

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

Petition No.: 18-007-06-1-5-00080
Petitioner: Thomas P. Parkison
Respondent: Delaware County Assessor
Parcel No.: 180729353007000007
Assessment Year: 2006

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

Procedural History

1. The Petitioner initiated an assessment appeal with the Delaware County Property Tax Assessment Board of Appeals (PTABOA) by written document dated April 30, 2007.
2. The PTABOA issued its decision on April 3, 2008.
3. The Petitioner filed an appeal to the Board by filing a Form 131 petition dated May 9, 2008. The Petitioner elected to have his case heard pursuant to the Board's small claims procedures.
4. The Board issued a notice of hearing to the parties dated January 28, 2009.
5. The Board held an administrative hearing on March 5, 2009, before the duly appointed Administrative Law Judge Alyson Kunack.
6. Persons present and sworn in at hearing:
 - a) For Petitioner: Thomas P. Parkison, Petitioner
 - b) For Respondent: Kelly Hisle, Delaware County Assessor's Office

Facts

7. The property is a single-family residence located at 3108 Stradling Drive, in the city of Muncie, Hamilton Township in Delaware County.
8. The Administrative Law Judge (ALJ) did not inspect the property.

9. For 2006, the PTABOA determined the assessed value of subject property to be \$12,900 for the land and \$122,900 for improvements, for a total assessed value of \$135,800.
10. The Petitioner requests a value of \$11,000 for the land and \$92,000 for improvements, for a total assessed value of \$103,000.

Issues

11. Summary of the Petitioner's contentions in support of an alleged error in the assessment:
 - a) The Petitioner contends that his home is assessed in excess of its market value. *Parkison testimony.* In support of this contention, the Petitioner presented an appraisal prepared by Kristi Mann Leto, an Indiana Certified Residential Appraiser. *Pet. Ex. 1.* Ms. Leto estimated the value of the Petitioner's property to be \$103,000 as of June 11, 2004. *Parkison testimony; Id.* In addition, the Petitioner testified that a previous appraisal on the property in 1999 valued the property at \$99,000. *Id.*
 - b) The Petitioner further argues that the subject property is an older home, originally built in 1949.¹ *Parkison testimony.* According to Mr. Parkison, he purchased the property in 1965 for \$15,800, and he has made some additions and improvements to the home over time. *Id.* Still, Mr. Parkison contends, the home has had problems with termites and is "dated-looking" inside. *Id.*
 - c) Finally, in response to the Assessor's argument, the Petitioner contends that the properties offered as comparables by the Respondent were built in the 1960s and 1970s and were much newer homes. *Parkison testimony; Resp. Exs. 1 and 2.* Also, Mr. Parkison argues, homes in the area are not selling for their assessed values. *Id.* According to Mr. Parkison, a nearby home sold at auction for \$87,000, whereas a year before it had been listed for sale at \$160,000. *Id.*
12. Summary of Respondent's contentions in support of the assessment:
 - a) The Respondent contends the property is correctly assessed. *Hisle testimony.* In support of this contention, the Respondent presented three properties of a similar size and condition, with similar features that sold for between \$142,000 and \$152,000. *Id.; Resp. Exs. 1 and 2.* The Respondent's witness testified that she made adjustments to the sale prices of the properties for the date of the sale, the lot size, the construction date, and other features and determined adjusted sales values of \$138,300 to \$142,200. *Id.* Thus, Ms. Hisle concludes, the Petitioner's property was not over-valued. *Id.*
 - b) The Respondent also argues that one of the comparable sales used in the Petitioner's appraisal was a foreclosure. *Hisle testimony.*

¹ The Property Record Card submitted by the Respondent lists a construction date of 1951.

Record

13. The official record for this matter is made up of the following:
- a. The Petition, and all subsequent pre-hearing, and post-hearing submissions by either party.
 - b. The digital recording of the hearing.
 - c. Exhibits:

Petitioner Exhibit 1: Appraisal of the subject property as of June 11, 2004,

Respondent Exhibit 1: Property Record Cards (PRCs) and MLS information sheets for the subject property and the Respondent's comparable properties,

Respondent Exhibit 2: Summary of Comparable Properties,

Respondent Exhibit 3: Record of Mortgage for the subject property,

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

14. The most applicable governing cases are:
- a. A Petitioner seeking review of a determination of an assessing official has the burden to establish a prima facie case proving that the current assessment is incorrect, and specifically what the correct assessment would 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).
 - b. In making its case, the taxpayer must explain how each piece of evidence is relevant to the 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”).
 - c. Once the Petitioner establishes a prima facie case, the burden shifts to the assessing official to rebut the Petitioner's evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). The assessing official must offer

evidence that impeaches or rebuts the Petitioner's evidence. *Id.*; *Meridian Towers*, 805 N.E.2d at 479.

