

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

Petition: 06-019-23-1-5-00034-24
Petitioner: Bertram Anthony Graves
Respondent: Boone County Assessor
Parcel: 019-10340-65¹
Assessment Year: 2023

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

Procedural History

1. On June 9, 2023, Bertram Anthony Graves filed a Form 130 petition with the Boone County Assessor challenging his property's 2023 assessment. *Ex. 1.* On December 6, 2023, the Boone County Property Tax Assessment Board of Appeals ("PTABOA") held a hearing on Graves' petition and issued a determination sustaining the assessment of \$643,600 (\$74,400 for land and \$569,200 for improvements).
2. Graves filed a Form 131 petition with us on January 18, 2024.² On August 16, 2024, our designated administrative law judge, Joseph Stanford ("ALJ"), held a telephonic hearing on Graves' petition. Neither he nor the Board inspected the property. Graves and Jennifer Lasley, the Boone County Assessor, represented themselves and testified under oath.

Record

3. The official record for this matter includes the following:

Exhibit A:	Spreadsheet showing 2022 sales.
Exhibit 1:	Form 130 petition,
Exhibit 2:	Subject property record card,
Exhibit 3:	Spreadsheet showing Austin Oaks-Summerglen sales,
Exhibit 4:	Form 134,
Exhibit 5:	Form 115.

¹ This is the parcel number from Graves' appeal petition and the Form 115 determination issued by the Boone County Property Tax Assessment Board of Appeals. According to the property record card, the state parcel number is 06-08-25-000-001.200-006. *Ex. 1.*

² That is the postmark date on the envelope containing Graves' petition. We received the petition on January 22, 2024.

4. The record also includes: (1) all petitions and other documents filed in this appeal, (2) all notices and orders issued by the Board or the ALJ, and (3) an audio recording of the hearing.

Findings of Fact

5. Graves' property consists of a two-story, single-family home on nearly a half-acre of land. The home was built in 1998 and has 3,400 square feet of finished living area on the two floors. It has five bedrooms and 3 ½ bathrooms. It also has an attic and a 1,533-square-foot finished basement. *Lasley testimony; Ex. 2.*
6. The property is located at 4404 Riverbirch Run in Zionsville, which is part of a neighborhood known as Austin Oaks at Summer Glen. It was assessed for \$581,400 in 2022. In 2023, its assessment increased by 10.7% to \$643,600. *Lasley testimony; Ex. 2.*
7. The Assessor offered a spreadsheet with information about three properties from Austin Oaks at Summer Glen that sold in 2022. The properties all had two-story brick homes built between 2008 and 2014. The homes had between 3,022 and 3,676 square feet of living area, between four and six bedrooms, and 4 ½ bathrooms. They were all of higher construction quality than Graves' home. *Lasley testimony; Ex. 3.*
8. The properties sold for overall prices ranging from \$725,000 to \$802,600, and for unit prices ranging from \$222.38/SF to \$243.33/SF, with an average unit price of \$235.20/SF. The Assessor did not adjust any of the sale prices to account for differences between the three properties and Graves' property. Instead, she multiplied the average unit price by the 3,400 square feet of living area in the Graves' home to reach a value of \$799,680. Although she normally counts attic space as the equivalent of 40% of finished living area, she did not include the attic space from Graves' home in her analysis. *Lasley testimony; Ex. 3.*
9. The Assessor's analysis did not constitute an appraisal, and she did not comply with generally accepted appraisal principles.
10. For his part, Graves offered a spreadsheet addressing ten brick homes from the Austin Oaks area that sold in 2022. He included the following information about each property: the number of levels; the home's above-grade living area, the total area that was advertised, including things like finished basements; the year the home was built; the number of bathrooms, the quality grade assigned by the Assessor, and the size of the lot. The properties sold for overall prices ranging from \$680,000 to \$975,000 and unit prices ranging from \$205.29/SF to \$273.49/SF. *Graves testimony; Ex. A.*
11. Graves applied a "normalization" adjustment to each sale price to account for differences between the properties. To explain his adjustment, Graves pointed to one of the sales: 4401 Riverbirch Run, which is located across the street from his home. That property sold for \$802,000 on March 11, 2022. The Assessor lists that property as having 3,298 square feet. But the home was advertised as having 5,325 square feet because it had a

furnished basement being used as living space. Based on this 2,027-square-foot difference as well as on other unspecified “parameters,” Graves computed an adjustment of \$152,644. Subtracting that adjustment from the original sale price left an adjusted sale price of \$649,357 and an adjusted unit price of \$196.89/SF. *Graves testimony; Ex. A.*

12. The average of Graves’ adjusted unit prices was \$193.48/SF. He multiplied that unit price by his home’s 3,400 square feet of living area to reach a value of \$646,816.³ He then pointed to the Assessor’s statement that attic space should be measured at 40% of the space on the first two floors. Graves reasoned that if he increased his “0.5%” adjustment⁴ by another 10%, the resulting value would be close to \$580,000. *Graves testimony; Ex. A.*
13. Graves’ analysis did not constitute an appraisal, and he did not comply with generally accepted appraisal principles.

