

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

**Petition:** 42-022-21-1-4-00721-21  
**Petitioner:** Catherine MM Lane  
**Respondent:** Knox County Assessor  
**Parcel:** 42-12-21-114-009.000-022  
**Assessment Year:** 2021

The Indiana Board of Tax Review (“Board”) issues this determination, finding and concluding as follows:

**PROCEDURAL HISTORY**

1. Catherine MM Lane contested the 2021 assessment of her property located at 424 N. 6<sup>th</sup> Street in Vincennes. On September 22, 2021, the Knox County Property Tax Assessment Board of Appeals (“PTABOA”) issued a final determination valuing the subject property at \$87,000 (\$8,500 for land and \$78,500 for improvements).
2. Lane timely filed a Form 131 petition with the Board and elected to proceed under our small claims procedures. On March 9, 2022, David Smith, our designated Administrative Law Judge (“ALJ”), held a telephonic hearing on Lane’s petition. Neither he nor the Board inspected the property.
3. Lane and Knox County Assessor Kelley Hopwood both appeared pro se and testified under oath.

**RECORD**

4. The official record for this matter contains the following:

Petitioner Exhibit 1:	Sales Disclosure Form (“SDF”) for subject property
Petitioner Exhibit 2:	2021 Form 1099-S
Petitioner Exhibit 3:	Knox County Ratio Study (1/1/2019-12/31/2019)
Petitioner Exhibit 4:	Knox County Ratio Study (1/1/2020-12/31/2021)
Respondent Exhibit A:	2021 Property Record Card (“PRC”)
Respondent Exhibit B:	2018 PRC
Respondent Exhibit C:	2013 PRC
Respondent Exhibit D:	2021 Form 115
Respondent Exhibit E:	2021 Form 131
Respondent Exhibit F:	2021 Form 130

5. The official record for this matter also includes the following: (1) all pleadings, briefs, motions, and documents filed in this appeal; (2) all notices and orders issued by the Board or our ALJ; and (3) an audio recording of the hearing.

#### **BURDEN OF PROOF**

6. Generally, a taxpayer seeking review of an assessing official's determination has the burden of proof. Indiana Code § 6-1.1-15-17.2<sup>1</sup> creates an exception to that general rule and assigns the burden of proof to the assessor in two circumstances—where the assessment under appeal represents an increase of more than 5% over the prior year's assessment, or where it is above the level determined in a taxpayer's successful appeal of the prior year's assessment. I.C. § 6-1.1-15-17.2(b) and (d).
7. Here, the assessment increased from \$82,900 in 2020 to \$87,000 in 2021—an increase of less than 5%. Lane conceded that she therefore bears the burden of proof.

#### **SUMMARY OF CONTENTIONS**

8. **Lane's case:**
  - a. The subject property is an apartment building built in either 1885 or 1887. It was converted to apartments in the 1920's and was last updated in the 1970's. There are not a lot of properties comparable to the subject property, and there have been no sales of comparable properties in its neighborhood. The Assessor has never visited the property, and although the reassessment company has been there, they have never been inside. The subject property is in very poor condition—the roof is in bad shape, and it has a lot of structural issues. *Lane testimony.*
  - b. Lane sold the subject property for \$70,000 on December 15, 2021. The sale took a lot longer because of COVID and the repairs that needed to be made prior to closing. She would have sold it for more if she could have. *Lane testimony; Pet'r Exs. 1-2.*
  - c. The subject property has been in poor condition for the last five years. When the obsolescence factor was taken off, the Assessor gave no reason for its removal. The State recommended that assessors revisit the obsolescence factor, not just remove it. Many properties in Vincennes had their obsolescence factors removed. Lane would like to see some explanation of the method that the Assessor used to adjust the properties that still have obsolescence applied to them. *Lane testimony.*
  - d. The Knox County ratio studies for 2019 and 2020 do not contain any sales for the subject property's property class code that would justify a change in its assessment.

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<sup>1</sup>Indiana Code § 6-1.1-15-17.2 was repealed by P.L. 174-2022 on March 21, 2022. However, we analyze the law as it existed at the time of the evidentiary hearing.

There are very few sales for that property class code. Lane thinks that this class of property may need a different valuation method. The market adjustments for residential properties may not work on commercial properties, which is why Lane asked the Assessor to evaluate her property a little bit differently. *Lane testimony; Pet'r Exs. 3-4.*

- e. The PTABOA lowered the subject property's 2021 assessment from its original value of \$110,000 down to \$87,000, which amounted to just under a 5% increase over 2020. Although Lane appreciated the reduction to a more realistic number, it is still a bit high. Lane is requesting a total assessment reflecting the subject property's sales price of \$70,000. *Lane testimony; Pet'r Exs. 1-2.*

