

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

Petition: 87-019-19-1-5-01222-19
Petitioners: Angie and Mohamed Abdelhameed
Respondent: Warrick County Assessor
Parcel: 87-12-13-201-064.000-019
Assessment Year: 2019

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

PROCEDURAL HISTORY

1. Angie and Mohamed Abdelhameed contested the 2019 assessment of their property located at 2200 Kenyon Ridge Court in Newburgh. The Warrick County Property Tax Assessment Board of Appeals (“PTABOA”) issued its determination valuing the residential property at \$471,200 (\$43,900 for land and \$427,300 for improvements).
2. The Abdelhameeds filed a Form 131 petition with the Board and elected to proceed under our small claims procedures. On January 6, 2021, Ellen Yuhan, our designated Administrative Law Judge (“ALJ”) held a telephonic hearing on the Abdelhameeds’ petition. Neither she nor the Board inspected the property.
3. Mohamed Abdelhameed and Warrick County Assessor Sarah Redman appeared pro se. Abdelhameed, Redman, and Deputy Assessor Lana Lockhart testified under oath.

RECORD

4. The official record for this matter contains the following:
 - a. Petitioner Exhibit 1: Appraisal of Janice Evans
 - Respondent Exhibit A: Comparable Sales Report and Valuation Calibration Analysis
 - Respondent Exhibit B: Form 134 and Form 115
 - Respondent Exhibit C: Additional information including a quick reference of the comparable properties in the appraisal and the property record cards for those properties

- b. The record for the 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

5. 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—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).
6. Here, the assessment increased from \$396,600 in 2018 to \$471,200 in 2019—an increase of more than 5%. The Assessor conceded that she bears the burden of proof.

SUMMARY OF CONTENTIONS

7. The Assessor's case:
 - a. A large part of the 2019 assessment increase is due to the removal of obsolescence the Assessor gave the Abdelhameeds' home in 2018 to allow them time to fix some irrigation and leaking issues. Those issues have been resolved. The Abdelhameeds also replaced the deck across the back of their home, which had significant problems caused by the irrigation issues. Further, based on a site inspection, MLS information, and the appraisal, the Assessor discovered that the home has 2,285 square feet of finished basement area instead of the 1,000 square feet she had previously assessed it as having. Additionally, the Assessor had not previously accounted for any attic area on the property record card. Including the additional 1,285 square feet of finished basement area and 851 square feet of attic, of which 513 is finished, also increased the assessed value. *Redman testimony; Lockhart testimony; Resp't Ex. B.*
 - b. The Assessor submitted a Comparable Sales Report that includes five comparable sales from the subject property's area. Her analysis produced a value estimate of \$469,000 for the subject. All the comps the Assessor used indicate that the subject's value "falls within the right range" and they support the assessment. The sales in the area are extremely strong, and the Assessor has enough comps and enough justification from her ratio process to continue to raise prices. This year has been a very good year for sales, and she anticipates values will continue to increase. *Redman testimony; Resp't Ex. A.*
 - c. The three comps Evans used in her appraisal that do not have basements had a median unadjusted sales price of \$107/SF, while the three comps with basements had a median unadjusted sales price of \$119/SF. The median unadjusted sales price of all six of Evans' comps is \$113/SF. The Assessor's sales ratio analysis of sales from

January 1, 2017 to March 1, 2019 showed 2-story homes without basements had a median sales price of \$102/SF and 2-story homes with basements had a median sales price of \$124/SF. With the changes the PTABOA made, the subject's assessed value is \$109/SF. *Resp't Exs. A, C.*

- d. The Assessor does not agree with the Evans Appraisal. It was done 13 months after the assessment date, and one of the comps sold in December 2019, which was well after the January 1, 2019 valuation date. Many of Evans' comps were also in incomparable neighborhoods, including one that is on the other side of Newburgh. The Assessor also took issue with Evans' observation that the subject did not have upgraded countertops and light fixtures and argued that the subject's major components are still viable and contributing to the home's overall utility and value. *Redman testimony; Resp't Ex. C.*

8. The Abdelhameeds' case:

- a. The previous owner paid \$387,000 for the subject property. It had the same amount of finished basement and attic area that it has today. It sold three or four times and the sale price was never more than \$387,000. All those people and appraisers cannot be wrong. When the Abdelhameeds purchased the property, there were foundation issues. After they fixed the problems, the property appraised for \$425,000 as of January 1, 2019. This is the market value, not \$471,200. *Abdelhameed testimony; Pet'r Ex. 1.*

ANALYSIS

9. The Assessor failed to make a prima facie case supporting the 2019 assessment, while the Abdelhameeds submitted an appraisal that supports an assessment lower than the 2019 assessment but higher than the reversionary value they were otherwise entitled to. The Board reached this decision for the following reasons:
 - a. 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), (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.
 - b. 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 (Ind. Tax Ct. 2006) (reiterating that a market value-in-use appraisal that complies with the Uniform Standards of Professional Appraisal Practice (“USPAP”) is the most effective method for rebutting the presumption that an assessment is correct).

