

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

Petition No.: 18-023-06-1-5-00047
Petitioners: Daniel, Dorothy, and Donald Stafford
Respondent: Delaware County Assessor
Parcel No.: 18-03-24-353-002.000-023
Assessment Year: 2006

The Indiana Board of Tax Review (“Board”) issues this determination in the above matter, and finds and concludes as follows:

Procedural History

1. On August 2, 2007, Daniel, Dorothy, and Donald Stafford filed written notice contesting the subject property’s March 1, 2006 assessment. On June 20, 2008, the Delaware County Property Tax Assessment Board of Appeals (“PTABOA”) issued its determination lowering the subject property’s assessment, but not to the level that the Staffords had requested.
2. The Staffords then timely filed a Form 131 petition with the Board. They elected to have their appeal heard under the Board’s small claims procedures.
3. On May 11, 2010, the Board held an administrative hearing through its designated administrative law judge, Joseph Stanford (“ALJ”).
4. The following people were sworn in and testified:
 - a) Daniel L. Stafford
Dorothy M. Stafford
 - b) Kelly Hisle, Delaware County Deputy Assessor

Facts

5. The subject property is a residential property located at 503 East Indiana in Eaton, Indiana.
6. Neither the Board nor the ALJ inspected the subject property.
7. The PTABOA determined the following values for subject property:

Land: \$5,800 Improvements: \$30,100 Total: \$35,900.

8. On their Form 131 petition, the Staffords requested values of \$1,500 for the land and \$14,000 for the improvements, for a total of \$15,500. At the Board’s hearing, they requested a total assessment of “no more than \$15,000.” *Daniel. Stafford argument.*

Parties’ Contentions

9. Summary of the Staffords’ contentions:

- a) The subject property is assessed too high in light of what the Staffords paid for it. *Daniel Stafford argument.* The Staffords bought the property for \$12,000, on October 8, 2005. *Daniel Stafford testimony; see also Resp’t Ex. 11.* They bought the property following a public auction held by the personal representative of Albert J. Williamson’s estate. The property was not listed with a realtor before the auction; the family just wanted to sell the property for what they could get. At the auction, nobody bid the minimum of \$10,000, so the Staffords made their offer of \$12,000 after the auction. *Daniel Stafford testimony.*
- b) The Staffords had to have the subject property appraised when they got a loan to finance the purchase. That appraisal, which the Staffords did not submit, estimated the property’s “insurance replacement value” at \$30,000. Since then, other than removing a back porch that was falling down, the Staffords have made no changes to the property. A property on one side of the Staffords—located at 506 East Indiana—is not worth much either. But the property on the other side is worth more. It has a nicer two-story home on a corner lot. *Daniel Stafford testimony.*
- c) After the Staffords bought the subject property, they noticed that the property record card erroneously reflected the existence of a garage or shed. *Daniel Stafford testimony.* Also, the Staffords rent out the subject property. *Id.* But the rent that the Staffords charge has nothing to do with the property’s value. That rent therefore should not be considered in determining the property’s assessment. *Daniel Stafford argument.*

10. Summary of the Assessor’s contentions:

- a) The subject property’s assessment is correct, as shown by Ms. Hisle’s analysis of the sales of comparable properties. *Hisle argument; Resp’t Ex. 1A.* In that analysis, Ms. Hisle compared three recently sold properties to the subject property. *Resp’t Ex. 1A.* She then adjusted each comparable property’s sale price to account for various ways in which it differed from the subject property. The adjusted sale prices ranged from \$34,000 to \$43,280. *Id.*
- b) The Board should not consider the price that the Staffords paid for the subject property. *Hisle argument.* According to guidelines from the State of Indiana and the

IAAO¹, estate sales should not be used to determine or trend assessments. *Hisle testimony.*

- c) At the PTABOA hearing, the Staffords testified that the subject property was appraised for \$30,000. They also testified that they charge \$400 per month in rent with 75% occupancy. *Hisle testimony.* Those rent and occupancy numbers are relevant to estimating the subject property's value using the income approach. *Hisle argument.*

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

- a) The Form 131 petition,
- b) A digital recording of the hearing,
- c) Exhibits:

- Petitioners' Exhibit 1: Promissory note from First Merchants Bank
- Respondent's Exhibit 1: Subject property record card
- Respondent's Exhibit 1A: Comparable property spreadsheet
- Respondent's Exhibit 2: Property record card for 501 Indiana Avenue
- Respondent's Exhibit 3: Multiple Listing Service ("MLS") listing for 501 Indiana Avenue
- Respondent's Exhibit 4: Property record card for 608 East Indiana
- Respondent's Exhibit 5: MLS listing for 608 East Indiana
- Respondent's Exhibit 6: Property record card for 709 East Harris Street
- Respondent's Exhibit 7: MLS listing for 709 East Harris Street
- Respondent's Exhibit 8: Copy of 50 IAC 21-3-3
- Respondent's Exhibit 9: Executrix deed
- Respondent's Exhibit 10: PTABOA minutes
- Respondent's Exhibit 11: Purchase agreement
- Respondent's Exhibit 12: Map showing location of subject and comparables

- Board Exhibit A: Form 131 petition
- Board Exhibit B: Notice of hearing
- Board Exhibit C: Hearing sign-in sheet

- d) These Findings and Conclusions.

