

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

**Petition:** 91-010-19-1-5-00262-20  
**Petitioner:** David Cox  
**Respondent:** White County Assessor  
**Parcel:** 91-83-16-000-004.100-010  
**Assessment Year:** 2019

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

**Procedural History**

1. The Petitioner initiated his 2019 assessment appeal with the White County Assessor on June 14, 2019.
2. On February 26, 2020, the White County Property Tax Assessment Board of Appeals (PTABOA) issued its determination denying the Petitioner any relief.
3. The Petitioner timely filed a Petition for Review of Assessment (Form 131) with the Board, electing the Board's small claims procedures.
4. On May 11, 2021, Administrative Law Judge (ALJ) Joseph Stanford held the Board's administrative hearing. Neither the Board nor the ALJ inspected the property.
5. David Cox appeared *pro se*. Scott Potts appeared for the Respondent.<sup>1</sup> Both were sworn and testified.

**Facts**

6. The property under appeal is a residential property located at 5721 East Bass Center Road in Monticello.
7. The PTABOA determined a 2019 assessment of \$201,300 (land \$133,800 and improvements \$67,500).
8. On his Form 131, the Petitioner requested an assessment of \$75,000 (land \$50,000 and improvements \$25,000). At the hearing, the Petitioner "agreed" with the \$95,000 estimate of value indicted in the Respondent's appraisal.

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<sup>1</sup> Mr. Potts submitted documentation that he is certified by the Department of Local Government Finance (DLGF) "under IC 6-1.1-31.7 as a professional appraiser authorized to provide technical assistance to White County in connection with ongoing assessment activities."

## Record

9. The official record for this matter is made up of the following:
- a) A digital recording of the hearing.
  - b) Exhibits:
    - Petitioner Exhibit 1: Department of Natural Resources Floodplain Analysis and Regulatory Assessment.
    - Respondent Exhibit A: Appraisal report of the subject property as of January 1, 2019, prepared by Gregory D. Vogel II.
  - c) The record also includes the following: (1) all pleadings and documents filed in this appeal; (2) all orders and notices issued by the Board or ALJ; and (3) these findings and conclusions.

## Contentions

10. Summary of the Petitioner's case:
- a) The subject property's current assessment is incorrect. However, the Petitioner "agrees" with the \$95,000 estimate of value indicted in the Respondent's appraisal. *Cox testimony (referencing Resp't Ex. A).*
  - b) The subject property was a "foreclosure house" that the Petitioner purchased for "\$53,000 or \$55,000." As indicated in the appraisal, the property is located in a flood plain and "on the river." *Cox testimony; Pet'r Ex. 1.*
11. Summary of the Respondent's case:
- a) The subject property is currently over-assessed. The Respondent offered a Uniform Standards of Professional Appraisal Practice (USPAP) compliant appraisal prepared by certified appraiser Gregory Vogel II. Mr. Vogel valued the property utilizing the sales comparison approach. Based on his appraisal, Mr. Vogel estimated the value of the property to be \$95,000 as of January 1, 2019. The Respondent concedes the assessment should be reduced to this amount. *Potts testimony; Resp't Ex. A.*

## Burden of Proof

12. Generally, the taxpayer has the burden to prove that an assessment is incorrect and what the correct assessment should be. *See Meridian Towers East & West v. Washington Twp. Ass'r*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also Clark v. State Bd. of Tax*

*Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998). The burden-shifting statute creates two exceptions to that rule.

13. First, Ind. Code § 6-1.1-15-17.2 “applies to any review or appeal of an assessment under this chapter if the assessment that is the subject of the review or appeal is an increase of more than five percent (5%) over the assessment for the same property for the prior tax year.” Ind. Code § 6-1.1-15-17.2(a). “Under this section, the county assessor or township assessor making the assessment has the burden of proving that the assessment is correct in any review or appeal under this chapter and in any appeal taken to the Indiana board of tax review or to the Indiana tax court.” Ind. Code § 6-1.1-15-17.2(b).
14. Second, Ind. Code § 6-1.1-15-17.2(d) “applies to real property for which the gross assessed value of the real property was reduced by the assessing official or reviewing authority in an appeal conducted under IC 6-1.1-15.” Under those circumstances, “if the gross assessed value of real property for an assessment date that follows the latest assessment date that was the subject of an appeal described in this subsection is increased above the gross assessed value of the real property for the latest assessment date covered by the appeal, regardless of the amount of the increase, the county assessor or township assessor (if any) making the assessment has the burden of proving that the assessment is correct.” Ind. Code § 6-1.1-15-17.2(d).
15. Here, the Respondent accepted the burden of proof, conceding that the assessment increased 29% from 2018 to 2019. Therefore, the burden shifting provisions of Ind. Code § 6-1.1-15-17.2 apply and the burden rests with the Respondent.

### **Analysis**

16. The Respondent conceded, and the Petitioner agreed, that the assessment should be reduced to \$95,000.
  - a) Real property is assessed based on its market value-in-use. Ind. Code § 6-1.1-31-6(c); 2011 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.4-1-2). The cost approach, the sales comparison approach, and the income approach are three generally accepted techniques to calculate market value-in-use. Assessing officials primarily use the cost approach, but other evidence is permitted to prove an accurate valuation. Such evidence may include actual construction costs, sales information regarding the subject or comparable properties, appraisals, and any other information compiled in accordance with generally accepted appraisal principles.
  - b) Regardless of the method used, a party must explain how the 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); *see also Long v. Wayne Twp. Ass'r*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). For a 2019 assessment, the valuation date was January 1, 2019. *See* Ind. Code § 6-1.1-2-1.5.

- c) As previously stated, the Respondent had the burden of proof. Mr. Potts offered a USPAP-compliant appraisal prepared by certified appraiser Gregory Vogel II. In completing his appraisal, Mr. Vogel developed the sales comparison approach and valued the property at \$95,000 as of January 1, 2019. An appraisal performed in conformance with generally recognized appraisal principles is often enough to establish a prima facie case. *Meridian Towers*, 805 N.E.2d at 479. Mr. Potts conceded to lowering the 2019 assessment to \$95,000.
- d) The Petitioner agreed with Mr. Vogel's estimate of value. Thus, the Board orders the 2019 assessment be reduced to \$95,000.

### Conclusion

17. The Board finds that the assessment must be reduced to \$95,000.

### Final Determination

In accordance with the above findings and conclusions, the assessment must be reduced to \$95,000.

ISSUED: August 4, 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>.