

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

Petition: 28-002-18-1-3-01221-19
Petitioner: Griffin Industries, Inc.
Respondent: Greene County Assessor
Parcel: 28-13-31-000-004.000-002
Assessment Years: 2018

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

PROCEDURAL HISTORY

1. Griffin Industries, Inc. contested the 2018 assessment of its industrial property located on Griffin Road in Newberry. The Greene County Property Tax Assessment Board of Appeals (“PTABOA”) issued its determination valuing the property at \$303,200 for land and \$1,132,000 for improvements for a total of \$1,435,200.
2. Griffin timely filed Form 131 petitions with the Board and elected to proceed under our small claims procedures. On April 1, 2021, Jennifer Thuma, our designated Administrative Law Judge (“ALJ”) held a telephonic hearing on Griffin’s petition. Neither she nor the Board inspected the property.
3. Gregory Poore, Certified Tax Representative represented Griffin. Greene County Attorney Marvin Abshire represented the Assessor. Nick Tillema, MAI and Indiana Certified General Appraiser and Mr. Poore were sworn as witnesses.

RECORD

4. The official record for this matter contains the following:

Petitioner Exhibit A:	Comparable Sales
Petitioner Exhibit B:	Copy of Form 131 for 2018
Respondent Exhibit A:	2018 Pay 2019 Tax Statement
Respondent Exhibit B:	2018 Assessment Card
Respondent Exhibit C:	Notice of Final Assessment Determination
Respondent Exhibit D:	GIS and Site Photographs
Respondent Exhibit E:	Appraisal

5. The record for the matter also includes the following: (1) all pleadings, briefs, motions, and documents filed in these appeals; (2) all notices and orders issued by the Board or our ALJ; and (3) an audio recording of the hearing.

OBJECTION

6. Griffin objected to Respondent's Exhibit E, Tillema's appraisal, arguing that it should be excluded because it valued the property as of March 1, 2020 instead of the valuation date under appeal of January 1, 2018. While this is a flaw in the appraisal, we find it goes to the weight of the evidence rather than its admissibility. Thus, we overrule the objection and admit the exhibit.

BURDEN OF PROOF

7. Generally, a taxpayer seeking review of an assessing official's determination has the burden of proof. Indiana Code § 6-1.1-15-17.2 creates an exception to that general rule and assigns the burden of proof to the assessor in two circumstances--where the assessment under appeal represents an increase of more than 5% over the prior year or where it is above the level determined in a taxpayer's successful appeal of the prior year's assessment. Ind. Code § 6-1.1-15-17.2 (b) and (d).
8. Here, the value of the property increased by 4.9% from 2017 to 2018. Griffin accepted the burden of proof and the Assessor agreed. Thus, Griffin has the burden of proof.

SUMMARY OF CONTENTIONS

9. Griffin's case:
 - a. Griffin contended that the subject property's \$1,435,200 assessment was too high. Instead, it argued the value should be \$950,000. Griffin noted that it was not contesting the agricultural portion of the assessment. Griffin argued that the subject property's older industrial improvements were less valuable. In addition, it argued that the property's rural location made it difficult to reach major highway transportation and adversely impacted its value. *Pet'r. Exs. A, B; Poore testimony.*
 - b. Poore presented a sales-comparison analysis of four industrial properties located in various rural Indiana areas. Poore adjusted the comparable sales for some factors such as age and sale date. But he did little to explain how he developed these adjustments, or why other factors did not require adjustment. Based on these sales, he concluded the building was worth \$6.00/sq. ft. or \$334,140. *Pet'r. Exs. A, B; Poore testimony.*
 - c. Poore then estimated the value of the site improvements at \$360,000 or \$6.50 per square foot, using a Marshall and Swift Cost Estimator. He added together the value for the building, the site improvements, and the assessed value of the agricultural land to arrive at a total of \$950,000. He did not certify that his analysis complied with the

Uniform Standards of Professional Appraisal Practice (“USPAP”). *Pet’r. Ex. B; Poore testimony.*

- d. Griffin also argued that the Assessor’s appraisal contained too many substantive mistakes to be probative. Griffin pointed out that the valuation date for the appraisal was March 1, 2020, while the valuation date for the year under appeal was January 1, 2018. Griffin also argued that his formula for the 112 acres of agricultural land was incorrect. On cross examination, Griffin elicited testimony from Tillema confirming a number of these mistakes. Griffin contended that with the corrected adjustments, Tillema’s appraisal actually supported its requested value of \$950,000. *Pet’r. Exs. A, B; Resp’t. Ex. E; Poore testimony; Tillema testimony.*

