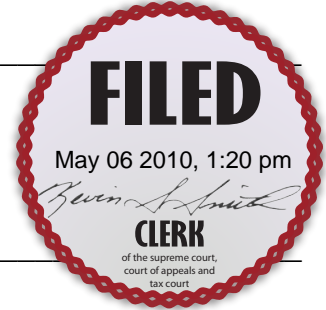


PETITIONER APPEARING PRO SE:
WILLIAM MEYERS, M.D.
Syracuse, IN

ATTORNEY FOR RESPONDENTS:
MARILYN S. MEIGHEN
MEIGHEN & ASSOCIATES, P.C.
Carmel, IN

**IN THE
INDIANA TAX COURT**



WILLIAM MEYERS,)
)
Petitioner,)
)
v.)
)
KOSCIUSKO COUNTY ASSESSOR and)
KOSCIUSKO COUNTY PROPERTY TAX)
ASSESSMENT BOARD OF APPEALS,)
)
Respondents.)

Cause No. 49T10-0909-TA-56

ON APPEAL FROM A FINAL DETERMINATION OF
THE INDIANA BOARD OF TAX REVIEW

NOT FOR PUBLICATION
May 6, 2010

FISHER, J.

William Meyers, M.D. (Meyers) challenges the final determination of the Indiana Board of Tax Review (Indiana Board) regarding the 2007 assessment of real property in

which he holds a life estate.¹ The issue on appeal is whether the Indiana Board erred in upholding the Kosciusko County Assessor's (Assessor) valuation of that property.

RELEVANT FACTS AND PROCEDURAL HISTORY

Meyers occupies residential property that sits directly on Dewart Lake in Syracuse, Indiana. The property consists of a house, several outbuildings, and 4.71 acres of land.

For the 2006 assessment, the subject property was valued at \$126,000 (\$38,700 for land and \$87,300 for improvements). (See Cert. Admin. R. at 116.) For the 2007 assessment, however, the property's value increased to \$314,600 (\$227,300 for land and \$87,300 for improvements). (See Cert. Admin. R. at 9, 12, 116.) As the Assessor would later explain, prior to 2007, Meyers' land had been incorrectly classified as "agricultural/residential." (See Cert. Admin. R. at 176-77.) When the classification was corrected to "lakefront," an entirely different base rate was applicable to Meyers' land – a base rate that was consistent with sales data for Dewart Lake properties. (See *generally* Cert. Admin. R. at 119-23, 175-80.)

Meyers challenged the increase by filing an appeal with the Kosciusko County Property Tax Assessment Board of Appeals (PTABOA). (See Cert. Admin. R. at 98-102.) The PTABOA reduced the 2007 assessment to \$293,200 (\$227,300 for land and \$65,900 for improvements). (See Cert. Admin. R. at 104, 130.) Meyers then filed an

¹ On his "Petition to the Indiana Board of Tax Review for Review of Assessment" (Form 131), Meyers listed the property's owners as "Munn Natalie Kay & Emily Morse Meyers, Anna Monaghan c/o Wm L Meyers Le[.]" (Cert. Admin. R. at 4.) (See *also* Cert. Admin. R. at 166 (where Meyers indicates that the property belongs to his daughters Natalie, Emily and Anna).) The Kosciusko County assessing officials' records list the property owner as "Meyers, Mary Ruth *et al.*" (See, *e.g.*, Cert. Admin. R. at 8-9, 12, 116.) (*But see also* Cert. Admin. R. at 174 (where Assessor indicates that Meyers has a life estate in the property).)

appeal with the Indiana Board.

On May 13, 2009, the Indiana Board conducted an administrative hearing on the matter. During the hearing, Meyers presented several factors as to why the increase in the property's assessed value could not be justified:

- 1) some of his friends owned a more costly limestone house in the countryside and their taxes did not increase;²
- 2) property values nationwide have decreased and continue to do so;³
- 3) Indiana's governor and legislators have proclaimed that through their recently enacted property tax reform, the average taxpayer's property tax liability was supposed to *decrease*;⁴ and
- 4) the property only cost him a total \$56,000: he purchased the property for \$36,000 in 1975 and, in 1986, he added a solarium onto the house at a cost of \$20,000.

