

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

Petition No.: 39-007-22-1-5-00719-23
Petitioner: MLP Services LLC
Respondent: Jefferson County Assessor
Parcel: 39-08-27-114-024.000-007
Assessment Year: 2022

The Indiana Board of Tax Review (“Board”) issues this determination in the above matter, and finds and concludes as follows:

Procedural History

1. The Petitioner appealed the 2022 assessment of its property located at 111 Hooten Boulevard in Madison.
2. On October 31, 2023, the Jefferson County Property Tax Assessment Board of Appeals (“PTABOA”) sustained the assessment at \$15,000 for land and \$85,700 for improvements for a total assessment of \$100,700.
3. The Petitioner timely appealed to the Board, electing to proceed under the small claims procedures.
4. On May 2, 2024, Dalene McMillen, the Board’s Administrative Law Judge (“ALJ”), held a telephonic hearing. Neither the Board nor the ALJ inspected the property.
5. Mark Pence, member of MLP Services LLC appeared for the Petitioner. Jefferson County Assessor Amanda Roselle represented herself. Both testified under oath.

Record

6. The parties submitted the following exhibits:

Petitioner Exhibit 1: Restricted appraisal report for the subject property prepared by Anthony Wade Thomas with an effective date of January 1, 2022,
Petitioner Exhibit 2: Trulia data for 110 Hooten Boulevard,
Petitioner Exhibit 3: Petitioner’s summary.

- Respondent Exhibit 1: 2022 subject property record card,
- Respondent Exhibit 2: Photograph of the subject property,
- Respondent Exhibit 3: 2021 subject property record card,
- Respondent Exhibit 4: 2022 property record card for 110 Hooten Boulevard,
- Respondent Exhibit 5: Photograph of 110 Hooten Boulevard.

- a) 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) a digital recording of the hearing.

Findings of Fact

- 7. The subject property is a one-story, 1,701 sq. ft. brick home built in 1971 with a detached garage and associated land. During the cyclical reassessment the condition of the home was changed from poor to fair on the property record card. *Roselle testimony; Resp't Exs. 1 & 2.*
- 8. The 2022 assessment under appeal of \$100,700 is an approximately 33% increase above the prior year's assessment of \$75,500. *Resp't Ex. 1, 3.*
- 9. The Petitioner engaged Anthony Wade Thomas of 12 County Appraisal Services to appraise the retrospective market value of the subject property as of January 1, 2022. Thomas is an Indiana Licensed Residential Appraiser and he certified that his appraisal complied with the Uniform Standards of Professional Appraisal Practice ("USPAP"). To arrive at his opinion of value, Thomas developed the sales-comparison approach. He selected five comparables that sold in 2021 for prices ranging from \$65,150 to \$115,000. He adjusted the comparables for factors such as condition, gross living area, home site, and location. After adjustment, the sale prices ranged from \$79,200 to \$91,000. Thomas ultimately concluded to a value of \$84,000 as of January 1, 2022. Thomas's appraisal offered a credible and reliable indicator of the value of the subject property. *Pence testimony; Pet'r Ex. 1.*

Contentions

- 10. Summary of the Respondent's case:
 - a) The Assessor argued the subject property's assessment is correct. In support of this, she presented the assessment of a comparable property located across the street from the subject property. She pointed out that the comparable property is assessed as a "C" grade home in average condition with an assessed value of \$137,400. She argued this demonstrated the subject property was assessed fairly at \$100,700. She also noted that the comparable property sold on November 4, 2015, for \$124,500 and again on November 7, 2019, for \$156,000. *Roselle testimony; Resp't Exs. 1, 4 & 5.*

b) The Assessor also argued the appraisal submitted by the Petitioner is flawed. In particular, she argued that some of the sales the appraiser used sold again in the same year, but the appraiser used the first sale and not the second. She also argued that the appraiser gave no explanation for his “excessive” condition adjustments and noted that two of the comparables were purchased by a known home “flipper.” *Roselle testimony*.

11. Summary of the Petitioner’s case:

a) Pence testified that the subject property is a rental property that he purchased at a tax sale for \$4,600 in 2012. He also claimed the condition of the home is dated because it has not been significantly updated since its construction. The Petitioner requested the assessment be reduced to the value from the Thomas appraisal of \$84,000. *Pence testimony; Pet’r Ex. 3*.

Burden of Proof

12. 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).

13. 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.*

14. 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).

15. Here, the current assessment of \$100,700 was an increase of more than 5% over the previous assessment of \$75,500. Thus, the Assessor has the burden of proof.

Analysis

16. The Assessor has the burden of proof and failed to make a prima facie case sufficient to support any value. The Petitioner made a prima facie case for reducing the property’s 2022 assessment.

a) The Indiana Board of Tax Review is the trier of fact in property tax appeals, and its charge is to “weigh the evidence and decide the true tax value of the property as compelled by the totality of the probative evidence before it.” I.C. § 6-1.1-15-20(f).

The Board's conclusion of a property's true tax value "may be higher or lower than the assessment or the value proposed by a party or witness." *Id.* Regardless of which party has the initial burden of proof, either party "may present evidence of the true tax value of the property, seeking to decrease or increase the assessment." I.C. § 6-1.1-15-20(e).

