

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

Petition: 72-008-12-1-5-00080
Petitioner: Jill Yount
Respondent: Scott County Assessor
Parcel: 72-04-24-110-043.000-008
Assessment Year: 2012

The Indiana Board of Tax Review (Board) issues this determination in the above matter, finding and concluding as follows:

Procedural History

1. The Petitioner initiated an assessment appeal with the Scott County Property Tax Assessment Board of Appeals (PTABOA) by filing a Form 130 dated July 16, 2012.
2. The PTABOA mailed notice of its decision regarding the 2012 assessment on October 12, 2012.
3. The Petitioner appealed the determination to the Board by timely filing a Form 131 petition on November 30, 2012. She elected to have this case heard according to small claims procedures.
4. Administrative Law Judge Paul Stultz held the Board's administrative hearing on December 11, 2013. He did not inspect the property.
5. Jill Yount appeared *pro se*. Chief Deputy Assessor Jennifer Binkley represented the County Assessor. Jill Yount, Jennifer Binkley, County Consultant Aaron Shelhamer, and County Assessor Diana Cozart were sworn as witnesses. Ms. Cozart did not provide any testimony.

Facts

6. The property is a single family residence located at 1655 West Monique Drive in Scottsburg.
7. The PTABOA determined the assessed value is \$27,600 for the land and \$97,700 for the improvements (a total of \$125,300).
8. The Petitioner requested an assessed value of \$27,600 for the land and \$50,000 for the improvements (a total of \$77,600) on the Form 131 petition.

Record

9. The official record for this matter contains the following:
- a. A digital recording of the hearing,
 - b. Petitioner Exhibit 1 – Copy of Form 11 for subject property,
Petitioner Exhibit 4¹ – Property record card (PRC) for property located at 312 N. Nicole Lane,

Respondent Exhibit 1 – Subject PRC for 2012 showing assessment history,
Respondent Exhibit 2 – Comparable Sales Report,
Respondent Exhibit 3 – Petitioner’s Form 131 with attachments,
Respondent Exhibit 4 – PRC for 1604 W. Monique Drive,
Respondent Exhibit 5 – PRC for 1605 W. Monique Drive,
Respondent Exhibit 6 – Indiana Board Tax Review Hearing Instructions,
Respondent Exhibit 7 – DLGF memo on HEA 1094 - Valuation Date and Assessment Date,
Respondent Exhibit 8 – 2002 Real Property Assessment Guidelines Appendix C,
Respondent Exhibit 9 – 2011 Real Property Assessment Guidelines Appendix C,

Board Exhibit A – Form 131 petition,
Board Exhibit B – Notice of Hearing,
Board Exhibit C – Hearing Sign-In Sheet,
 - c. These Findings and Conclusions.

Burden

10. 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). A burden-shifting statute creates two exceptions to that rule.
11. First, Indiana Code § 6-1.1-15-17.2 “applies to any review or appeal of an assessment under this chapter if the assessment that is the subject of the review or appeal is an increase of more than five percent (5%) over the assessment for the same property for the prior year.” I.C. § 6.1.1-15-17.2(a). “Under this section, 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 the Indiana Tax Court.” I.C. § 6-1.1-15-17.2(b).

¹ As Petitioner Exhibits 2 and 3 were duplicates of exhibits admitted into the record by the Respondent, the Petitioner did not submit these exhibits.

12. Second, I.C. § 6-1.1-15-17.2(d) “applies to real property for which the gross assessed value of the real property was reduced by the assessing official or reviewing authority in an appeal conducted under IC § 6-1.1-15.” Under those circumstances, “if the gross assessed value of real property for an assessment date that follows the latest assessment date that was the subject of an appeal described in this subsection is increased above the gross assessed value of the real property for the latest assessment date covered by the appeal, regardless of the amount of the increase, the county assessor or township assessor (if any) making the assessment has the burden of proving the assessment is correct.” The statute was amended on March 25, 2014, to include this language. This change has application to all appeals pending before the Board. *See* P.L. 97-2014.
13. Turning to the case at hand, both parties agree the Respondent has the burden of proof. The Respondent, therefore, had the burden of proving the March 1, 2012, assessment is correct.

Contentions

14. Summary of the Respondent’s case:
 - a. The Respondent submitted a sales comparison report analyzing five comparable sales that indicates the market value of the subject property is \$128,000. The sales took place between January 1, 2010, and March 1, 2012. The Respondent looked beyond the recommended time period due to the limited sales in the subject area. A CAMA system was used to adjust for the differences in the comparable sales to the subject property.² The CAMA report shows the comparability (sum of points) which are the points assigned to each adjustment. The lower the comparability number, the more comparable the sale is to the subject property. The value of the subject property indicated by the sales comparison report is higher than the current assessment. *Binkley testimony; Shelhamer testimony; Resp’t Ex. 2.*
 - b. The sales that the Petitioner referenced on her Form 131 petition occurred outside the time period applicable for the March 1, 2012 assessment date. The sales occurred in May and June of 2012, and those sales would be considered for the 2013 assessment. The subject property’s value did decrease in 2013, based on sales that occurred after March 1, 2012. *Binkley testimony; Resp’t Exs. 3, 4, 5.*
 - c. A memo from the Department of Local Government Finance (DLGF) explains the valuation and assessment date changes in House Enrolled Act (HEA) 1094. The memo states that assessing officials are required to use sales occurring during a period of time from March 2, 2010 through March 1, 2012 for the March 1, 2012 general assessment date. *Binkley testimony; Resp’t Ex. 7.*

² “CAMA” is an acronym that stands for “Computer Aided Mass Appraisal.”

