

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

Petition No.: 04-006-22-1-4-00620-22
Petitioner: Michael Daugherty
Respondent: Benton County Assessor
Parcel: 04-13-20-400-005.000-006
Assessment Year: 2022

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

Procedural History

1. The Petitioner appealed the 2022 assessment of his property located at 1160 West 650 South in Boswell on April 1, 2022.
2. On July 29, 2022, the Benton County Property Tax Assessment Board of Appeals (“PTABOA”) issued a Form 115 valuing the property at \$315,200 for land and \$64,900 for improvements for a total assessment of \$380,100.
3. The Petitioner timely appealed to the Board, electing to proceed under the small claims procedures.
4. On May 11, 2023, Dalene McMillen, the Board’s Administrative Law Judge (“ALJ”), held a hearing in Fowler. Neither the Board nor the ALJ inspected the property.
5. Michael Daugherty, owner, appeared *pro se*. Sara Cantu, Deputy Assessor, appeared for the Assessor. Both were sworn and testified under oath.

Record

6. The parties submitted the following exhibits:

Petitioner Exhibit 1: Indiana Tax Court certified record of administrative proceeding for *Michael Daugherty v. Benton County Assessor*, 21T-TA-00026.

Respondent Exhibit 1: Respondent write-up,

- Respondent Exhibit 2: Notification of Final Assessment Determination – Form 115,
Respondent Exhibit 3: Petition for Review of Assessment Before the Indiana Board of Tax Review – Form 131,
Respondent Exhibit 4: Sales disclosure form for subject property dated June 6, 2012,
Respondent Exhibit 5: Sales disclosure form for subject property dated November 22, 2013,
Respondent Exhibit 6: Assessor’s PTABOA exhibits: Assessor’s write-up, Taxpayer’s Notice to Initiate an Appeal – Form 130, subject property record card, land types, aerial map, Business Tangible Personal Property Return – Form 103-Short (**Confidential**), and Business Tangible Personal Property Return – Form 104.

- Respondent Rebuttal Exhibit 1: Petitioner’s reason for appealing assessment,
Respondent Rebuttal Exhibit 2: Subject property record card,
Respondent Rebuttal Exhibit 3: Owner & tax bill history and property record card for parcel #04-13-18-300-016.000-006.¹

- a) 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) a digital recording of the hearing.

Findings of Fact

7. The subject property is a racetrack with a general retail area, nine utility sheds, restroom, and bleachers on 25.783 acres. *Pet’r Ex. 1 at 14; Resp’t Ex. 6.*
8. The Petitioner purchased the subject property on November 27, 2013, for \$154,500. *Daugherty testimony; Resp’t Ex. 5.*

Contentions

9. Summary of the Petitioner’s case:
- a) The Petitioner claimed the subject property was over-assessed. In support of this, he testified that he purchased the property in 2013 for \$154,500. He argued that although it had increased in value some since then, it had not increased to the level of the current assessment. The Petitioner also argued that the land type should be changed to reflect additional acreage located in the flood plain. *Daugherty testimony.*

¹ Included with the Respondent’s rebuttal exhibits was a page titled Respondent Rebuttal Write-up.

- b) Daugherty testified there was no interest after the subject property was listed for sale as a “turnkey” racetrack with a liquor license for \$599,000. *Daugherty testimony; Pet’r Ex. 1 at 19-21.*
 - c) In addition, Daugherty presented information on two other properties in the same county. These included a golf course and an agricultural property. He pointed out that the assessments were significantly lower than the subject property and argued that this demonstrated the subject property was over-assessed. *Daugherty testimony; Pet’r Ex. 1 at 32 & 35.*
10. Summary of the Respondent’s case:
- a) The Assessor claimed the subject property is assessed correctly. Cantu testified that the land was classified as primary, secondary, public road, legal ditch, undeveloped usable, and undeveloped unusable land. She also noted that the assessment included a 50% negative influence factor to some of the acreage to account for the flood plain. *Cantu testimony; Resp’t Ex. 6.*

