

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

Petition #: 48-027-03-1-5-00271
Petitioner: Sam Bower
Respondent: Pipe Creek Township Assessor (Madison County)
Parcel #: 16113
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 Madison County Property Tax Assessment Board of Appeals (PTABOA) by written document dated September 3, 2004.
2. The Petitioner received notice of the decision of the PTABOA on September 23, 2004.
3. The Petitioner filed an appeal to the Board by filing a Form 131 with the county assessor on October 5, 2004. Petitioner elected to have this case heard in small claims.
4. The Board issued a notice of hearing to the parties dated January 14, 2005.
5. The Board held an administrative hearing on March 15, 2005, before the duly appointed Administrative Law Judge Alyson Kunack.
6. Persons present and sworn in at the hearing:

For Petitioner: Sam Bower, Petitioner

For Respondent: Cheryl Heath, first deputy, Madison County Assessor's Office

Lloyd Brumback, deputy township assessor and PTABOA member, and Betty Roe were present to observe the hearing.

Facts

7. The subject property, which is located at 730 North 5th Street, is classified as residential, as is shown on the property record card for parcel #16113.

8. The Administrative Law Judge (ALJ) did not conduct an inspection of the property.
9. Assessed Value of subject property as determined by the Madison County PTABOA:
Land \$14,800 Improvements \$36,200 Total \$51,000
10. Assessed Value requested by Petitioner: Total \$42,000

Issue

11. Summary of Petitioner's contentions in support of alleged error in assessment:
 - a) The assessed value of the property is overstated compared to the market value. The land value is particularly high. *Bower testimony.*
 - b) The Petitioner presented an appraisal prepared by Speer Appraising, LLC. The appraisal values the subject property at \$42,000 as of December 9, 2003. *Pet'r Ex. 1; Bower testimony.*
 - c) According to the summary sheet of the appraisal, the condition of the house is poor. It further states "the house is a fixer-upper in the worst possible location on a large undesirable lot." *Pet'r Ex. 1, pg. 2; Bower testimony.*
 - d) The property is "not up to standard." The road is in very poor condition. There are no sidewalks or lights, and the property does not have city water service. *Pet'r Ex. 1; Bower testimony.* There are two utility sheds and a corn crib on the property, all of which are in poor condition. The corn crib is used only as a dog house. *Bower testimony.*
 - e) A cattle feed lot is located across the street from the subject property. State Plating is located behind the subject property. There is a silage bunker to the south of the subject property. *Bower testimony.*
 - f) The farmland on three sides of subject property is good, tillable land; however, it is assessed at a lower rate than the subject land. *Bower testimony.*
 - g) The Petitioner also submitted a handwritten sheet containing information regarding two property sales in the area. *Pet'r Ex. 3.*
12. Summary of Respondent's contentions in support of the assessment:
 - a) A significant reduction was made to the value of the home at the PTABOA hearing. The grades are low on both the house and the garage, and the PTABOA reduced the subject dwelling's value by 30%. *Heath testimony.*
 - b) The home site for the property is valued at \$11,000, whereas most home sites in the county are valued at \$18,000. *Brumback testimony.*

- c) The neighboring property is assessed as farm ground at \$1050 except for the homesite value. *Heath testimony*.

Record

- 13. 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 BTR #5554.
 - c) Exhibits:
 - Petitioner Exhibit 1: Appraisal by Speer Appraising LLC dated December 9, 2003
 - Petitioner Exhibit 2: Form 131 Petition
 - Petitioner Exhibit 3: Sale information for nearby properties
 - Petitioner Exhibit 4: Form 115, PTABOA determination

