner Exhibit 5 – Calculations for the Petitioner’s proposed assessment,
Petitioner Exhibit 6 – Statement and justification of prima facie case,
Petitioner Exhibit 7 – Board ruling, June 21, 2010, *Roop v. Monroe Co. Assessor*,
Petitioner Exhibit 8 – Complete 31-page construction cost document,
Petitioner Exhibit 9 – Form 115,
Petitioner Exhibit 10 – Form 131 Petition,
Petitioner Exhibit 11 – Google Earth photographs, February 2005 and May 2010, and property record cards for Pedigo LLC and Grace Missionary Church,
Petitioner Exhibit 12 – Property record cards and sales disclosure forms supporting Petitioner’s Exhibit 2,
Petitioner Exhibit 13 – Outline of closing statement,
Respondent Exhibit 1 – Appraisal (not for the subject property),
Respondent Exhibit 2 – Form 115,
Board Exhibit A – Form 131 Petition,
Board Exhibit B – Notice of Hearing,
Board Exhibit C – Hearing Sign In Sheet,
 - d. These Findings and Conclusions.

Contentions

12. Summary of the Petitioner’s case:
 - a. Three relevant sales occurred within the Meadow Lake Planned Unit Development (PUD). The sale of 33.34 acres, in June 2005, was for \$20,250 per acre. This was the original purchase of all of the land that became the PUD. *Kropp testimony; Pet’r Ex. 1.* A sale of 1.377 acres in April 2007 was for

\$599,129 per acre. *Kropp testimony; Pet'r Ex. 3.* A sale of 3.745 acres in August 2006 was for \$173,565 per acre. *Kropp testimony; Pet'r Ex. 2.* The sales disclosure form for this sale was apparently lost and was not considered at the time land values for the PUD were determined. *Kropp testimony.* Local officials relied solely on the April 2007 sale for determining the current assessed value of \$600,000 per acre. Because the August 2006 sale was not considered in the assessment process, the land value used for the assessment is in error. *Kropp testimony.*

- b. Applying a more accurate per acre value results in a value far below the current assessment. *Kropp testimony.*
 - c. The use of actual costs of construction is a valid means of determining what the correct assessment should be. *Kropp testimony; Pet'r Ex. 7.*
 - d. The initial land purchase for Meadow Lake was 28.606 acres for \$675,000 in June 2005. The subject property is only 6.219 acres of that land. This works out to \$146,750. Property record cards show land values increased by 35% from the 2007 to the 2008 assessments, therefore, to trend the purchase price to January 1, 2007, it was increased by 35%. That results in a trended purchase price of approximately \$200,000 for this land. The construction costs evidence also includes land development costs of \$357,421. Adding another 10% to trend those costs to January 1, 2007, makes those costs approximately \$400,000. Together, for assessment purposes these elements show the total land cost should be \$600,000. *Kropp testimony; Pet'r Ex. 5,6, 8.*
 - e. The itemized list that the Petitioner provided establishes the site development costs as well as all actual direct and indirect costs of constructing the nursing home. *Kropp testimony; Pet'r Ex. 8.* The subject property was built in two phases. The construction costs for phase 1 were \$4,153,601. Those were increased by 10% as trending to January 1, 2007, resulting in a trended cost of \$4,568,961. The costs for phase 2 were \$378,115 and did not require trending because it was built in late 2006 through early 2007. Another 10% was added to the costs to cover entrepreneurial profits. The result is a value of \$5,441,782 for the cost of the improvements and approximately \$6,000,000 for the cost of the land and improvements together. (The exact figure shown is \$6,041,782.) This approach gives a much more accurate indication of what the assessment should be. *Kropp testimony; Pet'r Ex. 5.*
13. Summary of the Respondent's case:
- a. An appraisal for another local property included the missing sale. *Brummett testimony; Pet'r Ex. 1 at 43.* That appraiser concluded land value was approximately \$190,000 per acre. *Id. at 44.*

- b. When an appraiser determines an acreage value, land classifications such as primary and secondary land are ignored. The acreage value is applied uniformly across the parcel. *Brummett testimony*.
- c. Admittedly \$190,000 per acre may be more appropriate, but if land classifications were eliminated and \$190,000 per acre was applied to the total acreage, a result similar to the current assessment would be obtained. *Brummett testimony*.¹
- d. More than one sale was used to determine the base rate. *Brittain testimony*.

