

REPRESENTATIVE FOR THE PETITIONER: John Barnes, *pro se*

REPRESENTATIVE FOR THE RESPONDENT: Paige Kilgore, Vermillion County Assessor

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

John Barnes,)	Petition Nos.: 83-001-23-1-5-00631-23
)	
Petitioner,)	Parcel No. 83-13-33-100-004.001-001
)	
v.)	County: Vermillion
)	
Vermillion County Assessor,)	Township: Clinton
)	
Respondent.)	Assessment Year: 2023

June 28, 2024

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:

INTRODUCTION

1. John Barnes appealed his 2023 assessment of his residential property in Vermillion County. Because he failed to present probative evidence supporting a specific value, we order no change to the assessment.

PROCEDURAL HISTORY

2. Barnes appealed the 2023 assessment of his property located at 18125 South 280 East in Clinton on June 12, 2023.
3. On September 20, 2023, the Vermillion County Property Tax Assessment Board of Appeals (“PTABOA”) sustained the assessment at \$79,200 for land and \$131,600 for improvements for a total of \$210,800. On October 2, 2023, the PTABOA issued an amended Form 115 reducing the assessment to \$24,600 for the land and \$131,600 for the improvements for a total of \$156,200. Barnes timely appealed to the Board on November 2, 2023.
4. On April 10, 2024, Dalene McMillen, the Board’s Administrative Law Judge (“ALJ”), held a telephonic hearing. Neither the Board nor the ALJ inspected the property.
5. John Barnes, Vermillion County Assessor Paige Kilgore, and Cathi Gould, consultant from Tyler Technologies all testified under oath.
6. The Petitioner offered the following exhibits:
 - Petitioner Exhibit 1: 2013-2023 land value history,
 - Petitioner Exhibit 2: Vermillion County 2020 ratio study,
 - Petitioner Exhibit 3: Vermillion County 2021 ratio study,
 - Petitioner Exhibit 4: Vermillion County 2022 ratio study,
 - Petitioner Exhibit 5: Vermillion County 2023 ratio study,
 - Petitioner Exhibit 6: Vermillion County ratio study narrative for 2022,
 - Petitioner Exhibit 7: 2022 ratio study approval letter from the Department of Local Government Finance (“DLGF”),
 - Petitioner Exhibit 8: 2020-2023 vacant land sales.
7. The Respondent offered the following exhibits:
 - Respondent Exhibit A: Appraisal report of the subject property prepared by Larry Bohnert from Sycamore Realty Group, Inc.,
 - Respondent Exhibit B: October 19, 2022, Clintonian newspaper classified section,

- Respondent Exhibit C: October 19, 2022, Clintonian newspaper legal notice (enlarged),
- Respondent Exhibit D: Undated Clintonian newspaper Notice of Meeting of the Vermillion County PTABOA,
- Respondent Exhibit E: Neighborhood summary information for neighborhood number 8301007-001,
- Respondent Exhibit F: Amended Notification of Final Assessment Determination – Form 115,
- Respondent Exhibit G: 2023 subject property record card (front page only),
- Respondent Exhibit H: Respondent’s witness list.

8. The record also includes the following: (1) all pleadings and documents filed in this appeal, (2) all orders, and notices issued by the Board or ALJ; and (3) the digital recording of the hearing.

FINDINGS OF FACT

9. The subject property is a one-story frame home with detached garage and pole barn located on 12.828 acres in Clinton. *Resp’t Exs. A & G.*
10. The Assessor engaged Larry Bohnert of Sycamore Realty Group, Inc. to appraise the retrospective market value of the subject property as of January 1, 2023. He certified that his appraisal complied with the Uniform Standards of Professional Appraisal Practice (“USPAP”). To arrive at his opinion of value, Bohnert developed the sales-comparison approach. He concluded to a value of \$212,000. *Resp’t Ex. A.*

PETITIONER’S CONTENTIONS

11. Barnes’s argument centered on the method used by the county to calculate “homestead” land value and vacant land rates. He testified that for 2023 the homestead acre was valued at \$20,000, while the vacant land was valued at \$5,000 an acre. Barnes claimed the homestead land value and vacant land should correlate and run concurrently, not have a difference of \$15,000 for electrical, water and sewer, because the utilities should be included in the home value not the land value. *Barnes testimony; Pet’r Ex. 1.*