10. The Assessor’s case:

- a. The Assessor contended that the subject property’s 2018 assessment of \$1,435,200 was correct. In the alternative, the Assessor asked the Board to adopt the value from Tillema’s appraisal of \$1,425,000.
- b. Nick Tillema, an MAI Appraiser with over 45 years of experience, presented an appraisal of the subject property as of March 1, 2020. He testified that the subject property, as a food processing plant, was a special purpose property.
- c. Tillema developed only the sales-comparison approach. He first valued the land, using sales of six properties that sold in 2019 and 2020. He concluded to a value of \$315,000 for the land. He then valued the improvements. Because there were not many similar sales in the area, he had to use properties from various locations across Indiana, including one near I-465 in Noblesville. He ultimately selected four comparables that sold between December 2015 and January 2021. He adjusted the sales for a number of factors including date of sale, gross building area, and site size. The adjusted sale prices ranged from \$14.98/sq. ft. to \$22.78/sq. ft. *Resp’t. Ex. E; Tillema testimony.*
- d. On cross-examination, Tillema admitted that the appraisal contained a number of mistakes, including an incorrect valuation date, an incorrect valuation of the agricultural land, and an incorrect site size adjustment. Tillema attempted to cure some of these mistakes. For instance, he suggested a downward adjustment of 2% would account for the incorrect valuation date. But he did little to support these conclusions. *Resp’t. Ex. E; Tillema testimony.*

ANALYSIS

11. Griffin failed to meet its burden of proof that the assessment was incorrect. The Board reached this decision for the following reasons:
- a. The goal of Indiana's real property assessment system is to arrive at an assessment reflecting the property's true tax value. 50 IAC 2.4-1-1(c); 2011 REAL PROPERTY ASSESSMENT MANUAL at 3. "True tax value" does not mean "fair market value" or "the value of the property to the user." Indiana Code § 6-1.1-31-6(c), (e). It is instead determined under the rules of the Department of Local Government Finance ("DLGF"). Ind. Code § 6-1.1-31-5(a); Ind. Code § 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." MANUAL at 2.
 - b. Evidence in an assessment appeal should be consistent with that standard. For example, market value-in-use appraisals that comply with the Uniform Standards of Professional Appraisal Practice often will be probative. *See Id. See also Kooshtard Property VI, LLC v. White River Twp. Ass'r*, 836 N.E.2d 501, 506 n.6 (Ind. Tax Ct. 2005). Taxpayers may use cost or sales information for the property under appeal, sales or assessment information for comparable properties, and any other information compiled according to generally accepted appraisal principles. *Id.* In any case, a party must explain how its evidence relates to the property's market value-in-use as of the relevant valuation date. *See 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 the 2018 assessment, the valuation date was January 1, 2018. Ind. Code § 6-1.1-2-1.5(a).
 - c. Griffin primarily relied on the sales comparison analysis presented by its tax representative, Gregory Poore. In order to be probative, valuation evidence must be related to the subject property. Conclusory statements that a property is "similar" or "comparable" to another property do not suffice. *Long*, 821 N.E.2d at 471. Rather, the proponent must identify the characteristics of the subject property and explain how those characteristics compare to the characteristics of a purportedly comparable property. *Id.* at 471. Although Poore adjusted his comparable sales for certain factors, he did little to explain the basis for these adjustments. Nor did he provide sufficient explanation for not adjusting for the numerous factors he rated "similar." In addition, we note that Poore did not certify that his analysis complied with USPAP. He also did not demonstrate that he had sufficient expertise in generally accepted appraisal practices to develop reliable adjustments. Thus, we find Poore's analysis insufficient to support any change in the assessment.
 - d. Griffin also argued that Tillema's appraisal, when adjusted for the admitted flaws, supported its requested value. While a USPAP-compliant appraisal can be the best evidence of value, Tillema's appraisal contained too many errors to be reliable. His

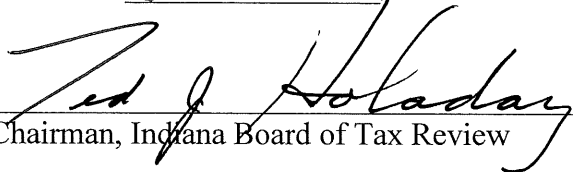
valuation date of March 1, 2020 was incorrect. Although he tried to adjust his final value by estimating a reduction of 2% he did not provide any reliable support for this estimate. Statements that are unsupported by probative evidence are conclusory and provide no assistance to the Board in making its determination. *Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1118 (Ind. Tax Ct. 1998). In addition to this error, Tillema also incorrectly valued the agricultural land, and admitted to other incorrect adjustments. Although Tillema did agree with some of Griffin's conclusions about what his adjustments should have been, taken as a whole, we find his appraisal too unreliable to be probative even with those corrections.

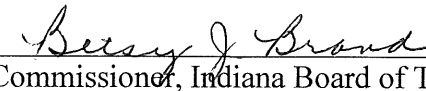
- e. Thus, we find Griffin failed to make a prima facie case for any change in the assessment. When a taxpayer fails to support their claim with probative evidence, the Assessor's duty to support the assessment with substantial evidence is not triggered. *Lacy Diversified Indus. v. Dep't of Local Gov't Fin.*, 799 N.E.2d 1215, 1221-1222 (Ind. Tax Ct. 2003).

FINAL DETERMINATION

- 12. The Board finds for the Assessor and orders no change to the subject property's 2018 assessment.

ISSUED: 6-23-21


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>.