¹ Ms. Hisle did not explain what the abbreviation "IAAO" stands for. The Board assumes that she was referring to guidelines published by the International Association of Assessing Officers.

Analysis

Burden of Proof

12. A taxpayer seeking review of an assessing official's determination must make a prima facie case proving both that the current assessment is incorrect and what the correct assessment should 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).
13. In making its case, the taxpayer must explain how each piece of evidence relates to its 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”).
14. If the taxpayer makes a prima facie case, the burden shifts to the respondent to offer evidence to impeach or rebut the taxpayer's evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004); *Meridian Towers*, 805 N.E.2d at 479.

The Staffords' Case

15. The Staffords did not make a prima facie case for reducing the subject property's assessment. The Board reaches this conclusion because:
 - a) Indiana assesses real property based on its true tax value, which the 2002 Real Property Real Property Assessment Manual defines 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). Appraisers traditionally have used three methods to determine a property's market value: the cost, sales-comparison, and income approaches. *Id.* at 3, 13-15. Indiana assessing officials generally use a mass-appraisal version of the cost approach set forth in the Real Property Assessment Guidelines for 2002 – Version A.
 - b) A property's market value-in-use, as determined using the Guidelines, is presumed to be accurate. *See* MANUAL at 5; *Kooshtard Property VI, LLC v. White River Twp. Assessor*, 836 N.E.2d 501, 505 (Ind. Tax Ct. 2005) *reh'g den. sub nom. PA Builders & Developers, LLC*, 842 N.E.2d 899 (Ind. Tax Ct. 2006). But 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 (“USPAP”) often will suffice. *Id.*; *Kooshtard Property VI*, 836 N.E.2d at 506 n.6. A taxpayer may also offer actual construction costs, sales information for the subject or comparable properties, and any other information compiled according to generally accepted appraisal principles. MANUAL at 5.

- c) Here, the Staffords rely mainly on what they paid for the subject property to support their claim that the property should not have been assessed for any more than \$15,000.
- d) Often, a property's actual sale price provides the most compelling evidence of its market value-in-use. But that presupposes that the parties negotiated at arm's length and that other requisites to a market-value transaction were present. In that regard, the Manual provides the following definition of "market value":

The most probable price (in terms of money) which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

- The buyer and seller are typically motivated;
- Both parties are well informed and advised and act in what they consider their best interests;
- A reasonable time is allowed for exposure in the open market;
- Payment is made in terms of cash or in terms of financial arrangements comparable thereto;
- The price is unaffected by special financing or concessions.

MANUAL at 10

- e) Here, the personal representative of the owner's estate did not list the property for sale with a realtor, but instead attempted to sell the property at auction a little more than four months after opening the estate.² Those facts create strong inferences that the seller was not typically motivated and that the property was not exposed to the market for a reasonable time. And the Staffords offered nothing to allay those concerns. Under those circumstances, the Board finds that the price for which the Staffords bought the subject property is not probative of the property's market value-in-use.

² The Executor's Deed submitted by the Assessor lists the following cause number for the estate: 18C01-0506-ES-110, indicating that the estate was opened in June 2005. *Resp't Ex. 9*; see also Ind. Administrative Rule 8(B)(2) (indicating that the second group of four characters in a cause number refer to the year and month of filing). The Assessor also offered the Stafford's written offer to buy the property, which was dated October 8, 2005. *Resp't Ex. 11*.

- f) Mr. Stafford also testified that the subject property had been appraised for \$30,000. While that amount is significantly more than the value that the Staffords requested, it is still lower than the property's March 1, 2006 assessment. But the Staffords did not offer the written appraisal report into evidence nor did they offer anything to show how the appraiser arrived at his or her valuation opinion. Thus, Mr. Stafford's testimony about that appraisal lacks probative value.
- g) Finally, Mr. Stafford briefly testified that the property on one side of the subject property was not worth much, while the property on the other side was nicer. That testimony, however, does nothing to help quantify the subject property's market value-in-use.

Conclusion

- 16. The Staffords failed to make a prima facie case that the subject property's assessment is incorrect. The Board therefore finds for the Assessor.

Final Determination

In accordance with the above findings and conclusions, the Indiana Board of Tax Review now affirms the assessment.

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>.