

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

Petition No.: 43-001-10-1-1-00005
Petitioner: Eddy Glenn Tridle
Respondent: Kosciusko County Assessor
Parcel No.: 0171900240
Assessment Years: 2010

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

Procedural History

1. Eddy Glen Tridle appealed the subject property’s March 1, 2010 assessment to the Kosciusko County Property Tax Assessment Board of Appeals (“PTABOA”). The PTABOA issued a determination lowering the property’s assessment, although not to the level that Mr. Tridle had requested.
2. Mr. Tridle timely filed a Form 131 petition with the Board. He elected to have his appeal heard under the Board’s small claims procedures.
3. On July 24, 2012, the Board held a hearing on Mr. Tridle’s petition through its designated administrative law judge, Jennifer Bippus (“ALJ”).
4. The following people were sworn in and testified:

Eddy Glen Tridle
Laurie Renier, Kosciusko County Assessor

Facts

5. The subject property contains a single-family home and several outbuildings located at 1388 East 700 South, Claypool, Indiana.
6. Neither the Board nor the ALJ inspected the subject property.
7. The PTABOA determined the following values for March 1, 2010:

Land: \$20,900 Improvements: \$66,000 Total: \$86,900

8. Mr. Tridle requested the following values for March 1, 2010:

Land: \$15,675 Improvements: \$49,625 Total: \$65,300

Contentions

9. Summary of Mr. Tridle's evidence and contentions:

- a) Although the subject property is assessed as having two corn cribs, it has had only one crib since Mr. Tridle bought the property ten years ago. Also, the property is assessed too high in light of the age and condition of its buildings. When Mr. Tridle listed the property for sale, he offered potential buyers a credit to account for the house's lack of heat and the fact that it had a very poor electrical system. The outbuildings are also in poor condition and add little value to the property. *Tridle testimony; Pet'r Ex. 2*. The highest bid that Mr. Tridle received from that listing was less than \$70,000. *Tridle testimony*.
- b) The subject property has been offered for sale at two different public auctions—one in December 2008, and one on December 20, 2011. The highest bids from the first auction was "roughly around \$70,000," while the highest bid from the second auction was \$74,700. *Tridle testimony*. Mr. Tridle did not offer any documents relating to the first auction, but he offered an advertisement for the second auction along with a letter from Ben Jones, the auctioneer. *Id; Pet'r Ex. 2*. Mr. Jones's included the following:

According to City-data.com for Claypool Indiana, the median house value in 2009 was \$78,111.00. As the Indiana Housing Price Index reached an all-time high in 2008 it has slowly declined from this point but not near to the values we saw in 2007. To put it in perspective property values have declined 19% off the average price of a home since 2001.

Pet'r Ex. 2. Mr. Tridle rejected both bids because he wanted more money. But according to Mr. Tridle, those bids, as well as the offer he received when he listed the property, show that that the property's market value was roughly between \$70,000 and \$74,000. *Tridle testimony; Pet'r Ex. 3*.

10. Summary of the Assessor's evidence and contentions:

- a) The subject property was originally part of a larger tract. In January, 2009, Mr. Tridle sold 63.66 acres of that tract for \$143,104. The 18.94 acres that now comprise the subject property are what remained after the sale. *Renier testimony; Resp't Ex. 8*. Part of the land is assessed as agricultural woodland and part is assessed as tillable acreage. *Renier testimony; Resp't Exs. 1-2*.

- b) On October 30, 2009, part of the property was listed for sale at \$118,400. The listing included the buildings and three acres. Mr. Tridle reduced the asking price twice—first to \$98,000 and then to \$89,000—before removing the property from the market on June 7, 2010. *Renier testimony; Resp't Exs. 4-5.*
- c) To support the property's assessment, the Assessor pointed to what she described as four comparable sales. According to the Assessor, those properties were similar to the subject property in size and were all classified as agricultural. The sale prices ranged from \$75,000 to \$102,000. *Renier testimony; Resp't Ex. 6.*

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

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

- Petitioner Exhibit 1: Form 131 petition,
- Petitioner Exhibit 2: 52 photographs of the subject property,
- Petitioner Exhibit 3: "Market Data on Property" consisting of a an advertisement for a December 20, 2011 auction, a December 22, 2012 letter from Ben Jones to Eddy and Elizabeth Tridle, and a "Break down of Auction Tract Sales,"
- Petitioner Exhibit 4: Form 115 determination,
- Petitioner Exhibit 5: Form 11 for March 1, 2011.

- Respondent Exhibit 1: GIS map of subject property,
- Respondent Exhibit 2: Subject property record card,
- Respondent Exhibit 3: Photograph of the subject property,
- Respondent Exhibit 4: Multiple Listing Service #25326 subject property listing,
- Respondent Exhibit 5: Multiple Listing Service – history detail of subject property,
- Respondent Exhibit 6: Comparable properties to subject property,
- Respondent Exhibit 8: Property record card for Ransbottom.¹

- Board Exhibit A: Form 131 petition,
- Board Exhibit B: Hearing notice dated June 6, 2012,
- Board Exhibit C: Sign-in sheet.

¹ On her exhibit coversheet, the Assessor identified Exhibit 7 as "Sales Disclosure for 44.72A of original farm 1-51-3.A Ransbottom \$143,104. She also referred to a sales disclosure at the hearing, although she did not identify it as an exhibit at that time. The documents actually submitted to the Board do not appear to include the sales disclosure form or anything else labeled as Respondent's Exhibit 7. The Board cannot tell from the record whether the Assessor failed to offer the exhibit or it was inadvertently misplaced. The Board, however, notes that the Assessor testified to the sale and Mr. Tridle did not dispute it. In any case, the Board does not base its decision on that sale.

