

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

Petition #s: 48-003-02-1-5-00032
48-003-02-1-5-00033
Petitioner: Sherry K. Watters
Respondent: Anderson Township Assessor (Madison County)
Parcel #s: 1815019Z
1815023Z
Assessment Year: 2002

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 assessment appeals with the Madison County Property Tax Assessment Board of Appeals (PTABOA) by written documents dated December 2, 2003.
2. The Petitioner received notice of the decisions of the PTABOA on March 9, 2004.
3. The Petitioner filed an appeal to the Board by filing Form 131 petitions with the county assessor on March 9, 2004. The Petitioner elected to have these cases heard in small claims.
4. The Board issued notices 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 at the hearing:
 - a) For Petitioner: Sherry Watters, owner
Leon Watters
 - b) For Respondent: Patricia Davis, Anderson Township Assessor’s Office
Dennis L. Plackard, Anderson Township Assessor’s Office
 - c) Also present and observing the hearing was Lloyd Brumbach of the Madison County Assessor’s office.

Facts

7. The properties are classified as residential as shown on the property record cards. Petition #48-003-02-1-5-00032 for parcel #1815019Z is located at 1119 Fairfax Street; this is a single family home where the Petitioner lives. Petition #48-003-02-1-5-00033 for parcel #1815023Z is located at 1127 Fairfax Street; this is a single family home that is a rental property.
8. The Administrative Law Judge (ALJ) did not conduct an inspection of the properties.
9. Assessed Value of subject properties as determined by the Madison County PTABOA:
Parcel #1815019Z: Land \$6,500 Improvements \$74,000 Total \$80,500
Parcel #1815023Z: Land \$8,200 Improvements \$21,800 Total \$30,000
10. Assessed Value requested by Petitioner:
Parcel #1815019Z: Total \$70,500
Parcel #1815023Z: Total \$27,000

Issues

11. Summary of Petitioner's contentions in support of alleged error in assessment:
 - a) The assessed values of the subject properties do not coincide with their actual market values. *S. Watters argument.*
 - b) The Petitioner presented an appraisal for each of the subject properties prepared by Mark S. Volk of Mark Volk Realty/Auction & Appraisal. The appraisals estimate the market values of the subject properties as of January 30, 2004. The appraisal for 1119 Fairfax Street (parcel #1815019Z) estimates a market value of \$70,500. The appraisal for 1127 Fairfax Street (parcel #1815023Z) estimates a market value of \$27,000. *S. Watters testimony; Pet'r Exs. 1, 2.*
 - c) The property at 1127 Fairfax Street (parcel #1815023Z) is a rental property. The Petitioner inherited the property. The property is an eyesore in the neighborhood. The taxes went up much more than others in the neighborhood. *S. Watters testimony.*
 - d) The taxes for each of the subject properties increased significantly. The taxes on 1119 Fairfax Street (parcel #1815019Z) increased by \$285.28 annually. The taxes on 1127 Fairfax Street (parcel #1815023Z) increased by \$530.56 annually. *S. Watters testimony.*
12. Summary of Respondent's contentions in support of the assessment:

- a) The change to a system based on market value is the reason that assessed values and taxes increased for many property owners. Homeowners received a homestead credit, which helped lessen the tax increase. Rental properties saw a larger tax increase due to the lack of homestead credit. *Davis testimony.*
- b) The property located at 1119 Fairfax Street (parcel #1815019Z) is the largest home on the block, and the assessed value is in line with the other properties on the same block. The PTABOA changed the condition rating for that property from “good” to “average.” A condition rating of “average” is in line with other houses on the block. *Plackard testimony.*
- c) The PTABOA changed the condition rating on the property located at 1127 Fairfax Street from “average” to “fair.” There are no similar properties located on Fairfax Street. A property located at 1031 Brookline has 440 square feet and is assessed at \$29,900. Brookline is within a block of the subject property. *Plackard 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 #5553.
 - c) Exhibits:
 - Petitioner Exhibit 1: Appraisal report for 1127 Fairfax Street
 - Petitioner Exhibit 2: Appraisal report for 1119 Fairfax Street

 - Respondent Exhibit 1: Comparable properties and summary sheet for 1119 Fairfax Street
 - Respondent Exhibit 2: Comparable properties for 1127 Fairfax Street

 - Board Exhibit A: Form 131 petitions
 - Board Exhibit B: Notices 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 her contentions. This conclusion was arrived at because:
- a) The Petitioner contends the assessed values of the subject properties are higher than their respective market values. The Petitioner presented appraisals for the subject properties to support her claim. *S. Watters testimony; Pet’r Exs. 1- 2*.
 - 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) The appraisals submitted by the Petitioner value the subject properties as of January 30, 2004 - more than five years after the relevant valuation date of January 1, 1999. The Petitioner presented no evidence to demonstrate how the market values of those properties on January 30, 2004, related to their values as of the of January 1, 1999. The appraisals therefore lack probative value
 - d) Moreover, the appraisal of 1127 Fairfax Street (parcel #1815023Z) appears to be missing several pages. *Pet’r Exs. 1*. As submitted, the appraisal provides almost no information regarding the underlying facts or methodology used by the appraiser to arrive at his estimation of value. *Id.* Thus, even if the Petitioner had related the appraised value to the subject property’s market value as of January 1, 1999, the appraisal would still lack probative value.

- e) The Petitioner failed to establish a prima facie case that the assessments are incorrect. The Board finds in favor of the Respondent.

Conclusion

16. The Petitioner failed to make a prima facie case. The Board finds in favor of Respondent.

Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessments 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>.