12. Barnes claims the Assessor's appraisal report also shows the county's \$5,000 vacant land rate is overstated. According to the appraisal the average price of an acre of land ranged from \$2,417 to \$2,491. Barnes testified that while the vacant land rate does not apply to the subject property, he wanted to point out that the state prescribed method used by the county to arrive at a vacant land base rate is flawed. *Barnes testimony; Pet'r Ex. 1.*

RESPONDENT'S CONTENTIONS

13. The Assessor testified the land order was advertised and approved by the PTABOA and the homesite land value was set at \$20,000 an acre for the subject neighborhood. She stated that between 2022 and 2023 the subject land assessed value was reduced because Barnes implemented a timber management plan. She asked the Board to sustain the assessment at \$156,200. *Kilgore testimony; Resp't Exs. A-G.*

BURDEN OF PROOF

14. Generally, the taxpayer has the burden of proof when challenging a property tax assessment. Accordingly, the assessment on appeal, "as last determined by an assessing official or the county board," will be presumed to equal "the property's true tax value." Indiana Code § 6-1.1-15-20(a) (effective March 21, 2022).
15. However, the burden of proof shifts if the property's assessment "increased more than five percent (5%) over the property's assessment for the prior tax year." I.C. § 6-1.1-15-20(b). Subject to certain exceptions, the assessment "is no longer presumed to be equal to the property's true tax value, and the assessing official has the burden of proof." *Id.*
16. If the burden has shifted, and "the totality of the evidence presented to the Indiana board is insufficient to determine the property's true tax value," then the "property's prior year assessment is presumed to be equal to the property's true tax value." I.C. § 6-1.1-15-20(f).

17. Here, the PTABOA's amended Form 115 set a 2023 assessment of \$156,200. As the PTABOA issued the amended Form 115 before Barnes appealed to the Board, and no party argued that it should not be the assessment of record, we accept it as such. Thus, because the current assessment of \$156,200 was not an increase of more than 5% over the previous year's assessment of \$177,200, Barnes has the burden of proof.

ANALYSIS

18. Generally, an assessment determined by an assessing official is presumed to be correct. 2021 REAL PROPERTY ASSESSMENT MANUAL at 3. The petitioner has the burden of proving the assessment is incorrect and what the correct assessment should be. *Piotrowski v. Shelby County Ass'r*, 177 N.E.3d 127, 131-32 (Ind. Tax Ct. 2022).
19. Real property is assessed based on its market value-in-use. I.C. § 6-1.1-31-6(c); 2021 REAL PROPERTY ASSESSMENT MANUAL at 2. The cost approach, the sales-comparison approach, and the income approach are three generally accepted techniques to calculate market value-in-use. Assessing officials primarily use the cost approach, but other evidence is permitted to prove an accurate valuation. Such evidence may include actual construction costs, sales information regarding the subject property or comparable properties, appraisals, and any other information compiled in accordance with generally accepted appraisal principles.
20. Regardless of the method used, a party must explain how the evidence relates to 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. Ass'r*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). For the 2023 assessment, the valuation date was January 1, 2023. I.C. § 6-1.1-2-1.5.
21. Barnes did not meet his burden of proof because he focused solely on the methods used to calculate homesite land values and vacant land values. A taxpayer challenging an assessment generally cannot meet their burden by simply contesting the methodology

used to compute the assessment. Instead, parties must offer marked-based evidence that complies with generally accepted appraisal principles to show the property's market value-in-use. *Eckerling v. Wayne Twp. Ass'r*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006). Here, Barnes offered no evidence that supported any specific value for the subject property. For that reason, he has failed to make a case for any change in the assessment.

22. Instead, Barnes focused his arguments on problems he saw with the assessment system as a whole. To the extent he has issues with the assessment system mandated by the Indiana Legislature, and the Guidelines set by the Department of Local Government Finance ("DLGF"), his remedy is to petition the legislature for change, rather than with the Board.
23. Where the Petitioner has not supported its claim with probative evidence, the Respondent's duty to support the assessment with substantial evidence is not triggered. *Lacy Diversified Indus. v. Dept. of Local Gov't Fin.*, 799 N.E.2d 1215, 1221-1222 (Ind. Tax Ct. 2003). Because the Assessor did not request an increase in the assessment, we need not consider her valuation evidence.

SUMMARY OF FINAL DETERMINATION

24. The Board orders no change to the 2023 assessment of \$156,200.

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



Chairman, 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 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>.