

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

**Petition:** 45-003-17-1-5-00102-21  
**Petitioner:** Andy Young  
**Respondent:** Lake County Assessor  
**Parcel:** 45-08-29-108-024.000-003  
**Assessment Year:** 2017

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

**PROCEDURAL HISTORY**

1. Young contested the 2017 assessment of his property located at 2836 W. Ridge Road in Gary. The Lake County Property Tax Assessment Board of Appeals (“PTABOA”) issued its determination valuing the vacant residential lot at \$2,100.
2. Young filed a Form 131 petition with the Board and elected to proceed under our small claims procedures. On September 27, 2021, Ellen Yuhan, our designated Administrative Law Judge (“ALJ”) held a hearing on Young’s petition. Neither she nor the Board inspected the property.
3. Young appeared pro se. The Assessor appeared by her Hearing Officers, Robert Metz and Jessica Rios. All were sworn as witnesses.

**RECORD**

4. The official record for this matter contains the following:
  - a. Petitioner Exhibit 1E: Property Record Card
  - Petitioner Exhibit 2E: GIS map
  - Petitioner Exhibit 3E: Parcel valuation history
  - Petitioner Exhibit 4: Settlement Agreement
  - Petitioner Exhibit 5: List of properties listed for sale in Gary
  - Petitioner Exhibit 6: Notice to Bidders: Request for Proposals
  - Petitioner Exhibit 7: Appraisal of Steven Kovachevich for 2517-2521 Washington Street
  - Petitioner Exhibit 8: Appraisal of Steven Kovachevich for 739-29 W. 35<sup>th</sup> Avenue
  - Petitioner Exhibit 9: Appraisal of Steven Kovachevich for 1109 Oklahoma Street

Petitioner Exhibit 10:	Land Comparison Chart from Kovachevich appraisals
Petitioner Exhibit 11:	Appraisal of Jerry J. Kulik for 9410-14 E. 1 <sup>st</sup> Avenue
Petitioner Exhibit 12:	Appraisal of Jerry J. Kulik for 9400-08 E. 1 <sup>st</sup> Avenue
Petitioner Exhibit 13:	Chapter 2, page 9, REAL PROPERTY ASSESSMENT GUIDELINES
Petitioner Exhibit 14:	Response to Andy Young's letter to Mr. Dull
Petitioner Exhibit 15:	Andy Young's letter to Mr. Dull <sup>1</sup>

- 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 property's assessment remained unchanged from 2016 to 2017. Young therefore bears the burden of proof.

#### **OBJECTIONS**

7. The Assessor objected to Exhibits 5-12 for relevancy. The Assessor also objected to Exhibits 7-9 on the additional ground that they are not complete documents. Finally, he objected to Exhibit 11 because it is marked as confidential and Young is not named as an intended user in the appraisal. Young countered that he was using the information to build a case that the base values throughout the township are wrong. Our ALJ took the objections under advisement.
8. Because the exhibits provide information about other Lake County properties, we find them to be at least minimally relevant to the issue at hand. To the extent the Assessor was concerned that introducing incomplete copies of Exhibits 7-9 would be misleading, she was free to offer the rest of the documents to avoid that problem. *See* Ind. Evid. R. 106 (allowing an objecting party to require the introduction of the parts of the document

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<sup>1</sup> Young provided a single set of Exhibits 4-15 during the hearing held for Petition No. 45-003-17-1-5-00007-21. He requested that they be made part of the record in this appeal as well. Our ALJ admitted the exhibits, subject to the objections the Assessor raised during the hearing on Petition No. 45-003-17-1-5-00007-21. In future hearings, the parties must prepare and submit a copy of all evidence they wish to be considered into the record at each hearing.

it wants considered alongside the objectionable material). And we do not find the fact that Exhibit 11 is marked confidential to be sufficient grounds to exclude it. We therefore overrule the Assessor's objections.

### SUMMARY OF CONTENTIONS

9. Young's case:
  - a. There have been some improvements in the marketability of the subject property's neighborhood, so Young does not necessarily disagree with the subject's assessed value. The reason he did not withdraw this appeal is because he wanted to bring the Assessor's use of three different valuation methods to the Board's attention. The Assessor is using different methods to assess properties that are virtually identical, and it is creating inconsistency throughout the township. Some of the properties, including the subject, are assessed on a front foot basis, while other properties are assessed using a square foot rate. The Assessor may be using the wrong method of assessing residential property. The subject's area is zoned commercial, but it is assessed as residential. Only one lot on the block is assessed as commercial property—a 3.85-acre property with a commercial building that is assessed for \$7,500 when it is probably a \$200,000 property. So, maybe the properties should all be assessed using the commercial method. *Young testimony; Pet'r Ex. 2E.*
10. The Assessor's case:
  - a. The Assessor recommends no change in the assessment. *Metz testimony.*

### ANALYSIS

11. Young failed to make a prima facie case for reducing the property's 2017 assessment. 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); 2021 REAL PROPERTY ASSESSMENT MANUAL at 2, 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. Evidence in an assessment appeal should be consistent with that standard. For example, market value-in-use appraisals that comply with the Uniform Standards of Professional Appraisal Practice often will be probative. *Id.* See also *Kooshtard Property VI, LLC v. White River Twp. Ass'r*, 836 N.E.2d 501, 506 n.6 (Ind. Tax

Ct.2005). Cost or sales information for the property under appeal may also be used, as well as sales or assessment information for comparable properties, and any other information compiled according to generally accepted appraisal principles. *Id.* See also I.C. § 6-1.1-15-18 (allowing parties to offer evidence of comparable properties' assessments in property tax appeals but explaining that the determination of comparability must be made in accordance with generally accepted appraisal and assessment practices). Regardless of the type of valuation evidence used, a party must also 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 this appeal is January 1, 2017. Ind. Code § 6-1.1-2-1.5(a).

- c. Young does not necessarily disagree with the subject's assessed value, and he did not request that it be lowered to any specific value. His disagreement stems from the Assessor's use of different valuation methods. However, Young's argument goes solely to the methodology used by the Assessor. Even if the Assessor made errors, simply attacking her methodology is insufficient. To successfully make a case for a lower assessment, a taxpayer must use market-based evidence to "demonstrate that their suggested value accurately reflects the property's true market value-in-use." *Eckerling v. Wayne Co. Ass'r*, 841 N.E.2d at 674, 678 (Ind. Tax Ct. 2006). Because Young failed to do so, he did not make a prima facie case for reducing the assessment.

#### FINAL DETERMINATION

In accordance with the above findings of fact and conclusions of law, we find for the Assessor and order no change to the 2017 assessment.

ISSUED: 12/27/2021

  
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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>>.