

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

Petition No.: 27-002-07-1-5-00023
Petitioner: Jane Ann Winchell
Respondent: Grant County Assessor
Parcel No.: 27-07-06-403-132.000-002
Assessment Year: 2007

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

Procedural History

1. On August 18, 2008, Jane Ann Winchell filed notice with the Grant County Assessor contesting the subject property's 2007 assessment. On December 4, 2008, the Grant County Property Tax Assessment Board of Appeals ("PTABOA") issued its determination lowering the property's assessment, but not to the level that Ms. Winchell had requested.
2. On January 5, 2009, Ms. Winchell timely filed a Form 131 petition with the Board. She elected to have her appeal heard under the Board's small claims procedures.
3. On March 24, 2010, the Board held an administrative hearing through Jennifer Bippus, its Administrative Law Judge ("ALJ").
4. The following people testified under oath:
 - a) For Ms. Winchell: Jane Ann Winchell¹
 - b) For the Assessor: Tamara Martin, Grant County Assessor
Nancy Leming, Deputy Grant County Assessor

Facts

5. The subject property is a residential property located at 224 West Ninth Street, Marion, Indiana.
6. Neither the Board nor the ALJ inspected the property.

¹ Joshua M. Howell, appeared as counsel for Ms. Winchell.

7. The PTABOA determined the following values for the subject property:

Land: \$3,200 Improvements: \$44,900 Total: \$48,100.

8. Ms. Winchell requested a total assessment of \$31,000.

Parties' Contentions

9. Summary of Ms. Winchell's contentions:

- a) The subject property is assessed to high. Scott Webb, an Indiana Certified Residential Appraiser, estimated the property's market value at \$31,000, as of January 10, 2009. *Pet'r Ex. 1 at 4-5*. And Mr. Webb certified that he prepared his appraisal in compliance with the Uniform Standards of Professional Appraisal Practice ("USPAP"). *Id at 8*.
- b) Ms. Winchell claimed that she could not sell the subject property for \$48,100 because other homes in the subject neighborhood do not sell for that much. *Winchell testimony*. As of the Board's hearing, two homes just down the block from the subject property were listed for sale at only \$25,000. *Id*.
- c) Ms. Winchell received nearly \$70,000 from her insurance company to repair the home after a fire. But that amount reflected replacement costs; the property is not actually worth nearly that much. *Winchell testimony*. While the post-fire repairs may have left the subject home in better condition than other neighborhood homes, the neighborhood still limits the subject property's value. *Id*.
- d) Finally, the subject property was incorrectly assessed as containing a two-story home. In reality, the area above the home's first story can only be accessed by climbing a ladder outside and going through a sealed window. *Winchell testimony*. And it simply contains some joists and blown insulation. *Id.; Pet'r Ex. 2*.

10. Summary of the Assessor's contentions:

- a) The Assessor identified two problems with Mr. Webb's appraisal. First, the subject home is in much better condition than the purportedly comparables homes that Mr. Webb used in his appraisal. *Martin testimony*. After \$74,000 in repairs, the subject property is in "good" condition for the neighborhood while Mr. Webb's comparables were only in "average" condition. *Id.; Resp't Ex. 1*. And one of Mr. Webb's comparables sold for \$41,900, not much less than the subject property's \$48,100 assessment. *Id*.
- b) Second, Mr. Webb estimated the subject property's value as of January 10, 2009. The year under appeal, however, is 2007. Most people who submit appraisals trend those appraisals to the appropriate valuation date. *Leming testimony*.

- c) Finally, after the PTABOA hearing, the subject property's record card was changed to reflect only a one-story frame home with a partial basement and a partial crawl space. *Martin testimony*. Thus, the property is no longer assessed as having a second story.

Record

11. 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's Exhibit 1: Certified appraisal prepared by Scott Webb,
Petitioner's Exhibit 2: Photographs of subject property.

Respondent's Exhibit 1: Statement of Loss from Ayres Insurance Adjusters;
invoice from J. Yoder, Inc. (10 pages); copy of
photograph of the subject home.

Board Exhibit A: Form 131 petition,
Board Exhibit B: Notice of Hearing,
Board Exhibit C: Hearing sign-in sheet.

- d) These Findings and Conclusions.

Analysis

Burden of Proof

12. 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).
13. 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).
14. Once the taxpayer makes a prima facie case, the burden shifts to the respondent to 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.

Discussion

15. Ms. Winchell 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). Appraisers traditionally have 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.
 - 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. 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 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.
 - c) Regardless of the method used to rebut an assessment's presumption of accuracy, a party must explain how its evidence relates to the subject 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). For the March 1, 2007 assessment, the valuation date was January 1, 2006. 50 IAC 21-3-3 (*Repealed by Dep't of Local Gov't Fin.; filed Apr 8, 2010, 1:45 p.m.: 20100505-IR-050090502FRA*).
 - d) Here, Ms. Winchell offered an appraisal prepared by Scott Webb, a certified appraiser. Mr. Webb, who prepared his appraisal in accordance with USPAP, estimated the subject property's market value-in-use at \$31,000. But Mr. Webb estimated the property's value as of January 10, 2009—more than three years after the relevant January 1, 2006, valuation date. Thus, for Mr. Webb's appraisal to have probative value in this appeal, Ms. Winchell needed to explain how that appraisal related to the subject property's market value-in-use as of January 1, 2006. Because Ms. Winchell failed to do so, the Board assigns no probative weight to Mr. Webb's appraisal.

- e) Ms. Winchell also pointed to listings for two neighborhood properties. As with Mr. Webb’s appraisal, Ms. Winchell failed to explain how those listings related to the subject property’s value as of January 1, 2006. She similarly failed to show how those two properties compared to the subject property or how any relevant differences affected the properties’ relative market values-in-use. Thus, even if Ms. Winchell had related the listings to the appropriate valuation date, those listings still would have lacked probative value. *See Long*, 821 N.E.2d at 470-71 (finding that sales information for purportedly comparable properties lacked probative value where taxpayers failed to explain how those properties compared to the taxpayers’ property or how any differences affected the properties’ market values-in-use).

- f) Finally, Ms. Winchell argued that the subject home was incorrectly assessed as having two stories. While the subject property’s original assessment may have erroneously reflected a two-story home, the property’s record card was corrected in conjunction with the PTABOA’s decision to reduce the property’s assessment to \$48,100.

Conclusion

- 16. Ms. Winchell failed to make a prima facie case that the subject property’s assessment should be reduced. 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>