

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

Petition #: 20-003-06-1-5-00021
Petitioners: Lloyd J. & Hazel K. Nave
Respondent: Elkhart County Assessor
Parcel #: 20-16-32-401-005.000-003
Assessment Year: 2006

The Indiana Board of Tax Review (“Board”) issues this determination in the above matter, and finds and concludes as follows:

Procedural History

1. Lloyd and Hazel Nave filed a written request asking the Elkhart County Property Tax Assessment Board of Appeals (“PTABOA”) to reduce their property’s assessment. On February 20, 2008, the PTABOA issued a determination denying the Naves’ request.
2. The Naves disagreed with the PTABOA’s determination and timely filed a Form 131 petition with the Board. They elected to have this case heard under the Board’s small-claims procedures.
3. On July 31, 2008, the Board held an administrative hearing through its Administrative Law Judge, Patti Kindler (“ALJ”).
4. People present and sworn in at hearing:
 - a) For the Naves: Lloyd J. Nave
Hazel K. Nave
 - b) For the Elkhart County Assessor: Cathy Searcy, Elkhart County Assessor

Facts

5. The Naves’ property is .65-acre tract containing a double-wide mobile home and other improvements. It is located at 72618 County Road 133 in Syracuse.
6. Neither the Board nor the ALJ inspected the property.
7. The PTABOA valued the Naves’ land at \$19,100 and their improvements at \$45,400 for a total assessment of \$64,500.

8. On their Form 131 petition, the Naves requested values of \$19,100 for their land and \$33,900 for their improvements for a total assessment of \$53,000.

Parties' Contentions

9. The Naves offered the following evidence and arguments:
- a) Over the last 10 years, the assessment on the Naves' property has increased from \$53,000 to \$64,500. But their mobile home has depreciated. Manufactured homes depreciate over time like automobiles. And the Naves' home was a relatively cheap demonstrator model to begin with. *L. Nave testimony.*
 - b) The property's assessment does not consider its location. The area is "pretty trashed out." For example, a neighbor's home is empty and deteriorating. *L. Nave testimony; Pet'rs Ex. 2.* Also, the property across the street from the Naves' property is a wetland that floods regularly. Most of the flooding occurs across and along the street. *L. Nave testimony; Pet'rs Exs. 1-2.* All of those things hurt the value of the Naves' property. *L. Nave testimony.*
 - c) The Naves also believe that their land assessment is out of line with what other land is assessed for. *L. Nave testimony.*
 - d) To justify the assessment of the Naves' property, the Assessor pointed to three manufactured homes that sold for prices ranging from \$86,000 to \$112,000. But those homes are bigger and newer than the Naves' home and therefore are not comparable to it. *L. Nave testimony; Resp't Ex. C.*
10. The Elkhart County Assessor offered the following evidence and arguments:
- a) The Naves' actual mobile home is only assessed for \$23,400. The rest of the assessment for improvements comes from other structures, such as an enclosed frame porch (\$3,800), a wood deck (\$700), a canopy (\$400), a utility shed (\$400), and a detached garage (\$7,900) with a frame addition (\$4,400). The Assessor did multiply the improvements' total value by a neighborhood factor of 1.07, which was based on property sales from Benton Township. *Searcy testimony; Resp't Ex. E at 2.*
 - b) Sale prices and assessments for comparable properties in the Naves' neighborhood support the Naves' assessment. The county's sales-ratio study looked at 32 sales of conventional and manufactured homes. Those sale prices showed that properties in the Naves' neighborhood were holding their values. *Searcy testimony; Resp't Ex. C.* Three of those properties contained mobile homes with sale prices ranging from \$86,000 to \$112,000. *Searcy testimony; Resp't Ex. B.*

- c) The Naves' claim about disparities between their land assessment and the land assessments for other properties in the area is misplaced. The Naves mistakenly based their claim on their land being assessed at \$25,500, while it is actually assessed for only \$19,100. *Searcy testimony; Resp't Ex. E.* Also, the Naves wrongly assumed that land in their neighborhood was assessed at a flat rate per acre. In reality, the first acre of any property was valued at \$21,000, the second and third acres were valued at \$4,500, and any additional land was valued at \$880 per acre. And for home-sites with less than one acre, assessing officials were required to use a multiplier from the Acreage Site Adjustment Table contained in the Real Property Assessment Guidelines for 2002 – Version A. The multiplier for a .65-acre parcel like the Naves' property was 1.40. *Searcy testimony; Resp't Ex. A, D.*

