

REPRESENTATIVES FOR THE PETITIONER: Tim Parish, Tax Representative
Christopher Wartman, Attorney

REPRESENTATIVE FOR THE RESPONDENT: Marilyn S. Meighen, Attorney

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

Thomas Miller,)	Petition No.: 53-008-22-1-5-00806-22
)	53-008-21-1-5-00693-21
Petitioner,)	
)	Parcel No.: 53-01-43-513-625.000-008
v.)	
)	County: Monroe
Monroe County Assessor,)	
)	Assessment Years: 2021 and 2022
Respondent.)	

June ^{14th}/₁, 2024

FINAL DETERMINATION

The Indiana Board of Tax Review (“Board”) having reviewed the facts and evidence, and having considered the issues, now finds, and concludes the following:

INTRODUCTION

1. Thomas Miller appealed the 2021 and 2022 assessments of his large, customized, and incomplete residential property in Monroe County. Both parties agreed the subject property was over-assessed, but disagreed on how much. They presented competing valuation opinions from certified appraisers in support of their requested values. The Assessor’s appraiser was more persuasive because she presented more similar comparable properties and better supported her adjustments and overall conclusions.

PROCEDURAL HISTORY

2. On June 14, 2021, Miller appealed the 2021 assessment of his property located at 4753 South Long Hill Drive, Bloomington, 47401. The Monroe County Property Tax Assessment Board of Appeals (“PTABOA”) determined the value at \$2,276,100 for 2021 (\$371,500 for land and \$1,904,600 for improvements). Miller appealed to the Board.
3. On June 14, 2022, Miller appealed the 2022 assessment of the subject property. Miller and the Assessor agreed to forgo the PTABOA heading and proceed directly to the Board. The 2022 assessment is \$2,459,500 (\$371,500 for land and \$2,088,000 for improvements).
4. Beginning on May 3, 2023, Natasha Marie Ivancevich, the Board’s Administrative Law Judge (“ALJ”), held a 2-day, in-person hearing. Neither she nor the Board inspected the subject property. Tim Parish, Ashley Johnson, and Jeffrey Goldin were sworn and testified under oath.
5. The Petitioner offered the following exhibits:
 - Petitioner Exhibit 1: 2021 Goldin Appraisal
 - Petitioner Exhibit 2: 2022 Goldin Appraisal
 - Petitioner Exhibit 3: 2022 Form 131
 - Petitioner Exhibit 4: 2022 Form 115
 - Petitioner Exhibit 5: 2021 Form 131
 - Petitioner Exhibit 6: 2021 Form 115
 - Petitioner Exhibit 7: 2021 L&H Appraisal
 - Petitioner Exhibit 8: Power of Attorney
 - Petitioner Exhibit 9: 2021 and 2022 First Appraisal Group Appraisal
6. The Respondent offered the following exhibit:
 - Respondent Exhibit A: 2021 and 2022 First Appraisal Group Appraisal
7. 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) the two-volume hearing transcript.

OBJECTIONS

8. Miller asked the Board to certify Jeffrey Goldin as an expert in residential real estate valuation. The Assessor objected, arguing there is no specification for residential real estate valuation experts. We find Miller presented ample evidence to show Goldin was qualified to give expert testimony in the subject of residential real estate valuation and overrule the objection.
9. The Assessor objected to Petitioner's Ex. 7, the Lanham appraisal, based on hearsay. Pursuant to statute the Board must "... admit into evidence an appraisal report, prepared by an appraiser, unless the appraisal report is ruled inadmissible on grounds besides a hearsay objection." Indiana Code § 6-1.1-15-4(p). Because the Assessor made only a hearsay objection, we overrule the objection and admit the exhibit.

FINDINGS OF FACT

A. Subject Property

10. The subject property is a custom-built limestone home with high quality workmanship, materials, and features located on 15.01 acres of land. The property has an above grade gross living area of 8,850 square feet and 5,075 square feet below grade, of which, 4,675 square feet are finished. The home is on a large, private, wooded lot. It has marble and wood floors, volume ceilings, three fireplaces, and an elevator. The home has been under construction since 2009 and is still unfinished. *Tr. 161, 186, 221; Pet'r Ex. 1-2; Resp't Ex. A at 18-25.*
11. As of both assessment dates at issue, numerous components of the subject property had not been started or were only partially complete. These included items such as a retaining wall, driveway, landscaping, bathrooms, bar, pool area, porch and exterior patio areas, balcony; electrical components, and the main laundry room. In addition, other unfinished components not necessary for habitation include updates to the HVAC system, freezer unit, gate opener, data cabling, home theater, and replacing the exterior chimney finish. *Tr. 32-38, 297, 307-310; Pet'r. Ex. 1-2, 7; Resp't Ex. 1 at 25-26.*