Parties’ Contentions

A. The Assessor’s Contentions

14. As discussed below, the Assessor conceded she had the burden of proof. But her analysis of sales from Austin Oaks at Summer Glen suggested that the assessment was too low. According to the Assessor, if she had included sales from Autumnwood, as Graves had suggested doing in an earlier conversation, the value would increase to \$816,375. But she did not ask us to raise Graves’ assessment, reasoning that doing so would penalize him for filing an appeal. *Lasley argument.*

B. Graves’ Contentions

15. Graves argued that while the unit price for which comparable properties have sold may be relevant, one must also consider differences between properties, such as differences in location and the amount of finished living area. And Graves claims the Assessor did not account for those differences. Instead, based on his analysis and on his belief that assessments had increased rapidly since the COVID-19 pandemic, Graves requested that his assessment be reduced. *Graves argument.*

Conclusions of Law

A. The Assessor conceded that she had the burden of proof.

16. Generally, a taxpayer has the burden of proof when challenging a property’s 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.” I.C. § 6-1.1-15-20(a) (effective March 21, 2022).

³ This appears to be an error. The total should be \$657,832 ($3,400 \times 193.48 = \$657,832$).

⁴ It is unclear what Graves meant when he referred to his “0.5%” adjustment.

17. 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.* 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).
18. Graves' assessment increased by 10.7% between 2022 and 2023, and the Assessor conceded that she had the burden of proof.

B. The totality of the evidence does not suffice to show the property's true tax value.

19. We are the trier of fact in property tax appeals, and our 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 us. I.C. § 6-1.1-15-20(f). Our conclusion "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).
20. True tax value does not mean "fair market value" or "the value of the property to the user." I.C. § 6-1.1-31-6(c), (e). Instead, it is determined under the rules of the Department of Local Government Finance ("DLGF"). I.C. § 6-1.1-31-5(a); I.C. § 6-1.1-31-6(f). The DLGF defines true tax value as "market value-in-use," which it in turn defines as "[t]he 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." 2021 REAL PROPERTY ASSESSMENT MANUAL at 2.
21. To meet its burden of proof, a party "must present objectively verifiable, market-based evidence" of the property's value. *Piotrowski v. Shelby Cty. Ass'r*, 177 N.E.3d 127, 132 (Ind. Tax Ct. 2021) (citing *Eckerling v. Wayne Twp. Ass'r*, 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." *PIA Builders & Developers, LLC v. Jennings Cty. Ass'r*, 842 N.E.2d 899, 900, (Ind. Tax Ct. 2006). This is because the "formalistic application" of the procedures and schedules from the DLGF's assessment guidelines lacks the market-based evidence necessary to establish a specific property's market value-in-use. *Piotrowski*, 177 N.E.3d at 133.
22. 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. Ass'r*, 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. Dep't of Local Gov't. Fin.*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006). For 2023 assessments, the valuation date was January 1, 2023. I.C. § 6-1.1-2-1.5(a).

23. Because the Assessor had the burden of proof, we begin with her evidence. She relied on the unit sale prices for three properties that she characterized as comparable to Graves' property. As Graves correctly argued, however, she did not adjust the purportedly comparable properties' sales prices or otherwise explain how relevant differences between those properties and Graves' property affected their relative values. Her comparative data therefore lacks probative weight. *See Long v. Wayne Twp. Ass'r*, 821 N.E.2d 466, 470-71 (Ind. Tax Ct. 2005) (holding that taxpayers' sales data for other properties lacked probative value where they failed to explain how the characteristics of those properties compared to their property or how any differences affected market value-in-use).
24. Graves' comparative data similarly lacked probative weight. While he recognized that it was necessary to adjust for differences between the properties, he did not clearly explain how he determined his "normalization" adjustment, much less show that it was based on market data.
25. Graves' complaint that his assessment has increased rapidly since the COVID-19 pandemic similarly does little to prove his property's true tax value. Each tax year stands alone, and evidence of a property's assessment in one tax year is not probative of its true tax value in another tax year. *Fleet Supply, Inc. v. State Bd. of Tax Comm'rs*, 747 N.E.2d 645, 650 (Ind. Tax Ct. 2001) (citing *Glass Wholesalers, Inc. v. State Bd. of Tax Comm'rs*, 568 N.E.2d 1116, 1124 (Ind. Tax Ct. 1991)).
26. Because the totality of the evidence does not suffice to prove the true tax value of Graves' property, we must presume that its true tax value equals the previous year's assessment of \$581,400.

Conclusion

27. Graves' assessment increased by more than 5% from 2022 to 2023, and the totality of the evidence does not suffice to show his property's true tax value. We therefore order that the property's 2023 assessment be reduced to its 2022 level of \$581,400.

Date: November 14, 2024

Jonathan R. Elrod
Chairman, Indiana Board of Tax Review

Betsy J. Brand
Commissioner, Indiana Board of Tax Review

Timothy Schuler
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>.