

REPRESENTATIVE FOR PETITIONERS:

Mark Jackson, *pro se*

REPRESENTATIVES FOR RESPONDENT:

Mark Alexander, Johnson County Assessor's Office

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

| | | |
|--------------------------|---|---|
| Mark & Barbara Jackson |) | Petition No.: 41-005-06-1-5-00001 |
| |) | |
| Petitioners, |) | Parcel No.: 410133022004005005/31403301005/05 |
| |) | |
| v. |) | County: Johnson |
| |) | |
| Johnson County Assessor, |) | Township: Clark |
| |) | |
| Respondent. |) | Assessment Year: 2006 |

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

March 11, 2008

FINAL DETERMINATION

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

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Petitioners, Mark and Barbara Jackson, brought this assessment appeal seeking to lower their property's March 1, 2006 assessment. To rebut the presumption that an assessment is correct, taxpayers need to offer market-based evidence showing their property's market value-in-use as of the relevant valuation date. While the Jacksons offered an appraisal of their property, they did not relate the appraiser's valuation opinion to the relevant January 1, 2005, valuation date. And their other evidence either was not market based or failed to comply with generally accepted appraisal principles. For those reasons, the Board upholds the assessment.

PROCEDURAL HISTORY

2. The Johnson County Property Tax Assessment Board of Appeals ("PTABOA") issued its determination on September 27, 2007. On November 8, 2007, the Jacksons filed a Form 131 petition with the Board asking it to review their assessment. The Board has jurisdiction over the Jacksons' appeal under Ind. Code §§ 6-1.1-15 and 6-1.5-4-1.

HEARING FACTS AND OTHER MATTERS OF RECORD

3. On December 18, 2007, Alyson Kunack, the Board's designated Administrative Law Judge ("ALJ"), held an administrative hearing in this matter. The ALJ did not inspect the subject property.
4. The following persons were sworn and presented testimony at the hearing:

For the Jacksons:

Mark Jackson, Owner

For the Johnson County Assessor:

Mark Alexander, Johnson County Assessor's Office

5. The Jacksons offered the following exhibits:
 - Petitioners Exhibit 1 – 2002 REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002-VERSION A, Appendix A, pages 10-14,
 - Petitioners Exhibit 2 – Photographs of the subject property,
 - Petitioners Exhibit 3 – Appraisal of the subject property dated October 30, 2007,
 - Petitioners Exhibit 4 – Property Record Card (“PRC”) for 765 Harvey Road,
 - Petitioners Exhibit 5 – Exterior picture of 765 Harvey Road,
 - Petitioners Exhibit 6 – Tax record for 6724 Stein Road,
 - Petitioners Exhibit 7 – Exterior picture of 6724 Stein Road,
 - Petitioners Exhibit 8 – Petitioners’ presentation notes.
6. The Johnson County Assessor did not offer any exhibits.
7. The Board recognizes the following additional items as part of the record of proceedings:
 - Board Exhibit A – The Form 131 petition,
 - Board Exhibit B – Notice of hearing dated November 16, 2007,
 - Board Exhibit C – Hearing sign-in sheet,
 - Board Exhibit D – Authorization letter from Johnson County Assessor.
8. The subject property is a single-family residence located at 1139 North Harvey Road, Greenwood.
9. The PTABOA valued the subject property’s land at \$46,000 and its improvements at \$1,135,700 for a total assessment of \$1,181,700.
10. The Jacksons request values of \$46,000 for their land and \$829,000 for their improvements for a total assessment of \$875,000.

ADMINISTRATIVE REVIEW AND THE PETITIONER’S BURDEN

11. 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).

12. 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”).
13. If the taxpayer establishes a prima facie case, the burden shifts to the assessing official 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.

