

Petitioner Representative: Mary J. Robling

Respondent Representative: Tiffany Collins, Vanderburgh County Deputy Assessor

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

| | | |
|--------------------------------|---|-----------------------------------|
| Robert E. & Mary Jane Robling, |) | Petition No.: 82-030-06-1-5-13364 |
| |) | Parcel: 07-080-09-153-032 |
| Petitioners, |) | |
| |) | |
| v. |) | |
| |) | Vanderburgh County |
| |) | Scott Township |
| Vanderburgh County Assessor, |) | Assessment Year: 2006 |
| Respondent. |) | |

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

November 18, 2008

FINAL DETERMINATION

The Indiana Board of Tax Review (Board) has reviewed the evidence and arguments presented for both parties in the above captioned assessment appeal. As a result, the Board issues the findings and conclusions that follow.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

ISSUE

1. Does comparison of the subject property with two other condominiums that are located in the same complex prove that Petitioners' 2006 assessed value is excessive and should be reduced to \$120,000?

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Findings & Conclusions
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PROCEDURAL HISTORY

2. Petitioners filed a Form 130 Petition with the Vanderburgh County Property Tax Assessment Board of Appeals (PTABOA) on May 9, 2007. The PTABOA issued its determination denying adjustment on August 16, 2007.
3. Petitioner filed a timely Form 131 Petition to the Board on September 19, 2007.

HEARING FACTS AND OTHER MATTERS OF RECORD

4. The Board's designated Administrative Law Judge, Debra Eads, held the hearing in Evansville on August 18, 2008. She did not conduct an on-site inspection of the subject property.
5. Owner Mary Jane Robling and Deputy County Assessor Tiffany Collins were sworn as witnesses and presented testimony at the hearing.
6. The Petitioner presented the following exhibits:
 - Petitioner's Exhibit 1 – Single sheet narrative summary,
 - Petitioner's Exhibit 2 – Information about parcel 07-080-09-153-032 (the subject property),
 - Petitioner's Exhibit 3 – Information about parcel 07-080-09-153-036 (the Hart property),
 - Petitioner's Exhibit 4 – Information about parcel 07-080-09-153-029 (the Deshaney property).
7. The Respondent did not present any exhibits.
8. The following additional items are recognized as part of the record of proceedings:
 - Board Exhibit A – The 131 Petition,
 - Board Exhibit B – Notice of Hearing,
 - Board Exhibit C – Hearing Sign In Sheet.
9. Subject property is a condominium end-unit located at 1701 Village Lane, Evansville, Indiana.

10. The PTABOA determined the 2006 assessed value of the subject property is \$40,000 for the land and \$96,900 for the improvements (total assessed value of \$136,900).
11. Petitioners contended the total 2006 assessed value should be \$120,000.

SUMMARY OF PETITIONERS' CASE

12. Petitioners presented the following evidence in support of their claim:
 - A. Of the eight units located in this complex, units at 1662 Village Lane and 1723 Village Lane are comparable end-units whose respective 2006 assessed values were \$109,800, and \$119,700. These assessed values of similar properties indicate Petitioners' 2006 assessment is excessive. *Robling testimony; Pet'rs Ex. 2, 3, 4.*
 - B. The only significant distinction between the subject property and the similar end-units is that the interior of the subject property was significantly remodeled prior to Petitioners' purchase of the condominium for \$140,800 in 2003. The approximate cost of the remodel was \$40,000. Bearing in mind that real property assessments reflect "structural" value, including such items as construction quality, location, and size, there should have been no consideration of interior improvements in determining Petitioners' 2006 assessment. *Robling testimony.*
 - C. The inside unit attached to Petitioners' property is not similar in lot size or location. After being on the market for over a year, it was purchased for \$80,000 in a recent foreclosure sale. *Robling testimony.*
 - D. The subject property is currently listed for sale for \$120,000 and that is what the Petitioners request for their assessment—even though the foreclosure price of \$80,000 illustrates that Petitioners' property will likely sell for less than the list price. *Robling testimony.*

SUMMARY OF RESPONDENT'S CASE

13. Respondent presented the following evidence:
 - A. The PTABOA determination of Petitioners' 2006 assessed value is appropriate based on analysis of sales from 1998 to 2004. *Collins testimony*.
 - B. In addition, the current assessment is \$136,900—slightly less than the \$140,800 price Petitioners paid in 2003. *Collins testimony*.

ADMINISTRATIVE REVIEW AND BURDEN

14. 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).
15. 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”).
16. 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.

ANALYSIS

17. Real property in Indiana is assessed on the basis of its “true tax value,” which does not mean fair market value. It means “the market value in-use of a property for its current use, as reflected by the utility received by the owner or similar user, from 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 offer evidence relevant to market value-in-use to rebut the presumption the assessment is correct. Such evidence may include actual construction cost; sales information regarding the subject or comparable properties, appraisals, and any other information compiled to accordance with generally accepted appraisal principles. MANUAL at 5.
18. The Petitioners attempted to use the assessments of comparable properties to establish that their assessment is excessive. But Ms. Robling provided only conclusory testimony that the properties located at 1662 Village Lane and 1723 Village Lane are comparable to the subject property. The Petitioners did not prove or explain how the characteristics of the properties are comparable. They also failed to prove how any differences affected the relative values of the properties. As a result, the evidence relating to the value of those other properties is not probative. *See Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005).
19. The Petitioners also offered testimony that “[t]he reason we paid \$140,000 for the unit 5 years ago was because it had been completely renovated with new kitchen, all new appliances, water heater, furnace, air conditioner, carpeting, paint, ceramic tile, structural upgrades etc. It is my understanding that the interior decoration of the home do not apply to the assessed value of the home.” *Pet’rs Ex. 1*. They failed to establish how or why this fact demonstrates the value nearly three years later would be \$20,000 less than their purchase price. Furthermore, the Petitioners’ understanding that such an interior renovation would not be reflected in the market value-in-use of the property is wrong. In fact, items such as a new kitchen, new furnace, new air conditioner, and new water heater

are clearly things that add to the value of the residence and could very easily be reasons that the subject property has greater value than 1662 Village Lane or 1723 Village Lane.

20. When a taxpayer fails to provide probative evidence supporting its position that an assessment should be changed, the Respondent's duty to support the assessment with substantial evidence is not triggered. *See Lacy Diversified Indus. V. Dep't of Local Gov't Fin.*, 799 N.E.2d 1215, 1221-1222 (Ind. Tax Ct. 2003); *Whitley Products, Inc. v. State Bd. Of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).

SUMMARY OF FINAL DETERMINATION

21. The Petitioners did not make a prima facie case. Consequently, the Board finds in favor of the Respondent. The assessment will not be changed.

This Final Determination is issued on the date first written above.

Commissioner, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

- 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>