

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

Petition No.: 48-022-08-1-5-08338
Petitioner: Christy J. Wallace
Respondent: Madison County Assessor
Parcel No.: 17 64-10
Assessment Year: 2008

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

Procedural History

1. Christy J. Wallace filed a Form 130 petition challenging the above-captioned parcel’s March 1, 2008 assessment. On June 22, 2010, the Madison County Property Tax Assessment Board of Appeals (“PTABOA”) issued its determinations lowering the parcel’s assessment, but not to the level she had requested.
2. Ms. Wallace then timely filed a Form 131 petition with the Board. Although Ms. Wallace listed two parcels—17 64-9 and 17 64-10—on her Form 131 petition, her Form 130 petition lists only parcel 17 64-10, and the PTABOA’s determination addresses only that parcel. Thus, only parcel 17 64-10’s assessment is properly before the Board.
3. Ms. Wallace elected to have her appeal heard under the Board’s small claims procedures. On May 11 2011, the Board held a hearing through its administrative law judge, Patti Kindler (“ALJ”).
4. Christy J. Wallace, her husband Charles E. Wallace, and Madison County Assessor, Larry Davis, were sworn in and testified.

Facts

5. The subject property contains a home located at 215 East Jackson Street, Alexandria, Indiana. Neither the Board nor the ALJ inspected the property.
6. The PTABOA determined the following values:

Land: \$8,800 Improvements: \$69,900 Total: \$78,700
7. Ms. Wallace requested a total assessment of \$60,000.

Parties' Contentions

8. Ms. Wallace's offered the following evidence and arguments:
- a) The subject parcel's 2008 assessment is too high in light of what Ms. Wallace paid for that parcel and of a professional appraiser's opinion. *Charles Wallace argument*. Ms. Wallace bought the subject home and two lots for \$58,000 or \$59,000 in September 2009. *Charles Wallace testimony*. In connection with that sale, on August 3, 2009, Urban Piworski appraised the entire property for \$60,000. *Id.; Pet'r Ex. 1*. Thus, the subject parcel by itself is worth no more than \$60,000. *See Charles Wallace argument*.
 - b) Although Ms. Wallace did not own the subject parcel on March 1, 2008, she paid taxes on the parcel's 2008 assessment. *Charles Wallace testimony*. Ms. Wallace therefore has standing to appeal the 2008 assessment. *See Charles Wallace argument*.
9. The Assessor offered the following evidence and arguments:
- a) Ms. Wallace was not the subject parcels' owner of record on March 1, 2008, so she cannot appeal that assessment. *Davis argument*. At closing, Ms. Wallace agreed to pay the property taxes based on the existing assessment. *Id.*

Record

10. 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:
 - Petitioner Exhibit 1: August 3, 2009, certified appraisal report prepared by Urban Piworski
 - Petitioner Exhibit 2: September 1, 2009 Foundation inspection report
 - Petitioner Exhibit 3: 2010-pay-2011 Tax Summary Sheet¹

 - Board Exhibit A: Form 131 petition
 - Board Exhibit B: Hearing notice
 - Board Exhibit C: Hearing sign-in sheet
 - d) These Findings and Conclusions.

¹ Mr. Davis objected to this exhibit, arguing that it was irrelevant to the March 1, 2008 assessment. The Board agrees that the exhibit has little relevance to the issues on appeal and gives it no weight.

Analysis

Burden of Proof

11. 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). In making her 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”). If the taxpayer makes a prima facie case, the burden shifts to the assessor to offer evidence to rebut or impeach 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.

Ms. Wallace’s Case

12. Although Ms. Wallace had standing to appeal the subject parcel’s March 1, 2008 assessment, she did not make a prima facie case for reducing that assessment. The Board reaches this conclusion for the following reasons:
 - a) The Board has repeatedly held that a person who is responsible for the property taxes on a given property may appeal that property’s assessment. The Board’s procedural rules support that conclusion. *See* 52 IAC 2-2-13 (defining “party” to include “[t]he taxpayer responsible for the property taxes payable on the subject property.”). When she bought the subject parcel, Ms. Wallace agreed to be responsible for paying, and actually paid, at least some of the taxes that were based on the parcel’s March 1, 2008 assessment. She therefore had standing to bring this appeal.
 - b) That being said, Ms. Wallace did not make a prima facie case for reducing the subject parcel’s assessment. 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). Appraisers traditionally have used three methods to determine a property’s 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.
 - c) 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 often will suffice. *See 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.

- d) Regardless of the method used to rebut an assessment's presumed accuracy, a party must explain how her 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). Otherwise, the evidence lacks probative value. *See Id.* For March 1, 2008 assessments, the valuation date was January 1, 2007. 50 IAC 21-3-3.
- e) Ms. Wallace relies most heavily on an appraisal in which Mr. Piworski estimated the market value of the subject property and an adjoining parcel at \$60,000. But Mr. Piworski valued the subject property as of August 3, 2009, more than 2 ½ years after the relevant valuation date. And neither Ms. Wallace nor Mr. Piworski explained how the appraisal related to the subject property's market value-in-use as of January 1, 2007. Mr. Piworski's appraisal therefore lacks probative value. *See Long v. Wayne Twp. Assessor*, 821 N.E.2d at 471 (Ind. Tax Ct. 2005) (holding that an appraisal that estimated a property's value for December 10, 2003, lacked probative value in an appeal from a 2002 assessment).
- f) Ms. Wallace also relies on the fact that she bought the subject parcel and an adjoining parcel for only \$59,900. But that sale occurred about a month after Mr. Piworski's appraisal. Thus, like Mr. Piworski's valuation opinion, the sale price lacks probative value.

Conclusion

- 13. Ms. Wallace did not make a prima facie case for reducing the subject parcel's 2008 assessment. 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>.