12. Finally, approximately half the home has no conventional means of operating the lights because they are not connected to the central control system, which requires a specialized technician. Installing conventional lighting would require removal of ceilings, cabinetry, and drywall. *Tr.193, 196-198.*

B. Expert Opinions

13. Each party offered opinion evidence. Miller offered two appraisals and accompanying testimony from Jeffrey Goldin, and an appraisal from Donna Lanham. The Assessor offered an appraisal report and accompanying testimony from Ashley Johnson. We begin with Lanham's valuation opinions.

a. Lanham Appraisal

14. Miller engaged Donna Lanham, a Certified Residential Appraiser, to appraise the market value of the subject property as of July 9, 2021. Lanham did not testify at the hearing. She certified the appraisal complied with the Uniform Standards of Profession Appraisal Practice ("USPAP"). Lanham made an interior and exterior inspection of the subject property. To arrive at her opinion of value, she developed only the sales-comparison approach. She selected three sales of homes located near the subject property that sold between August of 2020 and May of 2021 for prices ranging from \$1,000,000 to \$1,490,000. She adjusted the sales for factors such as site size, rooms, gross living area, and garage. In addition, she applied a negative 10% adjustment to each sale to account for the subject property's unfinished state. She reconciled the adjusted sales to a concluded value of \$1,482,000. *Pet'r. Ex. 7.*

b. Goldin Appraisal

15. Miller also engaged Jeffrey Goldin, a Certified Residential Appraiser, to retrospectively appraise the market value of the subject property as of January 1, 2021, and January 1, 2022. He certified his appraisals were USPAP compliant. To arrive at his opinion of value, Goldin developed only the sales-comparison approach. *Pet'r Ex. 1-2; Tr. 48-51, 61-63, 87-89.*

16. Goldin identified the subject property's unfinished state as an adverse condition that may impact marketing time and significantly reduce the pool of potential buyers. In addition, he pointed out that the subject property had some features with high costs and limited contributory value resulting in functional obsolescence. He identified the HVAC system, pool, pool house, and lighting system as over improvements. Goldin specifically noted the HVAC system and lighting system are commercial-grade requiring an expert to assess, repair, or install components. He found that a straight cost approach would not reflect the functional obsolescence. *Tr. 48-51, 61-63, 87-95, 99,; 102-109, 164, 174; Pet'r Ex. 1-2.*

17. For his sales-comparison approach, Goldin looked for sales of properties similar size to the subject that sold in the year prior to each valuation date. He initially looked at properties in Eastern Monroe County in Bloomington. Due to the subject property's size and unique nature, he expanded his geographic search noting there were a limited number of sales of similar properties. Despite this, he felt there were a sufficient number of sales and thought it inappropriate and unnecessary to search for comparables outside of Monroe County. *Tr. 48-51, 61-63, 87-95, 99, 102-109, 119-121, 164, 170-174; Pet'r Ex. 1-2.*

18. Goldin ultimately selected nine comparable sales from Bloomington. The comparables ranged from 3,205 sq. ft. to 8,042 sq. ft. of above grade living area with medians of 4,680 sq. ft. (2021) and 4,665 sq. ft. (2022). He then adjusted the sales prices to account for factors such as: gross square footage, basement finish, pool and hot tub status, garage size, location, site size, and functional utility. Goldin made a negative \$160,000 functional utility adjustment to all the comparable sales based on the cost to complete the subject property. After adjustment, the sale prices for both years ranged from \$1,116,500 to \$2,158,500. Goldin noted that the wide range of adjusted values was due to the need to use properties that varied significantly from the subject property, and that such a wide range could affect the reliability of his report. He also stated that the comparable sales used were the best currently available in the market area, but large adjustments were required due to the unique nature of the subject property. According to Goldin, larger

than typical adjustments may have an adverse effect on the comparables' reliability as indicators of value. He developed his adjustments from a combination of paired sales analyses, sensitivity analyses, and his own experience. He did not include those analyses in his report. *Tr. 48-51, 61-63, 87-89, 164-174; Pet'r Ex. 1-2.*