- b) 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). Instead, true tax value is found 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." 2021 REAL PROPERTY ASSESSMENT MANUAL at 2.
- c) In order to meet its burden of proof, a party "must present objectively verifiable, market-based evidence" of the value of the property. *Piotrowski v. Shelby Cty. Ass'r*, 177 N.E.3d 127, 132 (Ind. Tax Ct. 2021) (citing *Eckerling v. Wayne Twp. Ass'r*, 841 N.E.2d 674, 677-78 (Ind. Tax Ct. 2006)). For most real property types, neither the taxpayer nor the assessor may rely on the mass appraisal "methodology" of the "assessment regulation." *P/A Builders & Developers, LLC v. Jennings Cty. Ass'r*, 842 N.E.2d 899, 900 (Ind. Tax Ct. 2006). This is because the "formalistic application of the Guidelines' procedures and schedules" lacks the market-based evidence necessary to establish the market value-in-use of a specific property. *Piotrowski*, 177 N.E.2d at 133.
- d) Market-based evidence may include "sales data, appraisals, or other information compiled in accordance with generally accepted appraisal principles." *Peters v. Garoffolo*, 32 N.E.3d 847, 849 (Ind. Tax Ct. 2015). Relevant assessments are also admissible, but arguments that "another property is 'similar' or 'comparable' simply because it is on the same street are nothing more than conclusions ... [and] do not constitute probative evidence." *Marinov v. Tippecanoe Cty. Ass'r*, 119 N.E.3d 1152, 1156 (Ind. Tax Ct. 2019). Finally, the evidence must reliably indicate the property's value as of the valuation date. *O'Donnell v. Dept. of Local Gov't Fin.*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006).
- e) As stated above, the Assessor has the burden of proof. In support of the assessment, she pointed to a comparable assessment across the street from the subject. But conclusory statements that a property is "similar" or "comparable" to another property do not constitute probative evidence of the comparability of the properties. *Long v. Wayne Twp. Ass'r*, 821 N.E.2d 466, 470-71 (Ind. Tax Ct. 2005). Even were we to find that a single comparable assessment was sufficient market data from which to derive a value for the subject property, the Assessor's analysis of that comparable was insufficient. A party seeking to use sales or assessment comparables must identify the characteristics of the subject property, explain how those characteristics

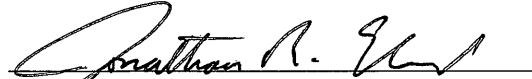
compare to the characteristics of the purportedly comparable properties, and explain how any differences affect the relative market values-in-use of the properties. *Id.* at 471. The Assessor did not offer any reliable analysis explaining the differences between the comparable property and the subject. Nor did she provide any explanation of how those differences affected the properties' respective values. She also pointed to 2015 and 2019 sales of that property, but she did not make any attempt to relate those sales to the January 1, 2022, valuation date. All evidence must be affirmatively related to the relevant valuation date. *Nova Tube Ind. II LLC v. Clark Cty. Assessor*, 101 N.E.3d 887, 895 (Ind. Tax Ct. 2018). Failure to do so renders that evidence insufficient to establish a value. *Id.* For these reasons, we find the Assessor failed to meet her burden of proof.

- f) We now turn to the Petitioner's evidence. The Petitioner offered market-based evidence in the form of the Thomas appraisal. He concluded to a value of \$84,000 as of January 1, 2022. We find his opinion to be generally reliable. The Assessor made three main criticisms of the appraisal: (1) that some of Thomas's adjustments were "excessive" and unsupported, (2) that Thomas ignored subsequent sales of the comparables, and (3) that one of the comparables was purchased by a "flipper." We address each in turn.
- g) As to the first criticism, we agree that more explanation of the adjustments in the appraisal would have been helpful. But ultimately Thomas's adjustments are backed by his credentials, expertise, and experience. In addition, the Assessor failed to offer any reliable evidence showing those adjustments were incorrect. Thus, we cannot say that this is sufficient to undermine the credibility of the appraisal. As to the second argument, again, we agree that some explanation of why Thomas chose not to use the subsequent sales would have been helpful. But it is possible that some of the sales were substantially renovated after their initial purchase making them less similar to the subject property than the first sale. Because the Assessor failed to offer any evidence showing that using the subsequent sales would have been appropriate or would have led to a different value conclusion, we cannot find that this seriously undermines the reliability of the appraisal. Turning to the third criticism, we find the Assessor failed to show why a comparable purchased by a "flipper" cannot reliably indicate a value for the subject property. For these reasons, we find the Thomas appraisal is persuasive evidence of the subject property's market value-in-use for the assessment date at issue.
- h) Because the subject property's assessment increased by more than 5% over the prior year's assessment, and none of the exceptions apply, the current assessment is not presumed correct according to I.C. § 6-1.1-15-20. The totality of the evidence is sufficient to support the appraised value of \$84,000. For this reason, we order the January 1, 2022, assessment reduced to that amount.

Final Determination

In accordance with the above findings and conclusions, the Board orders the 2022 assessment reduced to \$84,000.

ISSUED: July 31, 2024



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>>