

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

Petition: 91-021-19-1-5-00263-20
Petitioner: David Cox
Respondent: White County Assessor
Parcel: 91-73-33-000-016.800-021
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.¹ Both were sworn and testified.

Facts

6. The property under appeal is a residential property located at 417 West Broadway in Monticello.
7. The PTABOA determined a 2019 assessment of \$84,300 (land \$10,100 and improvements \$74,200).
8. On his Form 131, the Petitioner requested a total assessment of \$37,500 (land \$7,500 and improvements \$30,000).

¹ 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: Eight photographs of the subject property,
 - Petitioner Exhibit 2: 2021 Notice of Assessment (Form 11),
 - Petitioner Exhibit 3: Sales disclosure for 400 West Broadway,
 - Petitioner Exhibit 4: Property record card for 426 West Broadway,
 - Petitioner Exhibit 5: Sales disclosure for 517 West Broadway,
 - Petitioner Exhibit 6: Sales disclosure for 521 West Broadway.

 - Respondent Exhibit A: Sheriff's Deed dated August 4, 2015,
 - Respondent Exhibit B: Sales disclosure form for the subject property.
 - 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 assessment is too high. The house is uninhabitable and has been vacant for eight years. The Petitioner mainly uses the yard to "store stuff." *Cox testimony.*
 - b) The Petitioner purchased the property in 2015 for \$33,000 at a Sheriff's sale. He acknowledged that price was "cheaper" than if he had purchased it on the open market. The house is in extremely poor condition. The water pipes are broken, and the home lacks electric and gas meters. The bathrooms are not functional. Remodeling was attempted, but the work was substandard. No income is derived from the property. *Cox testimony; Pet'r Ex. 1.*
 - c) After the Petitioner submitted photographs of the property, the PTABOA realized it was "overpriced." Thus, for the January 1, 2021, assessment date, the assessment was lowered to \$69,100. *Cox testimony; Pet'r Ex. 2.*
 - d) The sale prices of other properties in the neighborhood are lower than the subject property's assessment. 400 West Broadway sold for \$43,000 on April 17, 2019. 426 West Broadway sold for \$18,000 on September 27, 2012. 517 West Broadway sold for \$37,500 on May 8, 2009. And 521 West Broadway sold for \$31,000 on January 15, 2014. *Cox testimony; Pet'r Ex. 3, 4, 5, 6.*

11. Summary of the Respondent's case:
 - a) The assessment increased from 2018 to 2019 because of "a change in the neighborhood factor" based on an analysis of "sales from year to year." *Potts testimony*.
 - b) The Petitioner's \$33,000 purchase price is not indicative of the property's value. The Petitioner purchased the property at a Sheriff's sale, and therefore it was not an "arm's-length transaction." *Potts argument; Resp't Ex. A, B*.
 - c) The PTABOA's decision to reduce the property's 2021 assessment is not relevant to a 2019 appeal. The same PTABOA simply determined that a change was not warranted in 2019 but was in 2021. *Potts argument*.

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 the assessment increased 9% from 2018 to 2019. Accordingly, the burden shifting provisions of Ind. Code § 6-1.1-15-17.2 apply and the Respondent has the burden of proof.

Analysis

16. The Respondent failed to make a prima facie case the current assessment is correct.
- 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 has the burden of proof. To meet that burden, Mr. Potts explained that the increase in the assessment was because of a change in the neighborhood factor based on an annual analysis of sales. In other words, he argued the increase in the assessment was based on the results of the neighborhood ratio study. However, the Respondent failed to offer any support for the notion that a ratio study may be used to prove that an individual property's assessment reflects its market value-in-use. Indeed, the INTERNATIONAL ASSOCIATION OF ASSESSING OFFICIALS STANDARD ON RATIO STUDIES, which 50 IAC 27-1-44 incorporated by reference, says otherwise:

[A]ssessors, appeal boards, taxpayers, and taxing authorities can use ratio studies to evaluate the fairness of funding distributions, the merits of class action claims, or the degree of discrimination. . . . **However, the ratio study statistics cannot be used to judge the level of appraisal of an individual parcel.** Such statistics can be used to adjust assessed values on appealed properties to a common level.

INTERNATIONAL ASSOCIATION OF ASSESSING OFFICIALS STANDARD ON RATIO STUDIES, VERSION 17.03 Part 2.3 (Approved by IAAO Executive Board 7/21/2007)(bold added, italics in original).

- d) Here, the Respondent's burden is not merely to explain why the assessment increased. Instead, the Respondent must offer probative evidence proving the market value-in-use. *See* Ind. Code § 6-1.1-15-17.2. Because Mr. Potts failed to do that, he failed to make a prima face case that the 2019 assessment is correct. Therefore, the Petitioner

is at least entitled to have his assessment returned to its 2018 level of \$77,200. But, because the Petitioner requested an assessment of \$37,500, the Board's inquiry continues.

- e) In requesting a lower value, the Petitioner first pointed to his purchase of the property at a Sheriff's sale. According to the sales disclosure form, the transaction occurred on August 4, 2015. While the sale of a property can provide evidence of its market value-in-use, a Sheriff's sale transaction is not normally indicative of a property's value because the parties to the sale are not typically motivated. Here, the Petitioner acknowledged that he purchased the property at a "cheaper" price than he would have paid on the open market. Further, even if the transaction was a valid market sale, it occurred well over three years prior to the January 1, 2019, assessment date. Therefore, the sale price lacks probative value.
- f) The Petitioner also offered photographs and testimony regarding the general poor condition of the property. Certainly, the poor condition of the house negatively affects its value. But simply pointing to these issues without any further analysis does little to prove market value-in-use.
- g) Finally, the Petitioner pointed to sale prices for other properties along West Broadway. The Board infers the Petitioner was attempting to use the sales-comparison approach. However, the sales-comparison approach requires more analysis than simply comparing sale prices. The determination of whether properties are comparable using that approach must be based on generally accepted appraisal practices. Conclusory statements that a property is "similar" or "comparable" to another property are not sufficient. *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.*
- h) Here, while the properties appear to be similarly located, the Petitioner failed to make any meaningful comparisons of the properties, and he did not identify or quantify any differences. Therefore, his evidence lacks probative value.
- i) For these reasons, the Petitioner failed to make a case for reducing the assessment below the 2018 level of \$77,200.

Conclusion

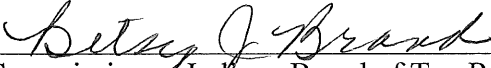
17. The Board orders the 2019 assessment be reduced to the 2018 level of \$77,200.

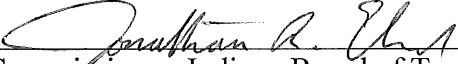
Final Determination

In accordance with the above findings and conclusions, the 2019 assessment must be reduced to \$77,200.

ISSUED: August 4, 2021

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>>.