- d) These Findings and Conclusions.

Analysis

Burden of Proof

12. Generally, a taxpayer seeking review of an assessing official's determination has the burden of proving that a property's assessment is wrong and what its 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). 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”). Once the taxpayer makes a prima facie case, the burden shifts to the assessor to impeach or rebut the petitioner'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.
13. Effective July 1, 2011, however, the Indiana General Assembly enacted Ind. Code § 6-1.1-15-17, which has since been repealed and re-enacted as Ind. Code § 6-1.1-15-17.2.² That statute shifts the burden of proof to the assessor in cases where the assessment under appeal has increased by more than 5% from its previous year's level:

This section applies to any review or appeal of an assessment under this chapter if the assessment that is the subject of the review or appeal increased the assessed value of the assessed property by more than five percent (5%) over the assessed value determined by the county assessor or township assessor (if any) for the immediately preceding assessment date for the same property. The county assessor or township assessor making the assessment has the burden of proving that the assessment is correct in any review or appeal under this chapter and in any appeals taken to the Indiana Board of Tax Review or to the Indiana Tax Court.

I.C. § 6-1.1-15-17.2.

13. The ALJ made a preliminary finding that the subject property's value increased more than 5% between the March 1, 2009 and March 1, 2010 assessment dates. But the evidence actually shows that the assessment determination under review—the PTABOA's determination valuing the property at \$86,900—is less than what the Assessor had determined for the immediately preceding year (\$94,700). *See Resp't Ex. 2*.³ Indiana

² HEA 1009 §§ 42 and 44 (signed February 22, 2012). This was a technical correction necessitated by the fact that two different provisions had been codified under the same section number.

³ Even if one looks to what the assessor originally determined for March 1, 2010, the difference between the assessments for the two years is still only \$600, or less than 1%. *See Resp't Ex. 2* (showing the 2009 assessment as \$94,700 and the original 2010 assessment as \$95,300).

Code § 6-1.1-15-17.2 therefore does not operate to shift the burden of proof from Mr. Tridle to the Assessor.⁴

Discussion

14. Mr. Tridle failed to make a prima facie case for reducing the subject property's assessment. The Board reaches this conclusion for the following reasons:
- a) Indiana assesses real property based on its "true tax value," which the 2002 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) (2009). Appraisers have traditionally 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 as 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.; P/A Builders and Developers, LLC*, 842 N.E.2d 899 (Ind. Tax 2006). 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 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, or any other evidence compiled according to generally accepted appraisal principles. MANUAL at 5.
 - c) Regardless of the method used to challenge an assessment's presumed accuracy, a party must explain how its evidence relates to the appealed property's market value-in-use as of the relevant valuation date. *O'Donnell v. Dep't of Local Gov't Fin.*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006), *see also Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). Otherwise, the evidence lacks probative value. *Id.* For March 1, 2010 assessments, the valuation date was March 1, 2010.
 - d) Mr. Tridle offered 52 photographs to support his claim that the subject buildings were in poor condition and had little value. While the condition of the buildings might affect the subject property's market value-in-use, Mr. Tridle needed to offer evidence to quantify that effect or at least to show a likely range of values for the property.
 - e) To do that, Mr. Tridle pointed to two attempts to sell the property at auction. In both instances, the highest bid was less than the property's \$86,900 assessment. Auction

⁴ The ALJ caught her error during the hearing and noted it on the record.

sales raise at least some questions about whether the requisites for a sale to be considered a valid indicator of a property's market value are present. For example, there may be questions about whether the property was reasonably exposed to the market and whether the seller was typically motivated. But a well-advertised auction held after other marketing attempts have proven unsuccessful might dispel those concerns in any given case.

- f) Mr. Tridle offered almost no information about the first auction, but he did offer an advertisement and some other evidence from the second auction. And that auction was held after Mr. Tridle's attempts to sell the property through a listing were unsuccessful. The Board need not address whether a sale from the second auction might be probative of the subject property's market value-in-use, however, because Mr. Tridle did not actually sell the property; he rejected all the bids. Thus, the auction does not show the subject property's market value-in-use. Put in terms used by the Manual, the bid did not suffice to replace the utility that Mr. Tridle received from the property. *See* MANUAL at 2 ("True tax value may be thought of as the ask price of a property by its owner, because this value more clearly represents the utility obtained from the property, and the ask price represents how much utility must be replaced to induce the owner to abandon the property.").
- g) In any case, the first auction took place more than a year before the March 1, 2010 assessment date, and the second auction took place more than one-and-a-half years after that date. Mr. Tridle therefore needed to explain how the bids related to the subject property's market value-in-use as of March 1, 2010. At most, Mr. Tridle offered a vague statement from the auctioneer indicating that average housing prices had fallen 19% between 2001 and the end of 2011 and that a price index had declined from its all-time high somewhere in 2008. That does not suffice to relate either bid to the subject property's market value-in-use as of March 1, 2010.
- h) As explained above, however, Mr. Tridle, also listed the property for sale from October 30, 2009 to June 7, 2010. While he did not sell the property, and apparently did not get an offer above \$70,000, that listing history is at least some evidence that the property was worth no more than Mr. Tridle's asking price. But Mr. Tridle's lowest asking price during that period was \$89,000, which is more than the \$86,900 assessment from which he has appealed.
- i) Because Mr. Tridle did not offer probative evidence to show that the subject property's market value-in-use was less than the property's assessment, he failed to make a prima facie case for reducing that assessment.

Conclusion

15. Mr. Tridle did not make a prima facie case to change the subject property's assessment. The Board therefore finds for the Assessor.

Final Determination

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

ISSUED: December 3, 2012

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>>.