9. **The Assessor's case:**

- a. In 2019, the Assessor started checking parcels that had obsolescence to see if there was a reason for it. The Assessor identified over 3,000 parcels that had obsolescence. At an assessor's conference in 2020, it was recommended that counties should remove obsolescence every couple of years. The Assessor was finding a lot of recently sold houses that were undervalued due to the application of obsolescence. They had assessments in the \$30,000-\$40,000 range but ended up selling for \$100,000-\$120,000. Many of the properties received obsolescence adjustments for 8-10 years even though they had been remodeled, which was a big reason for removing the adjustments. It was also hard to look at the obsolescence adjustments individually given the large number of parcels. After the Assessor removed all the existing obsolescence adjustments, she only had three appeals go to the Board that were affected by the obsolescence, Lane's appeal being one of them. *Hopwood testimony; Resp't Ex. E.*
- b. Lane's appeal was reviewed by the PTABOA, which decided to allow a 50% obsolescence adjustment to the building for one year (2021) based on the photos Lane presented at the PTABOA hearing and a visit to the subject property by a field deputy. The subject property's \$87,000 assessment was the result of the reinstated 50% obsolescence adjustment and an increase in the subject property's neighborhood factor from 0.72 to 0.76. The Assessor contends that it is correct. *Hopwood testimony; Resp't Exs. A-D.*
- c. The subject property had been classified as commercial improved since at least 2013. It has 6 rental units and is assigned to Property Class 401, which is for commercial improvements containing between 4 and 19 family apartments. Although it is in a residential neighborhood for trending purposes, it is fair to use the residential trending because the subject property is similar in structure to a residential home and the residential and rental markets have both been increasing at around the same rate. In fact, many of the houses that were undervalued due to the application of obsolescence were rentals. *Hopwood testimony; Resp't Exs. A-C.*

- d. A purchase price should be close to a property's market value unless it is sold in a "distress situation" such as a sheriff's sale, tax sale, or similar situation. Absent such a situation, the market value and assessed value should probably be within 10% of each other. Sales can be accurate in establishing value, but that is not true in every case. Here, the sale of the subject property had not occurred at the time the PTABOA made its decision. The subject property's sales price might have affected the PTABOA's final value. However, with trending, it probably ended up where it should be—\$87,000. *Hopwood testimony; Resp't Exs. A, D.*

#### ANALYSIS

10. Lane failed to make a prima facie case for reducing her property's 2021 assessment. The Board reached this decision for the following reasons:
- a. The Indiana Legislature has enacted a specific statute for the valuation of rental properties with four or more units. Indiana Code § 6-1.1-4-39(a) provides as follows:
- (a) For assessment dates after February 28, 2005...the true tax value of real property regularly used to rent or otherwise furnish residential accommodations for periods of thirty (30) days or more and that has more than four (4) rental units is the lowest valuation determined by applying each of the following appraisal approaches:
- (1) Cost approach that includes an estimated reproduction or replacement cost of buildings and land improvements as of the date of valuation together with estimates of the losses in value that have taken place due to wear and tear, design and plan, or neighborhood influences.
  - (2) Sales comparison approach, using data for generally comparable property.
  - (3) Income capitalization approach, using an applicable capitalization method and appropriate capitalization rates that are developed and used in computations that lead to an indication of value commensurate with the risks for the subject property use.
- I.C. § 6-1.1-4-39(a).
- b. Regardless of the method used to prove true tax value, a party must explain how its evidence relates to the subject property's market value-in-use as of the relevant valuation date. *O'Donnell v. Dep't of Local Gov't Fin.*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006). For 2021 assessments, the valuation date was January 1, 2021. I.C. § 6-1.1-2-1.5(a).
- c. As discussed above, Lane has the burden of proof. She presented evidence showing that her six-unit apartment building sold for \$70,000 on December 15, 2021 and requested that we reduce its 2021 assessment to that value. While a property's sales price can be probative valuation evidence, the SDF documenting the sale of the subject property shows that it was listed on the market for "00" days. *Pet'r Ex. 1.*


Lane's failure to explain this apparent lack of exposure to the market leads us to question whether the sale was truly an open-market, arm's length transaction. We therefore conclude that the subject property's sales price is not reliable evidence of its true tax value.

- d. Because Lane did not offer any probative valuation evidence developed using the appraisal approaches specified by Indiana Code § 6-1.1-4-39(a), she failed to make a prima facie case for a lower assessment. Where a petitioner has not supported their claim with probative evidence, the Assessor's duty to support the current assessment is not triggered. *Lacy Diversified Indus. v. Dep 't of Local Gov't Fin.*, 799 N.E.2d 1215, 1222 (Ind. Tax Ct. 2003).

#### FINAL DETERMINATION

In accordance with the above findings of fact and conclusions of law, we order no change to the 2021 assessment.

ISSUED: \_\_\_\_\_

  
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Chairman, Indiana Board of Tax Review

  
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Commissioner, Indiana Board of Tax Review

  
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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>.