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

Petition: **41-015-06-1-5-00003**
Petitioners: **Aaron and Anne Sanders**
Respondent: **Johnson County Assessor**
Parcel: **7000 21 01 002/00**
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 Petitioners initiated an assessment appeal with the Johnson County Property Tax Assessment Board of Appeals (PTABOA) by written document dated June 12, 2007.

2. The PTABOA issued notice of its decision on September 27, 2007.

3. The Petitioners filed a From 131 appeal to the Board on November 5, 2007. The Petitioners elected to have this case heard according to small claims procedures.

4. The Board issued a notice of hearing to the parties dated February 22, 2008.

5. The Board held an administrative hearing on April 10, 2008, before Administrative Law Judge Paul Stultz.

6. The following persons were present and sworn as witnesses at the hearing:
   For the Petitioners - Aaron Sanders, property owner,
   For the Respondent - Mark Alexander, Johnson County Assessor's office.

Facts

7. The contested portion of the property is classified as residential excess acreage located at 6180 S. 500 W. in Trafalgar, Indiana.

8. The Administrative Law Judge did not conduct an inspection of the property.

9. The PTABOA determined the assessed value is $111,200 for the land and $117,600 for improvements (total $228,800).

10. The Petitioners contended the assessed value should be $39,920 for the land and $117,600 for improvements (total $157,520).

Issue

11. Summary of the Petitioners' contentions:

    a) The nine acres currently classified as residential excess acreage should be classified as agricultural land. *Sanders testimony*.

    b) Except for one acre homesites, the land of the parcels directly north and south of the Petitioners' property is assessed as agricultural. *Sanders testimony; Pet'rs Exs. 3, 4*. Nine acres of the Petitioners' parcel should be assessed as agricultural land to maintain uniformity. *Sanders testimony*.

    c) No part of the property has been devoted to farm use during the past few years. *Sanders testimony*.

12. Summary of the Respondent's contentions:

    a) The nine acres are classified and assessed correctly as excess residential acreage. *Alexander testimony*.

    b) The land is not currently used for agricultural purposes. Furthermore, the Petitioners did not use the land for agricultural purposes during the 12 months prior to the assessment date. *Alexander 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) Petitioners Exhibit 1 - Aerial photograph of the subject property and surrounding area,
    Petitioners Exhibit 2 - Property record card (PRC) and Johnson County Tax Report for the subject property,
    Petitioners Exhibit 3 - PRC and Johnson County Tax Report for the property directly north of the subject property,
    Petitioners Exhibit 4 - PRC and Johnson County Tax Report for the property directly south of the subject property,
    Petitioners Exhibit 5 - Form 131,
    Respondent Exhibit A - PRC for the subject property,
    Board Exhibit A - Notice of Defect and Form 131 Petition for Review of Assessment,
    Board Exhibit B - Notice of Hearing,

Board Exhibit C - Hearing Sign In Sheet,
Board Exhibit D - Letter authorizing Mr. Alexander to represent the Johnson County 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 Petitioners did not provide sufficient evidence to support their contentions. The Board arrived at this conclusion because:

a) "In assessing or reassessing land, the land shall be assessed as agricultural land only when it is devoted to agricultural use." Ind. Code § 6-1.1-4-13(a). Evidence established that contiguous parcels to the north and south are assessed as agricultural land. The Petitioners provided no evidence about use during 2006, although testimony established that no part of their property was devoted to farm use during the preceding few years. The Petitioners failed to prove their property was devoted to agricultural use.

b) 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); MANUAL at 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.

c) The Petitioners' claim that the land was classified incorrectly focuses on the methodology used for the assessment. Even if the assessment of the subject property did not fully comply with the Guidelines, the Petitioners failed to show that the assessment was not a reasonable measure of true tax value. *See* Ind. Admin. Code tit. 50, r.2.3-1-1(d) ("failure to comply with the … Guidelines … does not in itself show that the assessment is not a reasonable measure of 'True Tax Value[.]'"). *See Eckerling v. Wayne Twp. Assessor*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006). To make a case, the Petitioners were required to show through market-based evidence that their assessed value does not accurately reflect the property's market value-in-use. *See Id.* (stating that a taxpayer who focused only on methodology and did not prove what the market value-in-use should be failed to make a prima facie case). The Petitioners did not do so.

d) The Petitioners did not show the market value-in-use of either their property or the neighboring (purportedly comparable) properties. Therefore, the evidence is insufficient to establish any violation of the constitutional principles of uniformity and equality, even if it is true that the Petitioners' land has a value that is much higher per acre than the contiguous properties to the north and south. *See Westfield Golf Practice Center, LLC v. Washington Twp. Assessor, et al.,* 859 N.E.2d 396 (Ind. Tax Ct. 2007).

e) When a taxpayer fails to provide probative evidence supporting its position 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); *Whitley Products, Inc. v. State Bd. of Tax Comm'rs,* 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).

Conclusion

16. The Petitioners did not establish 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: _____

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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>