

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

Petition No.: 12-021-07-1-5-00050
Petitioner: William A. Rapp
Respondent: Clinton County Assessor
Parcel No.: 121009202017000021
Assessment Year: 2007

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 Clinton County Property Tax Assessment Board of Appeals (PTABOA) by written document dated December 15, 2008.
2. The PTABOA issued its decision on June 18, 2009.
3. The Petitioner filed a Form 131 petition with the Board on July 24, 2009. The Petitioner elected to have his case heard pursuant to the Board's small claims procedures.
4. The Board issued a notice of hearing to the parties dated January 7, 2010.
5. The Board held an administrative hearing on January 14, 2010, before the duly appointed Administrative Law Judge Alyson Kunack.
6. Persons present and sworn in at the hearing:
 - a) For Petitioner: William A. Rapp, Petitioner
 - b) For Respondent: Brian Thomas, authorized representative
Dana M. Myers, Clinton County Assessor
Jada Ray, Chief Deputy Assessor, Clinton County

Facts

7. The property is a single-family residence located at 552 Blinn Avenue in the city of Frankfort, Center Township in Clinton County.
8. The Administrative Law Judge (ALJ) did not inspect the property.

9. For 2007, the PTABOA determined the assessed value of the property to be \$13,100 for the land and \$45,500 for the improvements, for a total assessed value of \$58,600.
10. The Petitioner requests a total assessed value of \$35,000.

Issues

11. Summary of the Petitioner's contentions in support of a reduction in the assessed value of his property:
 - a) The Petitioner contends that the assessed value of his property is over-stated based on his purchase of the property. *Rapp testimony*. Mr. Rapp testified that he bought the house for \$35,000 on December 15, 2007. *Rapp testimony; Petitioner Exhibit 1*. According to Mr. Rapp, it was not a foreclosure or a distressed sale. *Id.* Further, because the property was purchased in the assessment year, Mr. Rapp contends, there is no need to trend the purchase price to the valuation date. *Id.*
 - b) Mr. Rapp also argues that the home was in bad condition at the time he bought it. *Rapp testimony*. According to Mr. Rapp, it took him six months to remove the smell of the previous owner's cats from the house. *Id.*
12. Summary of the Respondent's contentions in support of the assessment:
 - a) The Respondent contends that the property is properly assessed. *Thomas argument*. According to the Respondent's representative, Mr. Thomas, the assessor made a physical inspection of Mr. Rapp's property prior to the PTABOA hearing. *Id.* As a result of the inspection, the property's condition was changed to "poor" and a wood deck was added that had not been assessed previously. *Thomas testimony; Respondent Exhibit 2*. These changes reduced the property's assessed value from \$83,100 to its current \$58,600 assessed value for 2007. *Id.*
 - b) The Respondent further argues that the Petitioner's purchase price is not probative of the property's market value-in-use for the March 1, 2007, assessment year. *Thomas argument*. According to Mr. Thomas, the Petitioner purchased the property two years after the effective date used to determine the 2007 assessment. *Id.*
 - c) Finally, the Respondent argues that the Petitioner presented only conclusory remarks and opinion to support his case. *Thomas testimony; Respondent Exhibit 2*.

Record

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

- a) The Petition.
- b) The digital recording of the hearing.
- c) Exhibits:

Petitioner Exhibit 1: Settlement statement for the Petitioner's property dated December 15, 2007,

Respondent Exhibit 1: Exhibit list,
Respondent Exhibit 2: Written summary of testimony,

Board Exhibit A: Form 131 Petition,
Board Exhibit B: Notice of Hearing,
Board Exhibit C: Hearing sign-in sheet,
Board Exhibit D: 30-day Notice Waiver.

- 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 failed to provide sufficient evidence to establish a prima facie case for a reduction in the assessed value of his property. The Board reached this decision for the following reasons:
- a) The 2002 Real Property Assessment Manual defines “true tax value” 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 approach, the sales-comparison approach and the income approach to value. *Id.* at 3, 13-15. In 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 assessment under the Guidelines is presumed to accurately reflect its true tax value. *See* MANUAL at 5; *Kooshtard Property VI, LLC v. White River Twp. Assessor*, 836 N.E.2d 501, 505 (Ind. Tax Ct. 2005); *P/A Builders & Developers, LLC*, 842 N.E.2d 899 (Ind. Tax 2006). 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 505, 506 n.1. A taxpayer may also offer sales information for the subject property or comparable properties or other information compiled according to generally accepted appraisal principles. MANUAL at 5.
 - c) Regardless of the method used to rebut an assessment’s presumption of accuracy, a party must explain how its evidence relates to the property’s market value-in-use as of the relevant valuation date. *O’Donnell v. Department of Local Government Finance*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006); *see also Long v. Wayne Township Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). For the March 1, 2007, assessment, the valuation date was January 1, 2006. 50 IAC 21-3-3.
 - d) Here the Petitioner contends his property is over-valued based on his purchase of the property for \$35,000 on December 15, 2007. *Rapp testimony; Petitioner Exhibit 1*. According to Mr. Rapp, he did not need to adjust the sales price because he purchased the property in the assessment year. *Id.* However, the valuation date for the March 1, 2007, assessment is January 1, 2006. 50 IAC 21-3-3. Thus, Mr. Rapp purchased his property almost two years after the relevant valuation date. Without evidence to show how his purchase price relates to that valuation date, the Petitioner’s purchase fails to establish a prima facie case that his assessment was in error.
 - e) The Petitioner also contends that the property is in bad condition. *Rapp testimony*. A condition rating is a “rating assigned each structure that reflects its

effective age in the market.” See GUIDELINES, app. B, at 5. The rating is determined by relating a structure to comparable structures within the property’s neighborhood. *Id.* Mr. Rapp, however, merely testified that there was a persistent animal smell in the home when he purchased it. This falls far short of his burden to prove that the condition rating on his property was incorrect. Further, even if he had proven that the house was assessed in error, an assessor’s failure to comply with the Guidelines alone does not show that the assessment is not a reasonable measure of a property’s market value-in-use. 50 IAC 2.3-1-1(d); *Eckerling v. Wayne Township Assessor*, 841 N.E.2d 764 (Ind. Tax Ct. 2006) (“Therefore, when a taxpayer chooses to challenge an assessment, he or she must show that the assessor’s assessed value does not accurately reflect the property’s market value-in-use. Strict application of the regulations is not enough to rebut the presumption that the assessment is correct.”) Thus, the Petitioner failed to raise a prima facie case that his house was assessed in error based on the condition of the home when he purchased it.

- f) When a taxpayer fails to provide probative evidence that an assessment should be changed, the Respondent’s duty to support the assessment with substantial evidence is not triggered. See *Lacy Diversified Indus. v. Dep’t of Local Gov’t Fin.*, 799 N.E.2d 1215, 1221-1222 (Ind. Tax Ct. 2003).

Conclusion

- 14. The Petitioner failed to raise a prima facie case. The Board finds in favor of the Respondent.

Final Determination

In accordance with the above findings and conclusions, the Indiana Board of Tax Review now determines that the assessment should not be changed.

ISSUED: _____

Chairman,
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>.