ANALYSIS

Parties’ Contentions

A. The Jacksons

14. The Jacksons contend that the Respondent assigned an unfairly high quality grade to their house. For support, the Jacksons point to the quality-grade specification tables contained in the Real Property Assessment Guidelines for 2002 – Version A. According to Mr. Jackson, some of the house’s features meet the descriptions for an “AA” or “A” grade, but those features do not predominate. Instead, most of its features fall within the “B” category. *M. Jackson testimony; Pet’rs Exs. 1, 2.*
15. The Jacksons also submitted an appraisal report estimating the subject property’s market value at \$875,000 as of October 30, 2007. Linda D. Stockton, a licensed appraiser, prepared that report in accordance with the Uniform Standards of Professional Appraisal Practice (“USPAP”). In forming her valuation opinion, Ms. Stockton analyzed the property’s physical characteristics and location. She also analyzed the economic market for similar properties. Her report includes sales of purportedly comparable properties from Union and White River townships where housing prices are decidedly higher than in the Petitioner’s neighborhood. *M. Jackson testimony; Pet’rs Ex. 3.*

16. Finally, the Jacksons point to two neighboring properties located at 765 Harvey Road and 6724 Stein Road. According to Mr. Jackson, those properties resemble the subject property. They both sit within ½ mile of the subject property. And all three houses are similar in terms of age, size, design and construction. Yet the neighboring properties are assessed for only \$662,000 and \$728,200, respectively. *M. Jackson testimony; Pet’rs Exs. 4 -7.*

B. The Johnson County Assessor

17. The Johnson County Assessor attacked the reliability of Ms. Stockton’s valuation opinion. The Assessor noted that the properties that Ms. Stockton used had houses that were much smaller than the Jacksons’ house. Also, those comparable properties had sale prices per square foot of gross living area of \$137.38, \$129.30, and \$154.80, respectively. But when Ms. Stockton adjusted the comparable properties’ sale prices, she calculated her adjustments using only \$50 per square foot of gross living area. And she did not explain why she used such a drastically lower value in making those adjustments. *Alexander testimony; Pet’rs Ex. 3.*
18. The assessor also disputed Mr. Jackson’s claim that the 765 Harvey Road house compared to the Petitioner’s house. In fact, the Harvey Road property’s owners appealed their assessment and provided exhibits showing C-grade components throughout their house’s interior. *Alexander testimony; Pet’rs Exs. 4-5.*

Discussion

19. 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 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, as set forth in the Real Property Assessment Guidelines for 2002 – Version A.

20. 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 often will suffice. *Id.*; *Kooshtard Property VI*, 836 N.E.2d at 505, 506 n.1. A taxpayer may also offer sales information for the subject or comparable properties and any other information compiled according to generally accepted appraisal principles. MANUAL at 5.
21. By contrast, a taxpayer cannot rebut the presumption that an assessment is accurate simply by contesting an assessor's methodology in computing it. *Eckerling v. Wayne Twp. Assessor*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006). Thus, strictly applying the Guidelines is not enough; the taxpayer must offer market-based evidence to show that his or her suggested value accurately reflects the property's market value in-use. *Id.*

A. The House's Quality Grade

22. In challenging the grade assigned to their house, the Jacksons simply contested the Respondent's methodology. That is precisely the type of approach that the Tax Court rejected in *Eckerling*. *Eckerling*, 841 N.E.2d at 678. What's more, the Jacksons did not even submit the subject property's record card or otherwise identify the grade actually assigned to their house.