Analysis

- 14. 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).
- 15. 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”).
- 16. 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.
- 17. The Petitioner made a case for an assessment change for the following reasons:
 - a. Real property is assessed based on its "true tax value," which means "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." Ind. Code § 6-1.1-31-6(c); 2002 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.3-1-2). There are three generally accepted techniques to calculate market value-in-use: the cost approach, the sales comparison approach, and the income approach. The primary method for assessing officials to determine market value-in-use is the cost approach. *Id.* at 3. Indiana promulgated Guidelines that explain the application of the cost approach. REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002—VERSION A (incorporated by reference at 50 IAC 2.3-1-2). The value established by use of the Guidelines, while presumed to be accurate, is merely a starting point. A taxpayer is permitted to offer evidence relevant to market value-in-use to rebut that presumption. Such evidence may include actual construction

¹ This testimony appears to be in reference to the land base rates shown on the property record card where most of the subject property was assessed with an adjusted base rate of \$600,000 per acre and a small part was assessed with an adjusted base rate of \$244,500 per acre.

costs, sales information regarding the subject or comparable properties, appraisals, and any other information compiled in accordance with generally accepted appraisal principles. MANUAL at 5.

- b. The itemized cost data is the principle evidence in this case. It contains 31 pages with a great deal of detail that is credible. Similarly, the Petitioner's calculation of land value is based on the original purchase price of the property. The use of actual construction costs as a method of determining value complies with generally accepted appraisal principles. 2002 REAL PROPERTY ASSESSMENT MANUAL at 5 (incorporated by reference at 50 IAC 2.3-1-2).
- c. The Respondent presented no substantial evidence that the cost evidence presented by the Petitioner is unreliable, inaccurate, or incomplete.
- d. Regardless of the method used to challenge 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 this assessment the valuation date was January 1, 2007. 50 IAC 21-3-3 (2009).
- e. The Petitioner trended the actual cost data to the relevant valuation date. Again, the record contains no substantial reason to doubt the credibility of the Petitioner's cost approach calculation. The cost analysis is sufficient to make a prima facie case for changing the assessment. *See Blackbird Farms Apartments v. Dep't of Local Gov't Fin.*, 765 N.E.2d 711, 713 (Ind. Tax Ct. 2002) (defining a prima facie case as one in which the evidence is sufficient to establish a given fact and which if not contradicted will remain sufficient).
- f. The Respondent presented no market data in support of the current assessment and offered only minimal explanation about how the current assessment was determined. The Respondent did not contest the validity of any of the Petitioner's cost data calculation. The Respondent did not discuss the improvement's value at all. Regarding the proposed land value, the Respondent simply stated that, if land classifications were eliminated and the claimed value per acre was applied to the total acreage, a result similar to the current assessment would be obtained. Such testimony is not relevant or probative. It does nothing to effectively counteract the evidence offered by the Petitioner.
- g. Nothing in the record overcomes the credibility of the Petitioner's cost approach evidence. This calculation indicates a total value of \$6,041,800.² The assessment must be set accordingly.

² The Petitioner's calculation established a value of \$6,041,782. The Petitioner rounded to \$6,000,000. *Pet'r Ex. 5*. True tax value, however, is obtained by rounding to the nearest \$100. GUIDELINES, ch. 2 at 97 (land); GUIDELINES, ch. 3 at 62 (improvements).

Conclusion

- 18. The Petitioner made a prima facie case for a change in assessed value. The Respondent did not rebut or impeach that case. The Board finds in favor of the Petitioner.

Final Determination

- 19. In accordance with the above findings and conclusions, the assessment will be reduced to \$6,041,800.

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>