

REPRESENTATIVE FOR THE PETITIONERS: Jeffrey Baker, *pro se*

REPRESENTATIVE FOR THE RESPONDENT: Eric Grossman, Tippecanoe County
Assessor

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

Jeffrey D. & Julia E. Baker,)	Petition Nos.: 79-032-21-1-4-01107-22
)	79-032-22-1-5-01079-22
Petitioners,)	
)	Parcel No.: 79-11-05-202-019.000-032
v.)	
)	County: Tippecanoe
Tippecanoe County Assessor,)	
)	Assessment Years: 2021 & 2022
Respondent.)	
)	

August 7, 2023

FINAL DETERMINATION

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

INTRODUCTION

1. The Petitioners appealed the 2021 and 2022 assessments of their residential property in Tippecanoe County. The Assessor had the burden of proof. The Assessor offered appraisals prepared in accordance with the Uniform Standards of Professional Appraisal Practice (“USPAP”) that provided reliable, market-based opinions of the subject property’s market value-in-use for each date at issue. The Petitioners failed to offer any probative evidence supporting different values. Accordingly, we find for the Assessor and order no change to assessments for either year under appeal.

PROCEDURAL HISTORY

2. The Petitioners appealed the 2022 assessment year on June 14, 2022. They also appealed the 2021 assessment year, but the exact date of filing is not in the record because the Form 130 does not have a file stamp and the date of signature box is blank. The appeals were for a property located at 2802 Duroc Drive in Lafayette.
3. The Tippecanoe County Property Tax Assessment Board of Appeals (“PTABOA”) sustained the assessments at:

2021	Land: \$18,800	Improvements: \$112,800	Total: \$131,600
2022	Land: \$18,800	Improvements: \$118,100	Total: \$136,900.
4. On May 9, 2023, Dalene McMillen, the Board’s Administrative Law Judge (“ALJ”), held a telephonic hearing. Neither the Board nor the ALJ inspected the property.
5. Jeffrey Baker, Tippecanoe County Assessor Eric Grossman, and Appraiser Deborah Lewellen all testified under oath.
6. The Petitioners offered no exhibits:
7. The Respondent offered the following exhibits:

For 2021:

- Respondent Exhibit 1: 2021 subject property narrative,
- Respondent Exhibit 2: 2021 subject property record card,
- Respondent Exhibit 3: Residential appraisal report of the subject property prepared by Deborah Lewellen with an effective date of January 1, 2021.

For 2022:

- Respondent Exhibit 1: 2022 subject property narrative,
- Respondent Exhibit 2: 2022 subject property record card,
- Respondent Exhibit 3: Residential appraisal report of the subject property prepared by Deborah Lewellen with an effective date of January 1, 2022.

8. The record also includes the following: (1) all pleadings and documents filed in these appeals, (2) all orders, and notices issued by the Board or ALJ; and (3) the digital recording of the hearing.

FINDINGS OF FACT

9. The subject property is a one-story wood frame duplex built in 1994 located in Lafayette. *Grossman testimony; Resp't Ex. R2.*
10. The Assessor engaged Deborah Lewellen of Appraisals by Deb Lewellen, Inc. to appraise the retrospective market value of the subject property as of January 1, 2021, and January 1, 2022. She certified that her appraisals complied with the Uniform Standards of Professional Appraisal Practice ("USPAP"). To arrive at her opinions of value, Lewellen developed the sales-comparison approach and income approach. She looked for sale and rent comparables of duplexes near the subject. She adjusted the comparables for factors such as bathrooms, garage, and fireplace. For 2021, she arrived at a value of \$175,000 under both approaches. For 2022, she concluded to a value of \$179,500 under the income approach and \$179,000 under the sales-comparison approach. She reconciled these conclusions to values of \$175,000 as of January 1, 2021, and \$179,000 as of January 1, 2022. *Lewellen testimony; Resp't Exs. 3.*

PETITIONER'S CONTENTIONS

11. The Petitioners claimed that the subject property's assessed value increased from \$111,500 in 2020 to \$131,600 in 2021 or 18.03%. For this reason, they believe the Assessor should have the burden because the 2021 assessment increased more than 5% over the previous year. *Baker testimony.*
12. The Petitioners contended the appraisals submitted by the Assessor are flawed because they were drive-by with no interior inspections, therefore Lewellen could not testify to the interior condition of the duplex. The Petitioners also criticized the lack of

adjustments for location and proximity to railroad tracks. Finally, they took issue with Lewellen redacting the address of a comparable because the comparable could not be verified for accuracy. *Baker testimony*.

