

**INDIANA BOARD OF TAX REVIEW**  
**Small Claims**  
**Final Determination**  
**Contentions and Analysis**

**Petition No.:** 36-008-18-1-5-01274-18  
**Petitioner:** Ken Pardieck  
**Respondent:** Jackson County Assessor  
**Parcel No.:** 36-65-24-200-003.002-008  
**Assessment Yr.:** 2018

The Indiana Board of Tax Review (“Board”) having reviewed the facts and evidence, and having considered the issues, now find and concludes the following.

**Procedural History**

1. Ken Pardieck contested his 2018 assessment. The Jackson County Property Tax Assessment Board of Appeals (“PTABOA”) issued a determination upholding the following values:

<b>Land</b>	<b>Improvements</b>	<b>Total</b>
\$27,500	\$412,600	\$440,100

2. Pardieck responded by timely filing a Form 131 petition with us. He elected to proceed under our small claims rules. On September 18, 2019, our designated administrative law judge, Jeremy Owens (“ALJ”), held a hearing on Pardieck’s petition. Neither he nor the Board inspected the property.
3. Pardieck appeared *pro se*. Susan Bevers appeared as counsel for the Assessor. Pardieck, Jackson County Assessor Katie Kaufman, and Richard Borges II testified under oath.

**Record**

4. Pardieck did not offer any exhibits. The Assessor offered the following exhibits:

Respondent’s Exhibit A: Appraisal report from Borges  
Respondent’s Exhibit B: Property record card for the subject property  
Respondent’s Exhibit C: Form 115 determination

**Contentions**

Pardieck’s case:

5. Pardieck believes his assessment should be reduced to its previous year’s level of \$385,800. Although his property is located outside the Seymour city limits, his ingress and egress require him to drive through a city neighborhood. More importantly, the

majority of the property is unusable because it is located in a floodway. It also has a former mining pit that is filled with water. The water is roughly 60 feet deep on average and creates a higher risk of liability than a pond or lake, which drives up Pardieck's insurance premiums. Yet his assessment went up by more than \$50,000 between 2017 and 2018 without him having made any improvements to the home. In any case, Pardieck does not believe market value is a fair standard by which to assess his property because he built his home and does not plan to sell it. *Pardieck testimony and argument.*

6. Pardieck does not believe he received a fair hearing in front of the PTABOA. Jim Davis, who is employed by the Assessor's contractor, appeared to run the hearing. And one of the PTABOA members was a realtor, which Pardieck believes was a conflict of interest because it would be to her advantage to find higher market values. *Pardieck testimony and argument.*

The Assessor's case:

7. With the help of a contractor, the Assessor performs sales-ratio studies every year. Based on one of those studies, she increased the subject property's assessment for 2018. *Kaufman testimony.*
8. Following Pardieck's appeal, the Assessor hired Richard Borges II, an Indiana certified appraiser, to estimate the property's market value-in-use as of January 1, 2018. Borges did so and prepared a retrospective appraisal report in conformity with the Uniform Standards of Professional Appraisal Practice ("USPAP"). *Borges testimony; Resp't Ex A.*
9. Borges visited the property and spoke to Pardieck about it. In Borges' view, the custom-built home was attractive and well maintained, although it had a few issues. For example, he could not view the basement because the staircase leading to it had collapsed. *Borges testimony; Resp't Ex A.*
10. Borges determined that the sales-comparison approach was the most appropriate method to use in valuing the property. He selected three sales: one from the fringe of Seymour, one from Morgantown, and a third from Jennings County. They sold for prices ranging from \$363,000 to \$480,000. He adjusted the sale prices to account for various ways in which those properties differed from the subject property, including site size and the size and condition of the homes. He took Pardieck's complaints about the property into account, including his complaints about the mining pit. According to Borges, he accounted for those problems, in part, by adjusting the comparable sale prices upward by only \$1,000/acre when considering the substantial size difference between the subject site and the comparatively smaller comparable sites.<sup>1</sup> *Borges testimony; Resp't Ex A.*
11. The adjusted sale prices ranged from \$468,000 to \$525,000. Borges gave the greatest weight to the sales from Seymour and Morgantown, reconciling to a value of \$480,000

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<sup>1</sup> Borges reported the subject site as 26.394 acres "More or Less-Per Assessment Record." But the property record card lists the site as 29.39 acres.

for the subject property. Although Borges appraised the property for more than its assessment, the Assessor asked us to leave the assessment unchanged rather than increase it. *Borges testimony; Resp't Ex. A.*

