

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

Petition No.: 39-007-15-1-5-00011-17
Petitioner: 612 W Second LLC
Respondent: Jefferson County Assessor
Parcel No.: 39-13-03-114-004.000-007
Assessment Year: 2015

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

Procedural History

1. 612 W Second LLC (“612 LLC”) filed a Form 130 with the Jefferson County Property Tax Assessment Board of Appeals (“PTABOA”). On December 7, 2016, the Jefferson County PTABOA issued its determination valuing the property as follows:

2015: Land: \$2,000 Improvements: \$103,000 Total: \$105,000

2. 612 LLC filed a Form 131 petition with the Board, electing to have its appeal heard under the Board’s small claims procedures. The Assessor did not elect her option to remove.
3. Timothy Schuster, the Administrative Law Judge (“ALJ”) appointed by the Board, held the administrative hearing on December 12, 2017. Neither he nor the Board inspected the subject property.
4. Milo Smith appeared for 612 LLC. Karen Mannix appeared in her capacity as Jefferson County Assessor. The following witnesses testified: Milo Smith, certified tax representative; Karen Mannix, Jefferson County Assessor; Angela E. Smith, Indiana licensed residential appraiser.

Findings of Fact

5. The subject property is a condominium unit located on the upper level of a converted single-family home. The property is located at 612 W Second Street in Madison, Indiana. *A. Smith testimony; M. Smith testimony; Pet’r Ex. 2.*
6. The parties agreed that this was a difficult property to assess because of the size of the Madison market for condominiums. In addition, both parties acknowledged that the

current listing price of \$99,500 is not reflective of its value due to the extended period of time the condominium has been on the market. *A. Smith testimony; M. Smith testimony.*

Record

7. The official record for this matter is made up of the following:

a. Exhibits:

Petitioner Exhibit 1:	2014 subject property record card,
Petitioner Exhibit 2:	2015 subject property record card,
Petitioner Exhibit 3:	Appendix C—Residential and Agricultural Cost Schedules from the 2011 Real Property Assessment Manual,
Petitioner Exhibit 4:	2015 Property Record Card with requested adjustments,
Petitioner Exhibit 5:	Screenshot copy of the property listing.
Respondent Exhibit A:	2015 Subject property record card,
Respondent Exhibit B:	Excerpt from Indiana Code §§ 32-25-2,
Respondent Exhibit C:	Multiple Listing Service (“MLS”) report of subject property from July 18, 2016,
Respondent Exhibit D:	Form 113 Notice of Assessment/Change by Assessing Official,
Respondent Exhibit E:	Indiana Department of Local Government Finance memorandum dated October 2006 regarding common area property assessments,
Respondent Exhibit F:	Page 4 from Appendix G of the 2011 Real Property Assessment Manual,
Respondent Exhibit G:	Photo of the building from Zillow.com dated November 13, 2017,
Respondent Exhibit H:	Listing for the subject property from Zillow.com printing November 13, 2017,
Respondent Exhibit I:	Appraisal of subject property prepared by Angela E. Smith of Tri County Appraisals.

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

Burden of Proof

8. Generally, a taxpayer seeking review of an assessment must prove the assessment is wrong and what the correct value should be. Indiana Code § 6-1.1-15-17.2 creates an exception to the general rule and assigns the burden of proof to the assessor where (1) the

assessment under appeal represents an increase of more than 5% over the prior year's assessment for the same property, or (2) the taxpayer successfully appealed the prior year's assessment, and the current assessment represents an increase over what was determined in the appeal, regardless of the level of that increase. *See* I.C. § 6-1.1-15-17.2(a), (b) and (d). If an assessor has the burden and fails to prove the assessment is correct, 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). The 2014 assessment was \$81,900. The PTABOA determined the 2015 assessment to be \$105,000. The Assessor conceded that the burden of proof shifted. We agree and find the burden of proof rests with the Assessor.