RESPONDENT'S CONTENTIONS

13. The Assessor agreed the county should have the burden of proof because the subject property's assessment increased by more than 5% in 2021 over the previous year. *Grossman testimony; Resp't Exs. 1 & 2.*
14. Based on Lewellen's appraisals, the Assessor argued that the subject property was not over-assessed for either year under appeal. He requested the 2021 and 2022 assessments be sustained. *Grossman testimony.*

BURDEN OF PROOF

15. Generally, an assessment determined by an assessing official is presumed to be correct. 2021 REAL PROPERTY ASSESSMENT MANUAL at 3; Indiana Code § 6-1.1-15-20(a) (effective March 21, 2022). The petitioner has the burden of proving the assessment is incorrect and what the correct assessment should be. *Eckerling v. Wayne Twp. Ass'r*, 841 N.E.2d 674, 678 (Ind. Tax. Ct. 2006). In this case, the Assessor has averred he has the burden of proof, and the Board will accept that premise without further analysis.

ANALYSIS

16. Real property is assessed based on its market value-in-use. Ind. Code § 6-1.1-31-6(c); 2021 REAL PROPERTY ASSESSMENT MANUAL at 2. As discussed above, the Assessor has the burden proof. In order to meet its burden, a party "must present objectively verifiable, market-based evidence" of the value of the property. *Piotrowski v. Shelby Cty. Assessor*, 177 N.E.3d 127, 132 (Ind. Tax Ct. 2021) (citing *Eckerling v. Wayne Twp. Assessor*, 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 regulations.” *P/A Builders & Developers, LLC v. Jennings County Assessor*, 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.3d at 133.

17. 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. Assessor*, 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).

18. Here, the Assessor provided market-based evidence in the form of the Lewellen appraisal. She concluded to values of \$175,000 as of January 1, 2021, and \$179,000 as of January 1, 2022. We find her opinions to be generally reliable. The Petitioners made three main criticisms of the appraisals: (1) the values are unreliable because the appraiser did not perform interior inspections, (2) Lewellen should have made adjustments for location and proximity to railroad tracks, and (3) one of the addresses of the comparables was redacted and thus the appraisals could not be verified for accuracy. We address each in turn. First, although an interior inspection can be beneficial, it is not required. Moreover, the Petitioners did not introduce any reliable evidence showing that inspecting the interiors would have altered Lewellen’s opinion of value. As to the second point, although the Petitioners implied that Lewellen should have made different adjustments, they did not introduce any reliable, market-based evidence showing that such adjustments were necessary. Statements that are unsupported by probative evidence are conclusory and of no value to the Board in making its determination. *Whitley Products, Inc. v. State*

Bd. of Tax Comm'rs, 704 N.E.2d 1113, 1118 (Ind. Tax Ct. 1998). Finally, we note that Lewellen explained that the owner of the redacted comparable requested their information be kept confidential. If the Petitioners believed the information was necessary to their case, they should have engaged in the discovery process as permitted by 52 IAC 4-8-3 and requested it. For these reasons, we find the Lewellen appraisals persuasive evidence of the subject property's market value-in-use for each date at issue.

19. We now turn to whether the Petitioners provided reliable evidence supporting a different value. While the Petitioners made claims as to condition of the area and issues with the location, they did not support these claims with probative, market-based evidence. To make a case, a taxpayer must show the current assessment does not accurately reflect the subject property's market value-in-use. *P/A Builders and Developers, LLC v. Jennings Co. Ass'r*, 842 N.E.2d 899, 900 (Ind. Tax Ct. 2006). To do that, a taxpayer must present "objectively verifiable, market-based evidence." *Piotrowski BK #5643, LLC v. Shelby Cnty Ass'r*, 177 N.E.3d 127 (Ind. Tax Ct. 2021). The Petitioners did not provide any market-based evidence compiled according to generally accepted appraisal principles to support their claims. Thus, we cannot find the Petitioners have made a case for different values.
20. Lewellen's conclusions of \$175,000 and \$179,000 are more than the current assessments, but the Assessor did not ask to raise them. For this reason, we decline to do so.

SUMMARY OF FINAL DETERMINATION

21. The Board orders no change to the 2021 and 2022 assessments.

The Final Determination of the above captioned matter is issued by the Indiana Board of Tax Review on the date written above.



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>>.