

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

Petition: 15-013-10-1-5-01420
Petitioner: Thomas N. Taylor
Respondent: Dearborn County Assessor
Parcel: 15-07-15-302-009.008-013
Assessment Year: 2010

The Indiana Board of Tax Review (Board) issues this determination in the above matter, finding and concluding as follows:

Procedural History

1. The Petitioner initiated an assessment appeal with the Dearborn County Property Tax Assessment Board of Appeals (PTABOA) by filing a Form 130 petition dated September 27, 2010.
2. The PTABOA mailed notice of its decision on January 10, 2011.
3. The Petitioner filed a Form 131 petition with the Board on January 31, 2011. He elected to have this case heard according to small claims procedures.
4. The Board issued notice of hearing to the parties on July 7, 2011.
5. Administrative Law Judge Paul Stultz held the Board's administrative hearing on September 13, 2011. He did not inspect the property.
6. Thomas Taylor, County Assessor Gary Hensley, and Jim Davis were sworn as witnesses.

Facts

7. The subject property is a single-unit condominium located at 101 Riverscape Court in Lawrenceburg.
8. The PTABOA determined the total assessment is \$195,000.
9. The Petitioner requested a total assessed value of \$175,000.

Record

10. The official record contains the following:
- a. Form 131 Petition,
 - b. Digital recording of the hearing,
 - c. Petitioner's Exhibit 1 – Form 131 Petition,
Petitioner's Exhibit 2 – Form 11 Notice of Assessment,
Petitioner's Exhibit 3 – Form 130 Petition,
Petitioner's Exhibit 4 – 401 Rivera Drive Construction and Purchase Agreement,
Petitioner's Exhibit 5 – 406 Rivera Drive Construction and Purchase Agreement,
Petitioner's Exhibit 6 – Advertisement for 101 Sunset View,
Petitioner's Exhibit 7 – Form 115 Notification for the subject property,

Respondent's Exhibit 1 – Property record card for the subject property,

Board Exhibit A – Form 131 Petition with attachments,
Board Exhibit B – Notice of Hearing,
Board Exhibit C – Hearing Sign-in Sheet,
 - d. These Findings and Conclusions.

Contentions

11. Summary of the Petitioner's case:
- a. The assessment is too high when compared to the sale prices of other similarly situated condominiums. Size and upgrades drive the values in these condominiums, but in developing this assessment the Respondent inappropriately compared the subject property to condominiums with 1,000 more square feet and \$20,000 to \$30,000 in additional upgrades. *Taylor testimony*.
 - b. The subject property has 2,000 square feet. While some of the Petitioner's neighbors chose to get up to \$60,000 in upgrades, the only upgrade for the subject property was a \$5,000 electric fireplace. The Petitioner bought the subject property for \$179,900 in May 2007. *Taylor testimony; Resp't Ex. 1*.
 - c. Now properties in the same complex are being sold at prices much lower than their assessments. For example, a condominium at 401 Riviera Drive with 2,000 square feet sold for only \$152,300 in 2010. The Petitioner does not know what type of upgrades this property has. *Taylor testimony; Resp't Ex. 4*.

- d. A 3,000 square-foot condominium property at 406 Riviera Drive sold for \$171,225 in November 2010. Again, the Petitioner does not know what type of upgrades this property has. *Taylor testimony; Pet'r Ex. 5.*
 - e. The most comparable property is a recent listing located at 101 Sunset View. *Pet'r Ex. 6.* The asking price for that property is \$132,200. It is 500 square feet smaller and has an unfinished one-car garage. (The subject property has a two-car garage.) Even so, that property's asking price is far lower than the subject property's assessment. *Taylor testimony.*
 - f. The subject property is not worth \$195,000 in today's economy. The Petitioner would be lucky to get \$160,000. *Taylor testimony.*
12. Summary of the Respondent's case:
- a. Despite the limitations inherent in a mass appraisal system, the Respondent makes every effort to determine the differences in features among condominiums and attempts to value them accordingly. *Davis testimony.*
 - b. The Respondent identifies condominiums that are the most similar and uses sale prices reported on sales disclosures to determine assessed values. Assessors do not go inside each property. Other sources must be used to determine the features of each property—for example, size can be determined from real estate listings. In addition, property owners themselves sometimes disclose features that are inside. *Davis testimony.*
 - c. The Respondent relies on current year sales if they are available, but sometimes must go up to three years back. For areas where current sales are not available, assessments have not “caught up” with the downturn in the economy. *Davis testimony.*

Analysis

13. 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).
14. 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 prima facie case for any assessment change.
- a. Real property is assessed based on its "true tax value," which 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). 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. Indiana has Guidelines that explain the application of the cost approach. REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002—VERSION A (incorporated by reference at 50 IAC 2.3-1-2).
 - b. The value established by use of the Guidelines is presumed to be accurate, but it is merely a starting point. A taxpayer is permitted to 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. To be relevant, the record must somehow establish how such evidence relates to market value-in-use as of the required valuation date. *O'Donnell v. Dep't of Local Gov't Fin.*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006); *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). For a 2010 assessment, the valuation date was March 1, 2010. Ind. Code § 6-1.1-4-4.5(f) (2010).
 - d. Most of the evidence that the Petitioner presented addresses sales of purportedly comparable properties. But to effectively use any kind of comparison approach to value a property, one must establish that properties truly are comparable. Conclusory statements that properties are "similar" or "comparable" are not sufficient. *Long*, 821 N.E.2d at 470 (explaining that one who relies on comparables is responsible both for providing the data about comparables and for analyzing it—the Board is not responsible for reviewing all the documents presented to determine whether properties are indeed comparable).
 - e. The Petitioner presented three purportedly comparable properties, but except for size and location he was not able to describe how their characteristics compared to the subject property. The Petitioner even identified upgrades as an item that greatly affects value, but admitted he has no knowledge about the upgrades his comparables might have. The Petitioner needed to identify the subject property's characteristics, explain how those characteristics compare to the purportedly comparable properties with specifics about how they are similar. Furthermore, he needed to recognize the differences between the properties and explain how they affect market value-in-use. *Long*, 821 N.E.2d at 471. For example, the Petitioner admitted the the living area and garage at 101 Sunset View were smaller than the subject, but he provided no substantial evidence relating those differences to market value-in-use. The Petitioner failed to provide the facts or analysis that

might have made this comparables meaningful, probative evidence for a more accurate valuation for the subject property.

- f. To the extent that the Petitioner might have showed that his assessment is too high, he offered no substantial evidence showing specifically what a more accurate number would be. *Meridian Towers*, 805 N.E.2d 475, 478.
- g. The Petitioner bought the subject property for \$179,900 in May 2007. A property's purchase price can provide some of the best evidence of its market value-in-use. The Petitioner, however, needed to relate his purchase price to the required valuation date of March 1, 2010. While the Petitioner offered general statements about the market downturn since 2007, he failed to establish how his purchase price relates to a specific valuation as of March 1, 2010.
- h. When a taxpayer fails to provide probative evidence supporting the 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 v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).

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 assessment will 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>