15. The Petitioner provided sufficient evidence to establish a prima facie case for a reduction in value. The Board reached this decision for the following reasons:
- a. Real property is assessed based on its “true tax value,” which is “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, for the property.” Ind. Code § 6-1.1-31-6 (c); 2002 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.3-1-2). A taxpayer may use any generally accepted appraisal method as evidence consistent with the Manual’s definition of true tax value, such as actual construction cost, appraisals, or sales information regarding the subject property or comparable properties that are relevant to the property’s market value-in-use, to establish the actual true tax value of a property. *See* MANUAL at 5.
 - b. In addition, the 2006 assessment must reflect the value of the property as of January 1, 2005. Ind. Code § 6-1.1-4-4.5; 50 IAC 21-3-3. A Petitioner who presents evidence of value relating to a different date must provide some explanation about how it demonstrates, or is relevant to, the subject property’s value as of that valuation date. *See Long v. Wayne Township Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005).
 - c. Here, the Petitioner presented an appraisal prepared by Kristi Mann Leto, an Indiana Certified Residential Appraiser. *Id.* The appraisal was prepared in accordance with the Uniform Standards of Professional Appraisal Practice and estimates the value of the subject property to be \$103,000 as of June 11, 2004. *Id.* The appraiser applied the sales comparison approach using properties that sold during 2003 and 2004. *Id.* While generally the 2006 assessment is to reflect the value of the property as of January 1, 2005, pursuant to 50 IAC 21-3-3(a), local assessing officials “shall use sales of properties occurring between January 1, 2004, and December 31, 2005, in performing sales ratio studies for the March 1, 2006, assessment date.” Thus, an appraisal valuing the property as of June 11, 2004, must also have some probative value. The Board therefore finds that the Petitioner raised a prima facie case that the property is over-assessed. *See Meridian Towers*, 805 N.E.2d at 479.
 - d. Once the Petitioner establishes a prima facie case, the burden shifts to the assessing official to rebut the Petitioners’ evidence. *See American United Life Insurance Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). To rebut or impeach the Petitioners’ case, the Respondent has the same burden to present probative evidence that a Petitioner faces to raise a prima facie case. *Fidelity Federal Savings & Loan v. Jennings County Assessor*, 836 N.E.2d 1075, 1082 (Ind. Tax Ct. 2005).

- e. Here the Respondent offered sales data on three purportedly comparable properties. *Hisle testimony; Resp. Exs. 1-2*. In essence, Ms. Hisle uses the sales comparison approach to value to support the Respondent's assessment. To use a sales-comparison analysis as evidence in an assessment appeal, however, a party must show that the properties upon which it bases its analysis are comparable to the property under appeal. Conclusory statements that a property is similar or comparable to another property do not suffice. *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 470 (Ind. Tax Ct. 2005). Instead, a party must identify the characteristics of the subject property and explain how those characteristics compare to the characteristics of the purportedly comparable properties. *Id.* at 471. Similarly, the party must explain how any differences between the properties affect their relative market values-in-use. *Id.* While Ms. Hisle attempted to account for some differences in the properties with her adjustments to the sale prices, she provided no explanation as to how she determined the adjusted amounts for the various features. *Hisle testimony; Resp. Ex.2*.
- f. The Respondent also contends that one of the comparable properties used in the appraisal is a foreclosure. *Hisle testimony*. Ms. Hisle, however, provides no further information regarding the alleged foreclosure or documentation of her contention. Conclusory statements do not constitute probative evidence. *See Long*, 821 N.E.2d at 470. To the extent Ms. Hisle can be seen to argue that the Petitioner's appraiser chose an improper comparable, the Board similarly finds this argument unpersuasive. It is well within an appraiser's expertise to choose the sales he or she deems most comparable to the subject property and apply adjustments to those comparable properties to value the differences between them. Absent evidence to the contrary, the comparable properties chosen by the appraiser or the adjustments made by the appraiser in a USPAP-compliant appraisal will be deemed reasonable.

Conclusion

- g. The weight of the evidence supports the Petitioner's case. The Board finds in favor of Mr. Parkison and holds that the value of the property is \$103,000.

Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should be changed.

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>.