### **Burden of Proof**

12. Generally, a taxpayer seeking review of an assessing official's determination has the burden of proof. Indiana Code § 6-1.1-15-17.2 creates an exception to that general rule and assigns the burden of proof to the assessor in two circumstances: (1) where the assessment under appeal represents an increase of more than 5% over the prior year's assessment, or (2) 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), (d). If an assessor has the burden of proving the assessment is correct and fails to do so, it reverts to the previous year's level or to another amount shown by probative evidence. *See* I.C. § 6-1.1-15-17.2(b).
13. Here, the assessment increased by more than 5% between 2017 to 2018, climbing from \$385,800 up to \$440,100. The Assessor agreed that she had the burden of proof.

### **Analysis**

14. The goal of Indiana's real property assessment system is to arrive at an assessment reflecting "true tax value." 50 IAC 2.4-1-1(c); 2011 REAL PROPERTY ASSESSMENT MANUAL at 3. True tax value does not mean "fair market value" or "the value of the property to the user." I.C. § 6-1.1-31-6(c), (e). It is instead determined under the rules of the Department of Local Government Finance ("DLGF"). I.C. § 6-1.1-31-5(a); I.C. § 6-1.1-31-6(f). The DLGF defines true tax value as "market-value-in-use," which it in turn defines as "[t]he market value-in-use of a property for its current use, as reflected by the utility received by the owner or by a similar user, from the property." MANUAL at 2.
15. In an assessment appeal, a USPAP-compliant, market-value-in-use appraisal is often the best evidence of a property's true tax value. *Eckerling v. Wayne Twp. Ass'r*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006). Parties may also offer any other evidence that is relevant to a property's true tax value, such as actual construction costs, sales information for the property under appeal, and sales or assessment information for comparable properties. MANUAL at 3; *see also Eckerling*, 841 N.E. at 674; I.C. § 6-1.1-15-18 (allowing parties to offer evidence of comparable properties' assessments in property tax appeals). Simply attacking the methodology used to compute an assessment or strictly applying the assessment guidelines normally does not suffice to make a case. *See Eckerling*, 841 N.E.2d at 678. In any case, a party must relate its evidence to the relevant valuation date. *Long v. Wayne Twp. Ass'r*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). Otherwise, the evidence lacks probative value. *Id.* The valuation date for the year under appeal was January 1, 2018.
16. The Assessor offered probative evidence to show the property's true tax value. Borges prepared a USPAP-compliant appraisal using a generally accepted methodology—the

sales-comparison approach—to estimate the property’s market value-in-use as of the relevant January 1, 2018 valuation date. He located comparable properties and adjusted their sale prices to account for relevant ways in which they differed from the subject property.

17. Pardieck did nothing to impeach Borges’ valuation opinion. Nor did he offer any probative valuation evidence of his own. At most, he pointed to some facts—such as the property’s location in a floodplain and the increased potential liability from the former mining pit—that might affect the property’s value. But he offered nothing to quantify those effects or otherwise to establish a value. Property taxation must be based on an objective standard, not on whether an owner plans to sell or not.
18. Pardieck’s other main complaint was with what he perceived as the PTABOA’s bias and a conflict of interest by one of its members. We disagree with his conclusions on those points. Even if Pardieck had shown bias or a conflict of interest, it would not affect our determination. Our proceedings are de novo. The PTABOA’s reasons for deciding as it did are beside the point. We address only the evidence and arguments made before us. At our hearing, the Assessor offered Borges’ USPAP-compliant valuation opinion, and Pardieck did nothing to impeach or rebut it.

### **Final Determination**

19. We find that the subject property’s true tax value was \$480,000. The Assessor, however, asks that we uphold the assessment of \$440,100 rather than increase it. We therefore order no change to the assessment.<sup>2</sup>

DATE: December 16, 2019

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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

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<sup>2</sup> The Assessor classified most of the land beyond a one-acre homesite as agricultural and 4.81 acres as a legal drain. Borges, however, treated the entire parcel as residential in his appraisal. Pardieck did not make any argument about what, if any, effect that might have on whether Borges’ appraisal was an appropriate indicator of the property’s overall market value-in-use. We will not make that argument for him. We do note that Borges valued the property at \$39,900 more than the assessment we are upholding. And as shown by his adjustments for differences in site size, he attributed very little contributory value to land beyond the homesite.

**- 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>>.