B. Ms. Stockton's Appraisal

23. The Jacksons, however, did not solely attack the Respondent's methodology. Indeed, they offered a significant piece of market-based evidence—Ms. Stockton's appraisal report. That report bears several hallmarks that generally make it probative of the subject property's true tax value. For example, Ms. Stockton certified that she complied with USPAP, and she valued the property using one of the three traditional valuation methods—the sales-comparison approach.
24. But Ms. Stockton's appraisal suffers from one fatal shortcoming—it does not value the subject property as of the relevant valuation date. In Indiana, each real-property assessment is based upon an earlier valuation date. Beginning with the March 1, 2006, assessment, that valuation date is January 1 of the preceding year. IND. ADMIN. CODE tit. 50, r. 21-3-3. Thus, for the March 1, 2006, assessment at issue in this case, the relevant valuation date was January 1, 2005.
25. When a party relying on evidence showing an appealed property's value as of a date substantially removed from the relevant valuation date, he or she must explain how that evidence relates to the property's value as of the relevant valuation date. *See Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005); *see also O'Donnell v. Dep't of Local Gov't Fin.*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006).
26. Ms. Stockton appraised the subject property as of October 30, 2007—more than 2 ½ years after the relevant January 1, 2005, valuation date. Yet neither she nor the Jacksons explained how her valuation opinion related to the subject property's value as of January 1, 2005. Ms. Stockton's appraisal therefore lacks probative value.

C. Comparisons to Other Properties

27. Lastly, Mr. Jackson offered assessment information for two properties located near the

subject property and argued that those assessments supported Ms. Stockton's valuation opinion. But he did not show that his methodology conformed to generally accepted appraisal principles. In fact, he appears to have improperly mixed two otherwise valid methodologies—the cost and sales-comparison approaches.

28. The sales-comparison and cost approaches both seek to estimate a property's market value, but they operate on different assumptions. The sales-comparison approach assumes that potential buyers value a property based on what it would cost them to buy an equally desirable existing property in the marketplace. MANUAL at 13. A person applying that approach therefore looks to sale prices for comparable properties. *See Id.* The cost approach, by contrast, assumes that potential buyers value a property based on what it would cost to buy an equally desirable substitute parcel of vacant land and to construct an equally desirable substitute improvement. *Id.* A person applying that approach therefore must calculate the depreciated cost new of the property's improvements and add that sum to the cost of the land as if vacant. *Id.*
29. By comparing the Petitioner's property to other purportedly similar properties, Mr. Jackson largely relied on the sales-comparison approach. But instead of using the purportedly similar properties' sale prices to estimate the subject property's market value, he used their cost-based assessments.
30. Even if the Board were to overlook Mr. Jackson's use of assessments rather than sale prices, he did not properly apply the basic principles underlying the sales-comparison approach. The sales-comparison approach assumes that potential buyers will pay no more for a subject property than it would cost them to purchase an equally desirable substitute property that already exists in the market place. MANUAL at 13-14. A person applying the sales-comparison approach must first identify comparable improved properties that have sold. *Id.* He or she must then adjust those properties' sale prices to reflect the subject property's total value. *Id.* The adjustments reflect differences between the subject and comparable properties that affect value. And those adjustments must be quantified using objectively verifiable market evidence. *Id.*

31. Thus, to use the sales-comparison approach as evidence in a property assessment appeal, a party first must establish that the properties being examined are comparable to each other. Conclusory statements that a property is “similar” or “comparable” to another property do not suffice; instead, the party must compare the subject property’s characteristics to the characteristics of the purportedly comparable properties. *Long* at 470-71. He or she must also explain how any differences between the properties affect their relative market values-in-use. *Id.*
32. Mr. Jackson did not sufficiently explain how the Harvey Road and Stein Road properties compared to the subject property. While he discussed each house’s size, year of construction, exterior features, and quality grade, he did not compare other relevant features. For example, he failed to address the relative numbers and sizes of bedrooms, bathrooms and garages, or the presence or absence of other amenities. And he did not make any adjustments for significant differences between the properties.
33. The Jacksons therefore failed to make a prima facie case rebutting the presumption that the Respondent correctly assessed the subject property.

SUMMARY OF FINAL DETERMINATION

34. The Jacksons failed to make a prima facie case of error. The Board therefore finds for the Respondent.

This Final Determination of the above captioned matter is issued by the Indiana Board of Tax Review on the date first written above.

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>