- d. There are two reasons why the subject property's assessment increased more than five percent over the prior assessment. First, a 274 square foot concrete slab was added. The slab is not new, but was not previously assessed. *Binkley testimony; Resp't Ex. 1*. Second, the difference reflects the change from the 2002 cost tables to the 2011 cost tables. There were no changes for condition, grade, or things of that nature. *Binkley testimony; Resp't Exs. 8, 9*.
- e. Even with the changes to the cost tables, the value based on the cost approach is less than the value indicated by the comparable sales report. *Binkley testimony*.
- f. The subject property is correctly assessed based on the information available for the March 1, 2012 assessment date. *Binkley testimony*.

15. Summary of the Petitioner's case:

- a. The Respondent's testimony demonstrates a lack of sales information in 2010 and 2011. Sales a month or two after March 1, 2012 will give a better indication of value because a lot of things happened during those three years. *Yount testimony*.
- b. As the Respondent noted, the Petitioner referenced two sales on her Form 131 filing. The property located at 1604 Monique sold for \$175,000 on June 29, 2012. The property located at 1605 Monique sold for \$160,000 on May 22, 2012. At the hearing, the Petitioner presented another neighborhood sale. The property at 312 North Nicole Lane sold for \$166,000 on June 19, 2012. *Yount testimony; Binkley testimony; Board Ex. A; Resp't Exs. 4, 5; Pet'r Ex. 4*.
- c. All three of the sales presented by the Petitioner sold at a significant loss. This shows the downward trend in the market for the subject neighborhood. The Petitioner's three sales occurred in May and June 2012 which is closer to March 1, 2012 than the 2010 and 2011 sales used by the Respondent. The May and June 2012 sales are a better indication of the value as of March 1, 2012. *Yount testimony; Resp't Exs. 2, 4, 5; Pet'r Ex. 4*.
- d. The subject property was assessed at \$114,500 for 2009 and 2010. For 2011, it was assessed at \$115,600. The assessment jumped to \$125,300 for 2012. And in 2013, the assessment went down to \$112,300. *Yount testimony; Resp't Ex. 1*.

Analysis

16. The Respondent failed to present a prima facie case that the 2012 assessment is correct. The Board reached this decision for the following reasons:
- a. Real property is assessed based on its "true tax value," which means "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." I.C. § 6-1.1-31-6(c); 2011 REAL

PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.4-1-2). The cost approach, the sales comparison approach, and the income approach are three generally accepted techniques to calculate market value-in-use. *Id.* at 2. Assessing officials primarily use the cost approach. *Id.* at 3. The cost approach estimates the value of the land as if vacant and then adds the depreciated cost new of the improvements to arrive at a total estimate of value. *Id.* at 2. Any evidence relevant to the true tax value of the property as of the assessment date may be presented to rebut the presumption of correctness of the assessment, including an appraisal prepared in accordance with generally recognized appraisal standards. *Id.* at 3.

- b. Regardless of the method used to challenge an assessment's presumption of accuracy, a party must explain how its evidence relates to 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 2012 assessment, the valuation date was March 1, 2012. 50 IAC 21-3-3 (2010). When presenting comparable properties, a party must explain the characteristics of the subject property, how those characteristics relate to those of the purportedly comparable properties, and how any differences between the properties affect the relevant market value-in-use of the properties. *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005), *review denied*.
- c. The Respondent presented a comparable sales report analyzing five comparable sales in the subject property's area. The report identifies various characteristics of the properties and makes adjustments to the comparables. Mr. Shelhamer testified that the adjustments were made by the CAMA system to adjust the comparables to the subject property. There are adjustments for the number of plumbing fixtures, the total living area, effective year built, grade, condition, fireplaces, garage size, porch size, and deck size.
- d. While the Respondent's Comparable Sales Report follows a sales comparison approach in form, there is no indication that it was prepared in compliance with the Uniform Standards of Professional Appraisal Practice (USPAP). Other than to say that the adjustments were made by the CAMA system, the Respondent did not explain the basis for each adjustment. Nor did the Respondent explain what objective data was used to justify each adjustment. Because the Respondent failed to explain the specific adjustments, the Board does not find the Comparable Sales Report to be probative.
- e. The Respondent testified that assessment increased due to the addition of a concrete slab and changes in the cost tables. Even if the assessment correctly applied the new cost tables, this evidence does not establish the actual market value-in-use of the property. The Respondent has failed to present a prima facie case that the assessment is correct.

- f. Because the Petitioner requested the assessment be further reduced to \$77,600, the Petitioner has the burden of proving she is entitled to the additional reduction. The Board now turns to the Petitioner's evidence.
- g. Beyond explaining that the three sales are located in her subdivision, Ms. Yount did not meaningfully compare any of the sales to the subject property much less account for any relevant ways in which they differ from each other.
- h. Thus, the Petitioner failed to make a prima facie case for an additional reduction in the assessment.

Conclusion

- 17. The Respondent failed to make a prima facie case that supported the assessed value of the subject property. The Petitioner failed to make a prima facie case for an additional reduction. The assessment will be changed to the preceding year's assessed value.

Final Determination

- 18. In accordance with the above findings and conclusions, the 2012 assessment will be changed to \$115,600.

ISSUED: June 6, 2014

Commissioner, Indiana Board of Tax Review

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- APPEAL RIGHTS -

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5 and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required not later than forty-five (45) days after the date of this notice. The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>. The Indiana Tax Court's rules are available at <<http://www.in.gov/judiciary/rules/tax/index.html>>.