Summary of Contentions

9. Summary of the Assessor's case:
 - a. The Assessor presented a Uniform Standards of Professional Appraisal Practice ("USPAP") compliant appraisal prepared by Angela Smith of Tri County Appraisals. She valued the property at \$95,000 as of December 5, 2017. The Assessor conceded that the PTABOA's value was too high and asked the Board to value the property at \$95,000. *Resp't Ex. I; Mannix testimony.*
 - b. Ms. Smith described her research, which included taking photographs and measurements, as well as examining the physical condition of the property. She noted that there was a water leak from an unknown source that had caused some ceiling damage. *A. Smith testimony; Resp't Ex. I.*
 - c. Ms. Smith valued the subject property using the sales-comparison approach. She did not use the income capitalization or gross rent multiplier methods because the subject was vacant at the time of her appraisal. She looked for comparable condominium sales in the Jefferson County area. Ms. Smith also looked for sales in the same building, but found none. She ultimately selected four comparable properties that sold between September 2016 and July 2017. *A. Smith testimony; Resp't Ex. I.*
 - d. She made adjustments for room count, square footage, age, condition, and features such as a covered porch and a communal 1-car garage. The largest adjustments were for square footage and room count. The adjusted sale prices ranged from \$84,250 to \$111,450. She reconciled these to a value of \$95,000 as of December 5, 2017. *A. Smith testimony; Resp't Ex. I.*
10. Summary of 612 LLC's case:
 - a. 612 LLC requested a value of \$78,900 for the subject property based on the cost tables from Appendix C of the 2011 Real Property Assessment Manual. Mr. Smith calculated this by using a base rate of \$71,500, then adjusting for quality and design factors, location, and depreciation. This resulted in a value of \$46,600 for the

improvements. He added that to the land value to reach a total adjusted value of \$78,900. *M. Smith testimony; Pet. Ex. 4.*

Analysis

11. The goal of Indiana’s real property assessment system is to arrive at an assessment reflecting the property’s 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) and (e). It is instead determined under the Indiana Department of Local Government Finance’s (“DLGF”) rules. 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.
12. All three standard appraisal approaches—the cost, sales-comparison, and income approaches—are “appropriate for determining true tax value.” MANUAL at 2. In an assessment appeal, parties may offer any evidence relevant to a property’s true tax value, including appraisals prepared in accordance with generally recognized appraisal principles. *Id.* at 3; *see also, Eckerling v. Wayne Twp. Ass’r*, 841 N.E.2d 674, 678 (reiterating that a market value-in-use appraisal that complies with the Uniform Standards of Professional Appraisal Practice is the most effective method for rebutting the presumption that an assessment is correct). Regardless of the method used, a party must explain how its evidence relates to the relevant valuation date. *See Long v. Wayne Twp. Ass’r*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). Otherwise, the evidence lacks probative value. *Id.* For the 2015 assessment, the valuation date was March 1, 2015. I.C. § 6-1.1-2-1.5.
13. The Assessor offered a USPAP-compliant appraisal prepared by Angela Smith. Ms. Smith valued the property as of December 5, 2017, while the valuation date at issue was March 1, 2015. She did not purport to trend her opinion to the 2015 valuation date. In addition, the earliest sale she used was from September of 2016, or roughly 18 months after the relevant valuation date. The Indiana Tax Court in *Long* stated that a party must explain how its evidence relates to the relevant valuation date. *See Long* at 471. Here, the Assessor offered nothing to show how the appraisal related to the March 1, 2015 valuation date. For that reason, we are unable to rely on the appraisal. The Assessor failed to meet the burden of proof.
14. Because 612 LLC is seeking a lower value than the prior year’s assessment, we now turn to its arguments. Mr. Smith created an assessment using the cost schedules from Appendix C of the 2011 Real Property Assessment Manual. He presented property record cards for the subject property, an excerpt from the assessment manual, and his own handwritten calculations. Even were we to find Mr. Smith’s calculations were correct, this would still be insufficient to support a further reduction in the assessment. With the exception of agricultural land, a party may not make a case for changing an assessment simply by showing how the assessment regulations should have been applied.

Eckerling v. Wayne Twp. Ass'r, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006) (“Strict application of the regulations is not enough to rebut the presumption that the assessment is correct.”) Instead, the party must offer market-based evidence. *See Id.* Smith offered no market-based evidence and as a result failed to make a prima facie case for the market value-in-use of the subject property.

CONCLUSION

15. The Assessor did not relate her evidence to the relevant valuation date and thus failed to meet the burden of proof. 612 LLC provided no market-based evidence for the value of the subject property. Because the burden of proof shifted to the Assessor, the assessment reverts to the prior year’s assessed value.

FINAL DETERMINATION

In accordance with the above findings of fact and conclusions of law, the Board determines the 2015 assessment must revert to the 2014 assessed value of \$81,900.

ISSUED: March 12, 2018

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>>.