

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

Petition #: 84-002-02-1-3-00087
Petitioner: Timothy Vilbrandt
Respondent: Harrison Township Assessor (Vigo County)
Parcel #: 118-06-27-360-008
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 an assessment appeal with the Vigo County Property Tax Assessment Board of Appeals (the “PTABOA”) by written document dated October 3, 2003.
2. The PTABOA mailed notice of its decision to Petitioner on August 30, 2004.
3. The Petitioner filed an appeal to the Board by filing a Form 131 with the county assessor on September 8, 2004. The Petitioner elected to have this case heard as a small claim.
4. The Board issued a notice of hearing to the parties dated October 6, 2004.
5. Administrative Law Judge Rick Barter held an administrative hearing in Terre Haute on December 2, 2004.
6. Persons present and sworn as witnesses at the hearing:
 - a) For Petitioner – Timothy Vilbrandt, taxpayer,
Terry M. Lorenz, attorney,
 - b) For Respondent – Larry Auler, Harrison Township Assessor,
Richetta J. Hale, Harrison Township Deputy Assessor,
Deborah J. Lewis, Vigo County Assessor,
Ann Akers, Vigo County PTABOA member,
Gloria Donham, Vigo County PTABOA member.

Facts

7. The property record card for parcel #118-06-27-360-008 shows it is classified as industrial.
8. The Administrative Law Judge (the "ALJ") did not conduct an inspection of the property.
9. The assessed value of subject property as determined by the PTABOA:
Land \$11,700 Improvements \$385,700 Total \$397,400.
10. The assessed value requested by Petitioner:
Land \$11,700 Improvements \$145,000 Total \$156,700.

Issue

11. Summary of Petitioner's contentions in support of alleged error in assessment:
 - a) The assessed value of the subject property is overstated at \$397,400. The assessed value of the subject property should be \$156,700. *Lorenz testimony.* The appraisal of the subject property estimates the value at \$145,000 as of August 20, 2001. *Petitioner Exhibit 1.*
 - b) If selling the subject property, the asking price would be \$160,000. The asking price for a property may be interpreted as the market value-in-use of the property. *Lorenz testimony.*
 - c) The appraisal used the sales of 3 comparable properties to estimate the value of the subject property. The sale identified in the appraisal as Comparable 2 is most like the subject property. Comparable 2 sold for \$98,000 in 1999. *Lorenz testimony; Petitioner Exhibit 1.*
12. Summary of Respondent's contentions in support of the assessment:
 - a) Petitioner did not appear at the PTABOA hearing. The PTABOA determined Petitioner's evidence to be of limited use because the appraisal was prepared for either the purpose of mortgage refinance or loan collateral. The PTABOA didn't find the appraisal would meet the county standards for assessment. *Lewis testimony.*
 - b) The appraisal could be reconsidered if information based on January 1, 1999, costs and sales were introduced. *Lewis testimony.*

Record

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

- a) The Petition,
- b) The tape recording of the hearing labeled IBTR 6064,
- c) Exhibits:
 - Petitioner Exhibit 1 – Copy of a Restricted Report of a Complete Appraisal for subject dated August 20, 2001,
 - Board Exhibit A – The Form 131,
 - Board Exhibit B – The Notice of Hearing,
 - Board Exhibit C – The Sign in Sheet,
- d) These Findings and Conclusions.

Analysis

14. The most applicable governing statutes and 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 his contentions. This conclusion was arrived at because:

- a) Petitioner intended for the appraisal to prove that the subject property is overvalued at \$397,400. While an appraisal is a valid method to show error in the

assessment, the appraisal must be relevant to January 1, 1999, the valuation date established for the 2002 reassessment. *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005).

- b) The appraisal provides an estimate of value as of August 20, 2001. Petitioner did not offer any probative evidence explaining how or why that opinion of value is relevant to January 1, 1999. Perhaps the Petitioner attempted to make the connection by pointing out that Comparable 2 is most like the subject; however, simply pointing out that the appraisal contains a property used as a comparable with a sale date of 1999 is not sufficient to relate the August 20, 2001, value to the valuation date. Petitioner needed to show how the value established by the appraisal related to January 1, 1999, rather than pointing out that a comparable used in the appraisal sold in 1999. Lacking any explanation of how or why the appraisal value relates to the January 1, 1999, the appraisal has no probative value. *Id.*
- c) Additionally, if the Petitioner intended to show that the assessment of the subject property is overstated by comparing the sale price of Comparable 2 to the assessed value of the subject property, he fell short. Although using comparable sales is a valid method of establishing error, Petitioner must establish the comparability of the properties. *Id.* at 470. Petitioner failed to present any probative evidence explaining how the properties were comparable. Petitioner did not provide any details regarding any similarity between the characteristics of the subject property and Comparable 2. Petitioner has made only conclusory statements regarding comparability. Such conclusory statements do not constitute probative evidence. *Id.*; *Blackbird Farms Apts., LP v. Dep't of Local Gov't Fin.*, 765 N.E.2d 711 (Ind. Tax Ct. 2002).

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 assessment 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.