

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

Petitions: **91-010-06-1-5-00004**
 91-010-06-1-5-00005
 91-010-06-1-5-00006
Petitioner: **Module One LLC**
Respondent: **White County Assessor**
Parcels: **007-93040-00**
 007-93090-00
 007-93050-00
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 White County Property Tax Assessment Board of Appeals (PTABOA) on May 10, 2006.
2. The PTABOA mailed the notice of its decision to the Petitioner on December 11, 2007.
3. The Petitioner appealed to the Board by filing a Form 131 on December 21, 2007, and elected small claims procedures.
4. The Board issued a notice of hearing to the parties dated February 14, 2008.
5. Administrative Law Judge Patti Kindler held the hearing in Monticello on March 19, 2008.
6. The following persons were present and sworn as witnesses at the hearing:
 For the Petitioner – Jeff Dague, President of Module One LLC,
 For the Respondent – Scott Potts, authorized representative of the White County Assessor.

Facts

7. The subject property consists of three contiguous residential parcels located in Monticello, Indiana.
8. The Administrative Law Judge did not conduct an inspection of the property.

9. The PTABOA determined the total combined assessment for all three parcels is \$50,900.
10. The Petitioner requested a total combined assessed value of \$47,000.

Contentions

11. Summary of the Petitioner's contentions:
 - a) On October 20, 2005, the Petitioner purchased these three parcels for \$39,691. The Petitioner gave the seller a lifetime lease to occupy the property without charge. *Dague testimony.*
 - b) An Indiana licensed residential appraiser estimated the combined value all three parcels was \$47,000 as of November 21, 2005. *Pet'r Ex. 1.* The entire property should be assessed at this value. *Pet'r Ex. 2.*
 - c) The appraiser performed a complete inspection of the property, including the interior of the dwelling. In determining the current assessment, Mr. Potts only viewed the exterior. He did not inspect the interior of the structure. *Dague testimony; Potts testimony.*
 - d) The location of the subject property (Lake Breeze Subdivision) and the neighboring Buffalo area have some of the lowest residential prices in the county. *Dague testimony; Pet'r Ex. 2.*
 - e) Power lines encumber part of the subject property. *Dague testimony; Pet'r Ex. 2.*
12. Summary of the Respondent's contentions:
 - a) The Petitioner's property is located in a neighborhood where there are numerous mobile homes. The subject property has three lots and a dwelling that is unusually large for the neighborhood. After an exterior inspection, the Respondent made numerous adjustments to the assessment to account for inferior neighborhood and condition. *Potts testimony.*
 - b) All values are opinions. The value of a property is not any precise figure, but rather a range. There is a big difference between the sale price of the property and its appraised value: the Petitioner purchased the property for \$39,691 and the appraised value is \$47,000. State statutes do not mandate assessing officials to base a property's value precisely on a purchase price or appraised value. *Potts testimony.*
 - c) In doing a market value analysis, there is a statistical requirement called the coefficient of dispersion. It requires the average assessed value to be within 15% of sales prices. It is the average difference in assessment, high or low. In this

case, the fact that the current assessment is within 15% (it actually differs by 8%) essentially shows that the current assessment is a pretty decent value on this property. This property could be worth more and it could be worth less. *Potts testimony*.

- d) The Respondent encountered difficulty in trying to come up with a value that the computer software in the assessor's office can accommodate. The current assessment is the closest value to the appraised value that the software can produce. *Potts testimony*.

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 – Uniform Residential Appraisal Report,
Petitioner Exhibit 2 – Statement of contentions,
Respondent Exhibits – None,
Board Exhibit A – Form 131 Petition with attachments,
Board Exhibit B – Notice of Hearing,
Board Exhibit C – Hearing Sign-In Sheet,
Board Exhibit D – Notice of Appearance of Consultant on Behalf of Assessor,
 - 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 provided sufficient evidence to support its contentions. The Board arrived at this conclusion because:
- a) Real property is assessed based on its "true tax value," which does not mean fair market value. It 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. To that end, Indiana promulgated a series of guidelines that explain the application of the cost approach. *See* 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 may offer evidence relevant to market value-in-use to rebut that presumption. Such evidence may include actual construction 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 2006 assessment is to reflect the value of the property as of January 1, 2005. Ind. Code § 6-1.1-4-4.5; 50 IAC 21-3-3. A Petitioner who presents evidence of value relating to a different date must provide some explanation about how it demonstrates, or is relevant to, the subject property's value as of January 1, 2005. *See Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005).
- c) The Petitioner purchased the property on October 20, 2005. The purchase price of a property can effectively rebut an assessment and can be probative evidence of market-value-in-use. But in this case, the evidence established that the Petitioner purchased the property from a distressed owner and the Petitioner gave that former owner a lifetime lease to occupy the property without charge. These facts reduce the credibility of the Petitioner's purchase price as evidence of market value-in-use.
- d) The Petitioner presented a certified appraisal that estimated value as of November 21, 2005, at \$47,000. The appraiser used the sales comparison approach. That approach is a generally recognized method of valuing property. In this particular case, the appraisal is based on the sales prices of comparable residential properties spanning the period from July 2004 to May 2005. The Petitioner argues that the appraisal is the best indication of market value-in-use.

- e) The sales used in the appraisal bracket the January 1, 2005, valuation date. The appraisal describes property values in the subject neighborhood as stable. Further the appraiser chose not to adjust the comparables for time even though several months elapsed between two of them. Evidence of stability in property values together with the analysis of sales from 2004 and 2005 establish the required link between the valuation date and the appraisal. Consequently, the appraisal is sufficient to establish a prima facie case.
- f) The Respondent made no meaningful attempt to rebut or impeach the appraisal. Furthermore, the Respondent's representative testified the assessment was lowered as close to the appraised value as the assessing software could accommodate: the assessing officials apparently were trying to set the assessed value based on the appraisal.
- g) Nevertheless, the Respondent contends no further adjustment is necessary because the sales ratio study shows that the assessment is within the required statistical range and no statute mandates that a property's assessed value precisely equal its purchase price or appraised value.
- h) The Respondent did not provide any authority or explanation for the assertion that there is an acceptable 15 percent range for establishing the market value-in-use of the subject property.¹ This conclusory statement does not qualify as probative evidence. *Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998). Furthermore, as discussed, the Manual permits a taxpayer to offer evidence relevant to the specific market value-in-use of a property, including actual construction costs, sales information, and appraisals. The argument that the current assessment is close enough to be acceptable is therefore without merit. The Respondent has failed to rebut the Petitioner's prima facie case.

Conclusion

16. The Board finds in favor of the Petitioner and concludes that the combined market value-in-use of the three parcels is \$47,000.

¹ "Coefficient of dispersion" is defined as "[t]he average deviation of a group of numbers from the median expressed as a percentage of the median. In ratio studies, the average percentage deviation from the median ratio." MANUAL at 9. The Respondent apparently relied upon the statement that "the coefficient of dispersion about the median [assessment ratio] should be at 0.15 (15%) or less for single-family residences..." MANUAL at 21. That statement clearly refers to standards for evaluating the overall accuracy and uniformity of mass appraisal methods during the equalization process. It does not authorize acceptability of a 15% range for an individual assessment when the taxpayer presents credible, probative evidence of value that is more precise for that particular property. See generally Ind. Admin. Code tit. 50 r. 14 (regarding the equalization process).

Final Determination

In accordance with the above findings and conclusions, the Board determines that the combined assessments of the three parcels should be changed to \$47,000.

ISSUED: _____

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>