

REPRESENTATIVE FOR PETITIONER:

Thomas Williams, *pro se*

REPRESENTATIVE FOR RESPONDENT:

Jack Norris, Madison County Chief Deputy Assessor

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

Thomas G. Williams	)	Petition No.:	48-003-06-1-5-07334
	)	Parcel No:	105815
Petitioner,)		
)		
v.	)	County:	Madison
)		
Madison County Assessor,	)	Township:	Anderson
)		
Respondent	)	Assessment Year:	2006

Appeal from the Final Determination of
Madison County Property Tax Assessment Board of Appeals

December 5, 2008

FINAL DETERMINATION

The Indiana Board of Tax Review having reviewed the facts and evidence, and having considered the issues, now finds and concludes the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

INTRODUCTION

1. In this assessment appeal, Thomas Williams offered proof that he bought the subject property for \$7,875 after it had originally been listed for \$9,000. While he bought the property more than 16 months after the January 1, 2005, valuation date, it was first listed for sale within one year of that date. On this case's unique facts, we find that the property's original listing sufficiently relates to the valuation date to support reducing the property's assessment to its original list price.

PROCEDURAL HISTORY

2. On May 2, 2008, the Madison County Property Tax Assessment Board of Appeals ("PTABOA") issued its determination reducing the subject property's assessment, although not by as much as Mr. Williams had requested. On May 30, 2008, Mr. Williams filed a Form 131 petition asking us to review the PTABOA's determination. We have jurisdiction to hear Mr. Williams's appeal under Ind. Code §§ 6-1.1-15 and 6-1.5-4-1.

HEARING FACTS AND OTHER MATTERS OF RECORD

3. On September 9, 2008, Jennifer Bippus, the Board's duly designated administrative law judge ("ALJ"), held a hearing in Anderson.

4. The following people were sworn in as witnesses:

Thomas Williams, Taxpayer

For the Madison County Assessor:

Jack Norris, Madison County Chief Deputy Assessor
Jennifer Robbins, Madison County Deputy Assessor
Lori Farris, Anderson Township Deputy Assessor

5. Mr. Williams offered the following exhibits:

Petitioner Exhibit 1: Settlement Statement,
Petitioner Exhibit 2: Property Condition Report,
Petitioner Exhibit 3: Copies of receipts for improvements to the subject property,
Petitioner Exhibit 4: Appraisal Report, dated February 20, 2007.

6. The Assessor did not offer any exhibits.
7. The Board recognizes the following additional items as part of the record:
 - Board Exhibit A – Mr. Williams’s Form 131 petition and attachments,
 - Board Exhibit B – Notice of hearing,
 - Board Exhibit C – Hearing sign-in sheet,
8. The subject property contains a single-family home located at 2620 Jackson Street in Anderson.
9. The ALJ did not inspect the property.
10. The PTABOA listed the property’s assessment as follows:
Land: \$4,100 Improvements: \$31,500. Total: \$35,600.
11. Mr. Williams requests an assessment of \$7,175. On his Form 131 petition, Mr. Williams explained that he bought the subject property and an adjacent parcel for \$7,850, although he later offered evidence that the sale price was actually \$7,875. *See Board Ex. A; Pet’r Ex. 1.* Mr. Williams apparently subtracted the adjacent parcel’s assessment (\$700) from the total sale price to arrive at his requested value. *See Board Ex. A.*

ANALYSIS

Parties’ Contentions

A. Mr. Williams’s Contentions

12. The subject property is assessed for more than its market value-in-use. Mr. Williams bought the property from the Secretary of Housing and Urban Development (“HUD”) for \$7,875 on May 19, 2006. *Williams testimony; Pet’r Ex. 1.* HUD had originally listed the

property for \$9,000 on December 23, 2005, but reduced its asking price twice before Mr. Williams bought the property. *See Pet'r Ex. 4.*

