

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

Petition: 88-002-06-1-5-00010
Petitioner: Jody & Karen Smedley
Respondent: Washington County Assessor
Parcel: 88-24-16-334-009.000-022
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 Petitioner initiated an assessment appeal with the Washington County Property Tax Assessment Board of Appeals (PTABOA) by filing a Form 130 dated September 9, 2007.
2. The PTABOA issued notice of its decision on February 2, 2008.
3. The Petitioner appealed to the Board by filing a Form 131 on March 20, 2008, and elected to have this case heard according to small claims procedures.
4. The Board issued a notice of hearing to the parties dated September 5, 2008.
5. Administrative Law Judge Paul Stultz held the Board's administrative hearing on October 9, 2008.
6. Petitioner Jody Smedley, President of the PTABOA Jim Davis, and Washington County Assessor Jason Cockerill were present and sworn as witnesses.

Facts

7. The subject property is located at 511 Riverview Drive in Salem, Indiana.
8. The Administrative Law Judge did not conduct an inspection of the property.
9. The 2006 assessed value determined by the PTABOA is \$9,600 for land and \$209,900 for improvements (total \$219,500).
10. The 2006 assessed value requested by the Petitioner is \$7,500 for land and \$130,000 for improvements (total \$137,500).

Contentions

11. The Petitioner presented the following evidence:
 - a. The house located in Windy Heights has an estimated market value of over a million dollars, but it is assessed at \$539,000. A house owned by a co-worker appraised for \$215,000, but it is assessed at \$130,000. The house located at 1106 North Main Street sold for \$216,000 on February 25, but it is assessed at \$132,100. This evidence shows that properties in the area are being assessed below market value while the subject property is assessed at market value. *Smedley testimony; Pet'r Ex. 2.*
 - b. The Willow Street properties are located on the west side of town. They are assessed as being in neighborhood #92207, which is wrong. Neighborhood #92207 is adjacent to the subject neighborhood #92206 on the east side of town. There are seven properties located in neighborhood #92206 where the subject property is located that are assessed as if they are located in #92207. The assessment increase for properties in #92207 was less than the assessment increase for property in #92206. The Petitioner's assessment increased more than the assessments of the seven properties located in #92206, but erroneously assessed as being in #92207. *Smedley testimony; Pet'r Ex. 5, 6.*
 - c. The appraisal demonstrates the subject property's fair market value. *Smedley testimony; Resp't Ex. A.*
12. The Respondent contends the appraisal of the property is an accurate and fair representation of its fair market value. *Davis testimony; Resp't Ex. A.*

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. Petitioner Exhibit 1 – Form 131,
Petitioner Exhibit 2– Photographs, assessment data, and sales data for various properties in the area,
Petitioner Exhibit 3 – Portion of an unidentified legal brief with highlighted passages,
Petitioner Exhibit 4 – Page copied from the Indiana Commission of State Tax & Financing Policy with a passage highlighted,
Petitioner Exhibit 5 – MapQuest map showing an area in Salem with sales disclosure data for three properties attached,
Petitioner Exhibit 6 – Statement showing the percentage of change in assessment for seven properties, a map showing the location of two neighborhoods, photographs showing the location of the

subject property and six other properties with sales disclosure information for those other properties,
Petitioner Exhibit 7 – PTABOA Findings/Form 115,
Respondent Exhibit 1 – Appraisal of subject property,
Respondent Exhibit 2 – Notice of Appearance of Consultant on Behalf of Assessor,
Board Exhibit A – Form 131 Petition for Review of Assessment,
Board Exhibit B – Notice of Hearing on Petition,
Board Exhibit C – Hearing Sign In Sheet,

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”).
15. The Petitioner did not make a case for an assessment change. This conclusion was arrived at because:
- a. 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); 2002 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.3-1-2). A taxpayer may offer evidence relevant to market value-in-use to rebut the presumption the assessment is correct. 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.
 - b. A 2006 assessment must reflect the value of the property as of January 1, 2005. Ind. Code § 6-1.1-4-4.5; 50 IAC 21-3-3. Any evidence of value relating to a different date must also have an explanation about how it demonstrates, or is

relevant to, the value as of that required valuation date. *See Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005).

- c. The Petitioner had the burden of presenting evidence sufficient to demonstrate the current assessment is wrong and what the correct assessment should be. But by the Petitioner's own admission, the current assessment correctly reflects the subject property's 2006 market value.
- d. The main goal of Indiana's assessment system is to measure a property's value using objectively verifiable data. *See Eckerling v. Wayne Twp. Assessor*, 841 N.E.2d 674, 677-78 (Ind. Tax Ct. 2006). Alleged assessment errors that merely focus on methodology do not make a case. *O'Donnell v. Dep't of Local Gov't Fin.*, 854 N.E.2d 90, 93 (Ind. Tax Ct. 2006). Assigning particular neighborhood identification numbers to properties is part of the methodology that assessors use in making assessments. According to the Petitioners, the neighborhood number assigned to certain other properties (not their own) is wrong. But even if some other properties were assessed as being in the wrong neighborhood (#92207), the Petitioners failed to establish how that point might help to prove that their assessment is too high, or what a purportedly more correct assessment for their property might be. Again, disputing methodology issues misses the main point of Indiana's assessment system. Similarly, the Petitioners failed to establish how the relative increases of assessments in neighborhood #92206 and #92207 are relevant or might support their claim.
- e. The Petitioners attempted to prove that other properties in the area are assessed below market value and argued that they should get similar treatment. *Smedley testimony; Pet'r Ex. 2*. The estimated value of over a million dollars for the house in Windy Heights, however, is not probative evidence. Consequently, comparing its estimated value with its assessment is also not probative evidence. The evidence that a co-worker said his house appraised for around \$215,000 and comparing that value to his assessment is not much better. Only the comparison of the third property at 1106 North Main Street (sold for \$216,000 and assessed for \$132,100) perhaps has some probative value toward supporting the Petitioners' point. Nevertheless, isolated instances of disparity between a selling price and an assessment are not sufficient to prove that a violation of the constitutional principles of uniformity and equality of assessment have been violated in this instance.¹

¹ "Under Indiana's new assessment system, when a taxpayer challenges the uniformity and equality of his or her assessment *one* approach that he or she may adopt involves the presentation of assessment ratio studies, which compare the assessed values of properties within an assessing jurisdiction with objectively verifiable data, such as sales prices or market value-in-use appraisals. *See Manual at 6, 24-26 (emphasis added).*" *Westfield Golf Practice Center v. Washington Twp. Assessor*, 859 N.E.2d 396, 399 n.3 (Ind. Tax Ct. 2007).

Conclusion

- 16. The Petitioner failed to make a prima facie case that the current assessment is incorrect. The Board finds in favor of the Respondent.

Final Determination

In accordance with the above findings and conclusions, the assessment should not be changed.

ISSUED: _____

Commissioner, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

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>>