(See Cert. Admin. R. at 144-50 (footnotes added).) In turn, Meyers asserted that by ignoring these factors, the Assessor has simply "invented" values for not only his property, but all the properties that sit on Dewart Lake. (See Cert. Admin. R. at 45, 152-55.)

On August 6, 2009, the Indiana Board issued a final determination affirming the assessment. On September 14, 2009, Meyer filed an original tax appeal. The Court

² In contrast, Meyers explained that his total property tax liability for the 2006 assessment year was \$511.04; for the 2007 assessment year, however, it was \$1,186.90. (See Cert. Admin. R. at 7, 10, 13.)

³ To substantiate this claim, Meyers submitted numerous newspaper clippings discussing the dismal state of the housing market nationwide. (See Cert. Admin. R. at 72-74, 77-78, 82-86, 88-96.)

⁴ Meyers also submitted information he received from his state legislators stating that as a result of Indiana's recent property tax reform, Indiana property tax bills would be reduced, on average, by 25%. (See Cert. Admin. R. at 15, 75-77.)

heard the parties' oral arguments on March 25, 2010. Additional facts will be supplied as necessary.

ANALYSIS AND OPINION

Standard of Review

When this Court reviews an Indiana Board final determination, it is limited to determining whether it is:

- (1) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;
- (2) contrary to constitutional right, power, privilege, or immunity;
- (3) in excess of statutory jurisdiction, authority, or limitations, or short of statutory jurisdiction, authority, or limitations;
- (4) without observance of procedure required by law; or
- (5) unsupported by substantial or reliable evidence.

IND. CODE ANN. § 33-26-6-6(e)(1)-(5) (West 2010). As the party seeking to overturn the Indiana Board's final determination, Meyers bears the burden of demonstrating that the final determination is invalid. See *Osolo Twp. Assessor v. Elkhart Maple Lane Assocs.*, 789 N.E.2d 109, 111 (Ind. Tax Ct. 2003).

Discussion

On appeal, Meyers presents the same argument he presented to the Indiana Board. (*Cf.* Pet'r Br. and Oral Argument Tr. *with* Cert. Admin. R. at 140-58.) In analyzing that argument against the law, however, the Court cannot say that the Indiana Board's final determination was erroneous.

In Indiana, real property is assessed on the basis of its market value-in-use. IND. CODE ANN. § 6-1.1-31-6(c) (West 2007); 2002 REAL PROPERTY ASSESSMENT MANUAL

(2004 Reprint) (hereinafter, “Manual”) (incorporated by reference at 50 IND. ADMIN. CODE 2.3-1-2 (2002 Supp.)) at 2. A property’s market value-in-use (i.e., the value of the property “for its current use, as reflected by the utility received by the owner or a similar user, from the property”) may generally be thought of as the ask price for the property by its owner. Manual at 2. In markets where regular exchanges occur and ask and offer prices converge – e.g., the residential housing market – market value-in-use typically equals value-in-exchange.⁵ See *id.* (footnote added).

The Court can understand that the increase in Meyers’ tax bill has caused him consternation. Nevertheless, when Meyers appealed the property’s assessment, he was required to do more than simply convey that consternation. Rather, he was required to provide probative evidence demonstrating what, specifically, the “ask price” for the property would have been as of January 1, 2006. See Manual at 2. He did not do so.⁶ Accordingly, Meyers has not shown that the property’s assessment of \$293,200 was improper.

CONCLUSION

For the reasons stated above, the Indiana Board’s final determination is
AFFIRMED.

⁵ Nevertheless, “[i]n markets in which sales are not representative of utilities, either because the utility derived is higher than indicated sale prices, or in markets where owners are motivated by non-market factors such as the maintenance of a farming lifestyle even in the face of a higher use value for some other purpose, [market value-in-use] will not equal value in exchange.” 2002 REAL PROPERTY ASSESSMENT MANUAL (2004 Reprint) (hereinafter, “Manual”) (incorporated by reference at 50 IND. ADMIN. CODE 2.3-1-2 (2002 Supp.)) at 2.

⁶ In fact, when questioned by both the Indiana Board and this Court as to the property’s ask price, Meyers deflected, stating “it’s not my property to sell.” (Cert. Admin. R. at 165-66; Oral Argument Tr. at 19-20.)