13. HUD prepared a Property Condition Report on December 1, 2005. *Williams testimony; Pet'r Ex. 2.* That report shows extensive problems with the subject house, including missing siding, broken and boarded windows, missing exterior doors, missing or inoperable appliances and fixtures, missing flooring, a roof at the end of its useful life, cracks in the foundation, holes in subfloors, lead-based paint, mold, and sagging ceilings. *Id.* The property was in that same condition when Mr. Williams bought it. Thus, the report and photographs attached to it support the property's low sale price. *Williams argument.*
14. Mr. Williams made repairs to his house totaling \$25,000. *Williams testimony.* Those repairs all occurred from late November 2006 through July 2007. *Id.* Mr. Williams offered receipts for many of the larger repairs. *Id.; Pet'r Ex. 3.*
15. Mr. Williams also offered an appraisal report prepared by Rita J. Allard, an Indiana certified appraiser. *Pet'r Ex. 4.* Ms. Allard estimated the subject property's market value at \$16,000 as of February 20, 2007. *Id.* Mr. Williams had made about \$13,000 of repairs as of that date. *Williams testimony.*

B. The Assessor's Contentions

16. The Assessor offered no evidence or argument. Instead, the Assessor simply cross-examined Mr. Williams to confirm that he had made repairs to his house and that he was using it as his residence instead of renting it out. *See Norris and Farris questions to Williams.*

Discussion

A. Burden of Proof

17. A taxpayer seeking review of an assessing official's determination must establish 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). If a taxpayer meets that burden, the assessing official must 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. But the burden of persuasion remains at all times with the taxpayer. *Thorntown Tel. Co. v. State Bd. of Tax Comm'rs*, 629 N.E.2d 962, 965 (Ind. Tax Ct. 1995).
18. The taxpayer's burden of proof must be viewed in the context of Indiana's assessment system. 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). The appraisal profession traditionally has 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.
19. 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 & Developers, LLC*, 842 N.E.2d 899 (Ind. Tax 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.

20. Also, while the valuation date will vary depending on the assessment year, parties must explain how their evidence relates to an appealed property’s market value-in-use as of the relevant valuation date. *See Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). For March 1, 2006, assessment, that valuation date is January 1, 2005. IND. ADMIN. CODE tit. 50, r. 21-3-3.

B. Mr. Williams’s Case

21. Mr. Williams made a prima facie case rebutting the subject property’s assessment and showing that it should be assessed for no more than \$9,000.
22. Mr. Williams bought the property for \$7,875. As the Manual recognizes, a given property’s sale price is often compelling evidence of its market value-in-use. Here, though, the sale occurred on May 19, 2006—more than 16 months after the relevant January 1, 2005, valuation date. Thus, Mr. Williams needed to explain how that sale price related to the subject property’s value as of January 1, 2005. *Long*, 854 N.E.2d at 471.
23. We find that explanation in Ms. Allard’s appraisal. Ms. Allard said that HUD originally listed the property for \$9,000 on December 23, 2005. That was within one year of the relevant valuation date. The Department of Local Government Finance’s rules instruct assessing officials to look at sales within one year on either side of January 1, 2005, in preparing ratio studies for the March 1, 2006, assessment date. 50 IAC 21-3-3(a). Thus a property’s sale price—or in this case, its list price—on or before December 31, 2005,

bears some inherent relationship to its value as of January 1, 2005. That relationship may ultimately be tenuous, and an assessor can always dispute that relationship through rebuttal evidence. But in this instance, the relationship is sufficient to make a prima facie case.

24. In making that finding, we emphasize this case's unique facts. The subject property's condition on the assessment date made it almost worthless. Under those circumstances, any time-related market fluctuations would not have significantly affected the property's true tax value. And while a property's list price, by itself, may not show the property's market value-in-use, HUD twice reduced its original list price before selling the subject property to Mr. Williams. So HUD's original list price represents at least a ceiling on the property's value. Given those unique facts, we find that Mr. Williams made a prima facie case that subject property's assessment was wrong and that its true tax value was no more than \$9,000.
25. The Assessor did not contest the relationship between Mr. Williams's evidence and the property's market value-in-use as of January 1, 2005. Indeed, the Assessor did not attempt to impeach or rebut any of Mr. Williams's evidence. We therefore find that Mr. Williams carried his burden of proof and that the subject property's March 1, 2006, assessment should be reduced to \$9,000.

SUMMARY OF FINAL DETERMINATION

26. Mr. Williams proved by a preponderance of the evidence that the subject property's March 1, 2006, assessment was wrong and that its true tax value was no more than \$9,000. We therefore find for Mr. Williams.

FINAL DETERMINATION

27. In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the subject property's assessment should be changed to \$9,000.

ISSUED: _____

Commissioner, Indiana Board of Tax Review

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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. 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. 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>>