Record

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

- a) The Form 131 petition,
- b) A digital recording of the hearing.
- c) Exhibits:

Petitioners Exhibit 1: Photograph of flooding across the street from the Naves' property,

Petitioners Exhibit 2: GIS aerial map of the subject neighborhood,

Petitioners Exhibit 3: The Naves' exhibit coversheet¹

Petitioners Exhibit 4: GIS property data for five properties,

Respondent Exhibit A: Property record cards ("PRC") for the Naves' property and the purportedly comparable properties identified by the Naves,

Respondent Exhibit B: Photographs and PRCs for three manufactured home sales from the 2006 sales ratio report for the subject neighborhood,

Respondent Exhibit C: 2006 sales ratio report for the subject neighborhood,

Respondent Exhibit D: Acreage Size Adjustment Table from the Real Property Assessment Guidelines for 2002 – Version A,

Respondent Exhibit E: Naves' PRC,

Respondent Exhibit F: Form 115 for Naves' property,

Respondent Exhibit G: Seven photographs of properties located north, south, and northwest of the Naves' property,

¹ Before the hearing, the Naves gave the Assessor copies of 15 exhibits that they apparently intended to offer into evidence. *Searcy testimony.* The Naves, however, offered only four exhibits at the hearing. At the Assessor's suggestion, the Naves included the cover sheet listing the 15 exhibits that they had provided to the Assessor.

Board Exhibit A: Form 131 petition,
Board Exhibit B: Notice of hearing,
Board Exhibit C: Hearing sign-in sheet,

d) These Findings and Conclusions.

Analysis

Burden of Proof

12. A taxpayer seeking review of an assessing official's determination must establish a prima facie case proving both that the current assessment is incorrect and specifically what the correct assessment should 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).
13. In making its case, the taxpayer must explain how each piece of evidence relates to its 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”).
14. Once the taxpayer establishes a prima facie case, the burden shifts to assessor to impeach or rebut the taxpayer's evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004); *Meridian Towers*, 805 N.E.2d at 479.

The Naves' Case

15. The Naves did not make a prima facie case of error. The Board reaches this conclusion for the following reasons:
 - a) Indiana assesses real property based on its “true tax value,” which the 2002 Real Property Assessment Manual defines as “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 at 2 (incorporated by reference at 50 IAC 2.3-1-2). The appraisal profession traditionally has used three methods to determine a property's market value: the cost, sales-comparison, and income approaches. *Id.* at 3, 13-15. Indiana assessing officials generally value real property using a mass-appraisal version of the cost approach, as set forth in the Real Property Assessment Guidelines for 2002 – Version A.
 - b) A property's market value-in-use, as determined using the 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) *reh'g den. sub nom. P/A Builders & Developers, LLC*, 842 N.E.2d 899 (Ind. Tax Ct. 2006). But 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 506 n.6. A taxpayer may also offer actual construction costs, sales information for the subject or comparable properties and any other information compiled according to generally accepted appraisal principles. MANUAL at 5.

- c) The Naves did not offer any market-based evidence to rebut the presumption that their property's assessment accurately reflects its true tax value.
- d) As to their home, the Naves argued that it was a cheap, demonstrator model to begin with, and that it depreciated in value over time. That may be true, but the Naves offered no evidence to show the extent to which their home had depreciated. In fact, they did not even say how much they originally paid for it. Similarly, the Naves did not offer any market-based evidence to support their claim that the disarray in the surrounding neighborhood made their property worth less than what it was assessed for.
- e) Finally, the Naves failed to explain how their land was assessed differently from other land in the area. At most, the Naves offered data showing that the raw assessments for several larger parcels distilled to a lower per-acre-rate than their land's assessment. Other than the differences in size, the Naves did not explain how their land compared to any of the parcels in question. Also, the Naves' claim assumes that both the Assessor and the market value parcels of different sizes at a uniform per-acre rate—an assumption that they offered no evidence to support.

Conclusion

16. Because they did not offer any market-based evidence to show their property's value, the Naves failed to make a prima facie case for a change in their assessment. The Board finds for the Elkhart County Assessor.

Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now affirms the assessment.

ISSUED: _____

Commissioner, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

IMPORTANT NOTICE

- 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>>