 - Board Exhibit A: Form 131 petition
 - Board Exhibit B: Notice of Hearing
 - 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 did not provide sufficient evidence to support his contentions. This conclusion was arrived at because:
- a) The Petitioner contends the assessed value of the subject property is too high. In support of his position, the Petitioner relied upon an appraisal, among other things. The appraisal determined the value of the subject property to be \$42,000 as of December 9, 2003. *Pet'r Ex. 1*.
 - b) The 2002 Real Property Assessment Manual (hereinafter "Manual") provides that for the 2002 general reassessment, a property's assessment must reflect its value as of January 1, 1999. 2002 REAL PROPERTY ASSESSMENT MANUAL 4 (incorporated by reference at 50 IAC 2.3-1-2). Consequently, a party relying on an appraisal to establish the market value-in-use of a property must provide some explanation as to how the appraised value demonstrates or is relevant to the property's value as of January 1, 1999. *See Long v. Wayne Township Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005) (holding that an appraisal indicating the value for a property on December 10, 2003, lacked probative value in an appeal from the 2002 assessment of that property).
 - c) Property values assigned in a general reassessment are carried forward from year to year until the next general reassessment. *K.P. Oil, Inc. v. Madison Township Assessor*, 818 N.E.2d 1006, 1008 (Ind. Tax Ct. 2004) (citing *Wetzel Enters., Inc. v. State Board of Tax Comm'rs*, 694 N.E.2d 1259, 1260 n.3 (Ind. Tax Ct 1998)). Thus, although the Petitioner is appealing the 2003 assessment of the subject property, the true tax value of the subject property is still based on a January 1, 1999, valuation date.
 - d) The appraisal values the subject property as of December 9, 2003, more than four years after the relevant valuation date of January 1, 1999. The Petitioner presented no explanation regarding how the appraisal value of \$42,000 relates to the value of the subject property as of January 1, 1999. The appraisal therefore lacks probative value.
 - e) The Petitioner also submitted a handwritten sheet containing information regarding two property sales in the area. *Pet'r Ex. 3*. As with the appraisal, the Petitioner did not explain how the sales, which took place in 2002 and 2005, relate to the market value of the subject property as of the relevant valuation date of January 1, 1999. Moreover, the Petitioner did not explain how the two properties were comparable to the subject property. *See Long*, 821 N.E.2d at 471-72 (holding that evidence of the sale prices of other properties lacked probative value, where the petitioners failed to explain how the characteristics of the subject property compared to those of purportedly comparable properties or how any differences between the properties affected their relative market values-in-use).

Consequently, the sales information presented by the Petitioner lacks probative value.

- f) The Petitioner also contends that the subject property is not “up to standard,” because the structures and roads are in poor condition, the city does not provide lights or water service, and the property is situated in an undesirable location. *Bower testimony*. The Petitioner did not present any evidence to quantify the effect of those factors on the market value of the subject property. Thus, the Petitioner failed to demonstrate either that the current assessment is incorrect, or what the correct assessment would be. *Meridian Towers*, 805 N.E.2d at 478.
- g) Finally, the Petitioner contends that the subject property is assessed at a higher rate than neighboring farmland. The Petitioner, however, did not present any evidence that he farms the subject property. Real property in Indiana is assessed based upon its market value-in-use. *MANUAL*, at 2. The fact that the subject property is assessed differently than neighboring land which is being put to an entirely different use does not demonstrate an error in assessment.
- h) Based on the foregoing, the Petitioner has failed to present a prima facie case that the current assessment is incorrect.

Conclusion

- 16. The Petitioner failed to make 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: _____

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. You must name in the petition and in the petition's caption the persons who were parties to any proceeding that led to the agency action under Indiana Tax Court Rule 4(B)(2), Indiana Trial Rule 10(A), and Indiana Code §§ 4-21.5-5-7(b)(4), 6-1.1-15-5(b). The Tax Court Rules provide a sample petition for judicial review. The Indiana Tax Court Rules are available on the Internet at <http://www.in.gov/judiciary/rules/tax/index.html>. The Indiana Trial Rules are available on the Internet at http://www.in.gov/judiciary/rules/trial_proc/index.html. The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code>.