

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

**Petition:** 02-072-19-1-5-01281-19  
**Petitioners:** Anthony & Tamara Green  
**Respondent:** Allen County Assessor  
**Parcel:** 02-08-09-429-007.000-072  
**Assessment Year:** 2019

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

**Procedural History**

1. The Petitioners initiated their 2019 appeal with the Allen County Assessor on May 15, 2019.
2. On November 12, 2019, the Allen County Property Tax Assessment Board of Appeals (PTABOA) issued its determination denying the Petitioners relief.
3. The Petitioners timely filed a Petition for Review of Assessment (Form 131) with the Board.<sup>1</sup>
4. On July 15, 2020, Administrative Law Judge (ALJ) Joseph Stanford held the Board's administrative hearing telephonically. Neither the Board nor the ALJ inspected the property.
5. Anthony and Tamara Green appeared *pro se* via telephone and were both sworn. Attorney Sarah L. Schreiber appeared for the Respondent via telephone. County Assessor Stacey O'Day and Andrew J. Smethers also were present on the call and were both sworn as witnesses for the Respondent.

**Facts**

6. The residential property under appeal is located at 6034 Bellingham Lane in Fort Wayne.
7. The PTABOA determined the 2019 assessment was \$155,200 (land \$20,500 and improvements \$134,700).
8. The Petitioners did not contest the assessed value.

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<sup>1</sup> The appeal was scheduled to be heard according to the Board's small claims procedures, and neither party opted out.

## Record

9. The official record for this matter is made up of the following:
  - a) A digital recording of the hearing.
  - b) 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.<sup>2</sup>

## Contentions

10. Summary of the Petitioners' case:
  - a) The Petitioners argue only gold or silver coin may be accepted for the payment of debt. The Petitioners question why the Respondent "accepts paper money" for the payment of property taxes. *A. Green argument* (citing U.S. Const. art. I, § 10).
  - b) The definition of money "in its usual and ordinary acceptance means gold, silver, or paper money used as a circulating medium of exchange, and does not embrace notes, bonds, evidence of debt, or other personal or real estate." *A. Green argument* (citing *Lane v. Railey*, 133 S.W.2d 74 (Ky. Ct. App. 1939)).
11. Summary of the Respondent's case:
  - a) The Board, an administrative agency created by the Indiana legislature, lacks the jurisdiction and authority to declare Indiana's property tax regime unconstitutional. *Schreiber argument* (citing *Bielski v. Zorn*, 627 N.E.2d 880 (Ind. Tax Ct. 1994); *Steven W. Osborn v. LaPorte Co. Ass'r*, Ind. Bd. of Tax Rev. Pet. No. 46-060-18-1-5-00183-19 (Aug. 28, 2019)).
  - b) Even if the Board had such jurisdiction and authority, the Petitioners' argument lacks merit. The legislature adopted the constitutional authority to impose and collect taxes, and has made it clear the owner of a property is responsible for the payment of property taxes. *Schreiber argument* (citing Ind. Code § 6-1.1-2-4).
  - c) Further, even if the United States and Indiana Constitutions did not allow for the payment of taxes with paper money, prior case law determined the United States Congress lawfully established paper money as a tender for payment of debt, and for all purposes regarding national government or private individuals. *Schreiber argument* (citing *Julliard v. Greenman*, 110 U.S. 421 (1884)).

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<sup>2</sup> Neither party offered any exhibits. The Respondent formally requested that the parties exchange exhibits prior to the hearing pursuant to 52 IAC 4-8-2, and subsequently forwarded exhibits to the Petitioners and the Board. However, the Respondent did not offer any exhibits at the hearing.

## Analysis<sup>3</sup>

12. The Petitioners failed to make a prima facie case.
- 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) The Petitioners did not contest the assessment of the subject property. Instead, they argue paper money is not legal tender for the payment of property taxes, and only gold and silver coin can be accepted.
  - d) At the hearing, the Petitioners did not expressly argue this purported issue renders Indiana's property tax system unconstitutional. They did make that claim on their Form 131. Accordingly, like the Respondent, we infer this was the Petitioners' intended claim.
  - e) The Board is a creation of the Indiana Legislature, and it only has those powers conferred by statute. *Whetzel v. Dep't of Local Gov't Finance*, 761 N.E.2d 904 (Ind. Tax Ct. 2002). The Legislature has limited the types of appeals that are subject to our review to appeals concerning: (1) the assessed valuation of tangible property; (2) property tax deductions; (3) property tax exemptions; or (4) property tax credits; that are made from a determination by an assessing official or county property tax assessment board of appeals to the Indiana board under any law. Ind. Code § 6-1.5-4-1(a). Administrative agencies do not have the authority to declare a statute unconstitutional. *See Bielski*, 627 N.E.2d 880, 887-88 (stating that allegations a statute is unconstitutional are matters solely for judicial determination). Accordingly, we cannot declare Indiana's property tax regime unconstitutional.
  - f) In any event, the case law the Petitioners pointed to does not support their contention. In *Lane*, the Kentucky Court of Appeals did not set out to answer the question of whether currency is a legal form of money, but whether, in the holographic will

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<sup>3</sup> Because the Petitioners did not contest the property's assessed value, and neither party offered any valuation evidence, the burden shifting provisions of Ind. Code § 6-1.1-15-17.2 do not apply.

before it, stocks and bonds were included in the terms “cash” and “funds.” The Court, in fact, acknowledged that “[t]he word ‘money’ in its usual and ordinary acceptation means gold, silver, or *paper money* used as a circulating medium of exchange...” *Lane*, 133 S.W.2d 79 (emphasis added) (citing *Mann v. Mann*, 14 Johns. 1, (N.Y.) 7 Am. Dec. 416).

- g) The Petitioners did not contest their property’s assessed value, and as previously stated, the Board cannot rule Indiana’s property tax system unconstitutional. The Petitioners did not raise any other constitutional challenges regarding due process or equality and uniformity. Therefore, the Petitioners failed to make a prima facie case.

### **Conclusion**

- 13. The Petitioners failed to make a prima facie case. The Board finds for the Respondent.

### **Final Determination**

In accordance with the above findings and conclusions, there is no change to the 2019 assessment.

ISSUED: October 13, 2020

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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>>.