

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

Petition: 47-011-12-1-5-00010
Petitioners: Robert L. and Rohnda F. Ball
Respondent: Lawrence County Assessor
Parcel: 47-06-04-421-017.000-011
Assessment Year: 2012

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

Procedural History

1. Robert and Rohnda Ball appealed their assessment to the Lawrence County Property Tax Assessment Board of Appeals (“PTABOA”), which issued its determination on August 2, 2013. The Balls responded by timely filing a Form 131 petition with the Board. They elected to proceed under our small claims rules.
2. On February 18, our designated administrative law judge, Gary Ricks (“ALJ”), held a hearing on the Balls’ petition. Neither he nor the Board inspected the property.
3. The following people were sworn as witnesses: Robert Ball; Kirk Reller, technical advisor to the Lawrence County Assessor¹; and April Stapp Collins, Lawrence County Assessor.
4. The subject property is a single-family residence located at 130 8th Street in Oolitic.
5. The PTABOA determined the following values:
Land: \$5,800 Improvements: \$120,500 Total: \$126,300.
6. The Petitioner asked for the following assessment:
Land: \$5,800 Improvements: \$115,200 Total: \$121,000.

¹ The Assessor purported to have Reller represent her. Reller did not affirmatively show he is authorized to practice before us. While he may qualify as a local government representative, he did not file the required verification. *See* 52 IAC 2-2-4 (defining who is an authorized representative); *see also*, 52 IAC 1-1-3.5 (defining who may be a local government representative and laying out verification requirements). Nonetheless, we have allowed him to represent the Assessor in previous appeals, and the ALJ allowed him to present the Assessor’s case in this appeal. In addition, the Assessor attended the hearing. Under those circumstances, we impute Reller’s actions to the Assessor. We remind both Reller and the Assessor to comply with our procedural rules in the future.

7. The official record of this hearing includes the following:

a. A digital recording of the hearing.

b. Exhibits;

Petitioners Exhibit A: Appraisal of the subject property by Bruce W. Jones, dated January 18, 2013.

Respondent Exhibit 1: Form 130, filed 1/28/2013,

Respondent Exhibit 2: Form 115, dated 8/2/2013,

Respondent Exhibit 3: Form 131 received by the Assessor on 9/16/2013,

Respondent Exhibit 4: Property Record Card ("PRC") for parcel 47-06-04-421-017.000-011, printed 1/28/13,

Respondent Exhibit 5: PRC for parcel 47-06-04-421-017.000-011, printed 1/11/16,

Respondent Exhibit 6: Five photographs of the subject property.²

Board Exhibit A: Form 131 petition with attachments,

Board Exhibit B: Hearing notice,

Board Exhibit C: Hearing sign-in sheet.

c. These Findings and Conclusions.

The Balls' Contentions

8. The property is assessed too high based on an appraisal performed by Bruce Jones, a trainee appraiser, under the supervision of William Lane, a certified general appraiser. *Ball argument; Pet'rs Ex. 1.*

9. Jones certified he prepared the appraisal in accordance with Uniform Standards of Professional Appraisal Practice ("USPAP"). He estimated the property's market value at \$121,000 as of January 18, 2013. He developed both the cost and sales-comparison approaches to value in reaching his conclusion. He determined that the sales-comparison approach was the best indicator of the property's value, although he believed the cost approach supported his conclusions.

10. Jones used three sales in his sales-comparison analysis. They were from February, June, and September 2012 and sold for prices ranging from \$90,000 to \$165,000. He adjusted the sale prices to account for various ways in which the properties differed from the subject property. Although his report indicates that he considered adjustments for time-related differences in the market between the sale dates and his appraisal's effective date,

² The Assessor withdrew her Exhibit 7.

he did not adjust any of the sale prices for that reason. The adjusted prices ranged from \$119,000 to \$129,900. Jones weighed the sales according to their relative comparability to the subject property and settled on a value of \$121,000. *Pet'rs. Ex. 1; see also Ball testimony.*

The Assessor's Contentions

11. The assessment is correct. The property was assessed using Indiana's real property assessment guidelines, which are incorporated into the Assessor's state-approved mass-appraisal software. Thus, the assessment is presumptively correct, and the Balls had the burden of proving otherwise through probative, objective evidence that is trended to the March 1, 2012 valuation date. *Reller testimony and argument.*
12. Jones estimated the property's value as of a date outside the relevant time frame for this appeal. Two of the three sales from his sales-comparison analysis were likewise outside that time frame. Thus, the Balls did not offer sufficient trended evidence to meet their burden of proof. *Reller argument.*

Burden of Proof

13. 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).*
14. Neither circumstance applies here. The assessment decreased between 2011 and 2012, dropping from \$135,700 to \$126,300. So the Balls have the burden.

Analysis

15. Indiana assesses real property based on its true tax value, which does not mean fair market value, but rather the value determined under the rules of the Department of the Local Government Finance ("DLGF"). I.C. § 6-1.1-3-16(c). The DLGF's 2011 Real Property Assessment Manual defines true tax value as "the 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." 2011 REAL PROPERTY ASSESSMENT MANUAL 2 (incorporated by reference at 50 IAC 2.4-1-2).
16. Evidence in a tax appeal should be consistent with that standard. For example, a market-value-in-use appraisal prepared in accordance with USPAP often will be probative. *See*

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). A party may also offer actual construction costs, sale or assessment information for the property under appeal or comparable properties, and any other information compiled according to generally accepted appraisal principles. See *Eckerling v. Wayne Twp. Ass'r*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006); see also, I.C. § 6-1.1-15-18 (allowing parties to offer evidence of comparable properties' assessments to determine an appealed property's market value-in-use).

17. Regardless of the method used, a party must explain how its evidence relates to the relevant valuation date. *O'Donnell v. Dep't of Local Gov't Fin.*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006); *Long v. Wayne Twp. Ass'r*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). For 2012 assessments, that valuation date was March 1, 2012.
18. The Balls offered Jones' USPAP-compliant appraisal in which he valued the subject property at \$121,000. He relied on two generally accepted valuation approaches in reaching his conclusions. And he estimated a value as of a date approximately 10½ months after the relevant March 1, 2012 valuation date. We have repeatedly found that appraisals from within a year of the relevant valuation date are sufficiently time-related to at least prima facie show a property's true tax value. The relationship is even stronger here, where Jones apparently concluded that the market was stable between February 2012 and his appraisal's effective date.
19. Of course, the relationship is not unassailable. The Assessor could have offered evidence to show a change in market conditions. But she did not do so. Given that she also failed to offer any countervailing valuation evidence of her own, we find the property's true tax value was \$121,000 as of March 1, 2012.

Conclusion

20. Through Jones' appraisal, the Balls made a prima facie case for reducing the assessment to \$121,000. The Assessor failed to impeach or rebut that appraisal.

Final Determination

In accordance with these findings of fact and conclusions of law, the 2012 assessment must be changed to \$121,000.

Issued: May 18, 2016

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 within forty-five (45) days of 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>.