Burden of Proof

- 11. Generally, the taxpayer has the burden of proof when challenging a property tax assessment. Accordingly, the assessment on appeal, “as last determined by an assessing official or the county board,” will be presumed to equal “the property’s true tax value.” Indiana Code § 6-1.1-15-20(a) (effective March 21, 2022).
- 12. However, the burden of proof shifts if the property’s assessment “increased more than five percent (5%) over the property’s assessment for the prior tax year.” I.C. § 6-1.1-15-20(b). Subject to certain exceptions, the assessment “is no longer presumed to be equal to the property’s true tax value, and the assessing official has the burden of proof.” *Id.*
- 13. If the burden has shifted, and “the totality of the evidence presented to the Indiana board is insufficient to determine the property’s true tax value,” then the “property’s prior year assessment is presumed to be equal to the property’s true tax value.” I.C. § 6-1.1-15-20(f).
- 14. Here, the current assessment of \$380,100 is not an increase of more than 5% over the previous assessment because it was for the same amount. Thus, the Petitioner has the burden of proof.

Analysis

- 15. The Petitioner failed to make a prima facie case for reducing the assessment.
 - a) The Indiana Board of Tax Review is the trier of fact in property tax appeals, and its charge is to “weigh the evidence and decide the true tax value of the property as

compelled by the totality of the probative evidence before it.” I.C. § 6-1.1-15-20(f). The Board’s conclusion of a property’s true tax value “may be higher or lower than the assessment or the value proposed by a party or witness.” *Id.* Regardless of which party has the initial burden of proof, either party “may present evidence of the true tax value of the property, seeking to decrease or increase the assessment.” I.C. § 6-1.1-15-20(e).

- b) In order to meet its burden of proof, 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.
- c) 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).
- a) The Petitioner argued that the subject property’s land should have been assessed differently. But it is insufficient to simply attack the methodology used to develop the assessment. Instead, parties must use market-based evidence to “demonstrate that the suggested value accurately reflects the property’s true market value-in-use.” *Eckerling v. Wayne Twp. Ass’r*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006).
- b) He did offer some market-based evidence in the form of the 2013 purchase price of \$154,500. The purchase price can be the best evidence of a property’s value. *Hubler Realty Co. v. Hendricks Co. Ass’r*, 938 N.E.2d 311, 315 (Ind. Tax Ct. 2010). But as discussed above, all evidence must be related to the valuation date. And this purchase took place more than eight years prior to the January 1, 2022, valuation date. The Petitioner admitted that the value would have increased since then, but he offered no market-based evidence showing what that increase would have been. For that reason, the purchase price is not probative evidence of the property’s market value-in-use as of the valuation date at issue.

- c) Finally, the Petitioner presented the assessments of two purportedly comparable properties. A party offering sales or assessment data must use generally accepted appraisal or assessment practices to show that the properties from which the data is drawn are comparable to the property under appeal. *See Long*, 821 N.E.2d at 470-71. Conclusory statements that properties are “similar” or “comparable” do not suffice; instead, parties must explain how the properties compare to each other in terms of characteristics that affect market value-in-use. *Id.* They must similarly explain how relevant differences affect values. *Id.* But the Petitioner did not offer the type of analysis contemplated by *Long*. While he identified the assessments of two properties, he did not offer any meaningful evidence about the relevant differences between those properties and the subject property. Nor did he attempt to explain how any relevant differences affected the properties’ values. Without such analysis, this evidence is insufficient to support any reduction in value. For these reasons, we find the Petitioner failed to make a prima facie case for any reduction in the assessment.
- d) Because the Petitioner has not supported his claim with probative evidence, the Respondent’s duty to support the assessment with substantial evidence is not triggered. *Lacy Diversified Indus. v. Dep’t of Local Gov’t Fin.*, 799 N.E.2d 1215, 1221-1222 (Ind. Tax Ct. 2003).

Final Determination

In accordance with the above findings and conclusions, the Board orders no change to the 2022 assessment.

ISSUED: AUGUST 9, 2023



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>>.