- c. Regardless of the method used to prove true tax value, a party must explain how its evidence relates to the property’s value 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); *see also Long v. Wayne Twp. Ass'r*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). The valuation date for this appeal is January 1, 2019. Ind. Code § 6-1.1-2-1.5(a).
- d. As discussed above, the Assessor has the burden of proof. Her primary valuation evidence is a Comparable Sales Report. To effectively use the sales-comparison approach as evidence in a property assessment appeal, the proponent must establish the comparability of the properties being examined. Conclusory statements that a property is “similar” or “comparable” to another property do not constitute probative evidence of the comparability of the two properties. *Long*, 821 N.E.2d at 470. Instead, the proponent must identify the characteristics of the subject property and explain how those characteristics compare to the characteristics of the purportedly comparable properties. *Id.* at 471. Similarly, the proponent must explain how any differences between the properties affect their relative market values-in-use. *Id.*
- e. The Assessor’s Comparable Sales Report consists of a cursory one-page analysis that she submitted into the record without providing any discussion or explanation of its contents. Thus, we have insufficient information to determine whether her comps are truly comparable to the subject. Even if we were to accept her comps as sufficiently comparable, the Assessor nevertheless failed to demonstrate that she based her adjustments on objective, market-based data.¹ We therefore conclude that the Assessor’s Comparable Sales Report is insufficiently reliable to be probative evidence of the subject’s market value-in-use. We also note that it produced a value estimate of \$469,000, which fails to support the current assessment of \$471,200.
- f. The Assessor also submitted a sales ratio analysis to support the assessment. Like her Comparable Sales Report, however, she failed to provide sufficient information to demonstrate the comparability of the properties to the subject. And she did not even attempt to account for any relevant differences. Consequently, we give it no weight.

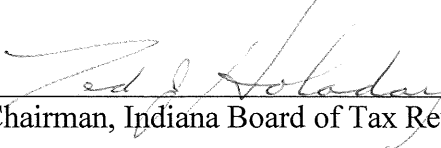
¹ While the Assessor’s adjustments may not appear to differ significantly from those made by a certified appraiser in an appraisal report, an appraiser’s assertions are backed by his or her education, training, and experience. An appraiser also typically certifies that they complied with USPAP. Thus, the Board, as the trier-of-fact, can infer the appraiser used objective data, where available, to quantify the adjustments. And where objective data was not available, the Board can infer the appraiser relied on their education, training, and experience to estimate a reliable quantification.

- g. Because the Assessor did not offer any probative valuation evidence, she failed to make a prima facie case that the 2019 assessment is correct. The Abdelhameeds are therefore entitled to have their assessment reverted to the previous year's value of \$396,600. However, they submitted a USPAP-compliant appraisal prepared by Evans, a Certified General Appraiser, who valued the subject at \$425,000 as of January 1, 2019.
- h. The Assessor attempted to impeach Evans' appraisal by criticizing the fact that Evans completed it 13 months after the assessment date. However, Evans properly valued the property as of the January 1, 2019 assessment date at issue. The Assessor also criticized Evans' inclusion of a comp that sold in December 2019, but the Assessor did not even attempt to demonstrate that an adjustment was needed due to changes in market conditions or some related concern. Similarly, the Assessor failed to provide any evidentiary support for her arguments that Evans' comps are from incomparable neighborhoods or that Evans' observations regarding the subject's condition were incorrect or led her to undervalue it.
- i. Because the Assessor failed to impeach Evans' appraisal, we find it to be probative evidence of the subject's market value-in-use. Thus, we conclude the 2019 assessment should be \$425,000.²


FINAL DETERMINATION

In accordance with the above findings of fact and conclusions of law, we order the 2019 assessment reduced to \$425,000.

ISSUED: 3-19-21



Chairman, Indiana Board of Tax Review



Commissioner, Indiana Board of Tax Review



Commissioner, Indiana Board of Tax Review

² We would have reached the same conclusion even if the Assessor had successfully impeached Evans' appraisal because the Abdelhameeds conceded that their 2019 assessment should be \$425,000, which is higher than the reversionary value they were otherwise entitled to.

- 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>>.