19. Goldin reconciled the adjusted sale prices, giving the most weight to recent sales of the most similar properties located near the subject. He concluded to values of \$1,435,000 for 2021, and \$1,620,000 for 2022. *Tr. 48-51, 61-63, 87-89, 164-174; Pet'r Ex. 1.*

c. Johnson Appraisal

20. The Assessor engaged Ashley Johnson, MAI and Certified General Appraiser, to estimate the true tax value of the subject property for each assessment date. She certified her appraisal complied with USPAP. To arrive at her opinion of value, she developed both the sales-comparison and cost approaches. *Resp't Ex. 1 at 1-11; Tr. 231.*
21. Johnson noted that the subject property was a custom-built, high quality home with numerous features that could attract buyers even outside of Monroe County. She also noted that the pool of potential buyers would likely consider building as an alternative to buying. *Tr. at 236-238, 296-300; Resp't Ex. A at 23-26.*
22. To develop her sales-comparison approach, Johnson identified sales of seven comparable properties that sold between January 2018 and April 2022. She chose sales that were most similar in size, amenities, and quality of finishing. Six of the sales were from Bloomington while one was from Indianapolis. The comparables ranged from 5,334 sq. ft. to 8,434 sq. ft of above grade living area with a median of 6,986 sq. ft. She then adjusted the sale prices for factors such as the elevator, gross living area, bathrooms, garage, outdoor amenities, location, site size, utilities, fireplaces, and effective age. After adjustment, the sale prices ranged from \$2,344,821 to \$3,157,951. She reconciled those sales to indicated values of \$2,700,000 and \$2,900,000, from which she deducted \$506,000 for the cost to complete the subject property. This resulted in concluded values

of \$2,200,000 for 2021 and \$2,400,000 for 2022. *Resp't Ex. 1 at 100-114; Tr. 235; 274-276; 348.*

23. Johnson began her cost approach by valuing the land using a sales-comparison analysis. She looked for sales that were similar in size and located near the subject, preferably in the same subdivision. She ultimately selected eight sales with sale dates ranging from January of 2020 to May of 2022. She used the same land sales for her 2021 and 2022 appraisals. She made adjustments for market conditions, utilities, and site size, noting that location was included in her site adjustment. She also made negative adjustments to two comparables for lake access and views. The adjusted sale prices ranged from \$23,595 to \$76,563 per acre. She reconciled these to values of \$30,000 per acre for 2021 and \$31,000 per acre for 2022. This resulted in total land values of \$450,000 for 2021 and \$465,000 for 2022. *Tr. 250-259; 284-286; Resp't Ex. A at 75-87.*
24. Next, she estimated replacement cost using cost data from Marshall & Swift. Because she used typical replacement costs, the subject property's over-improvements were not included in the total. She added 5% for soft costs and 10% for entrepreneurial incentive. This resulted in a cost new of \$3,331,750. She estimated depreciation using the age-life method. She considered actual and effective age to be the same and divided the age by Marshall's indicated 60-year economic life. After deducting depreciation and adding in value for the land and site improvements, she arrived at values of \$2,300,000 for 2021, and \$2,600,000 for 2022, under the cost approach. *Tr. 297-306; Resp't Ex. A at 88-99.*
25. She reconciled both approaches, giving the most weight to the sales-comparison approach because she felt it better reflected market conditions. She concluded to values of \$2,200,000 for 2021, and \$2,400,000 for 2022. *Tr. at 285-285; Resp't Ex. A at 115.*

BURDEN OF PROOF

26. Generally, the taxpayer seeking review of an assessing official's determination has the burden of proof. But Indiana has enacted exceptions to that general rule in the form of burden-shifting statutes. Miller filed his 2021 appeal on June 14, 2021, and his 2022

appeal on that same day a year later. For 2021, we apply I.C. § 6-1.1-15-17.2.¹ But for the 2022 appeal, we apply I.C. § 6-1.1-15-20 because that appeal was filed after this statute's effective date of March 21, 2022. We address each in turn.

27. For 2021, I.C. § 6-1.1-15-17.2 assigns the burden of proof to the assessor in two circumstances – when 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. I.C. § 6-1.1-15-17.2 (b) and (d). Here, the parties agreed that Miller bore the burden of proof for 2021. Thus, the burden-shifting provisions of I.C. § 6-1.1-15-17.2 are not triggered.
28. For 2022, we apply I.C. § 6-1.1-15-20. That statute shifts the burden only 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).² The prior assessment means the final value "as determined by a reviewing authority." I.C. § 6-1.1-15-20(c)(3). Thus, deciding where the burden of proof lies for 2022 necessarily depends on our determination for 2021. We resolve that matter below.

ANALYSIS

A. Indiana's Market Value-in-Use Standard

29. Real property is assessed based on its market value-in-use. I.C. § 6-1.1-31-6(c); 2021 REAL PROPERTY ASSESSMENT MANUAL at 2. As discussed above, Miller has the burden of proof for the 2021 valuation year. In order to meet its burden, a party "must present objectively verifiable, market-based evidence" of the value of the property. *Piotrowski*, 177 N.E.3d at 132. (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

¹ Indiana Code § 6-1.1-15-17.2 was repealed by P.L. 174-2022 on March 21, 2022. In *Elkhart Cty. Assessor v. Lexington Square, LLC*, 219 N.E.3d 236 (Ind. Tax Ct. 2023) the Tax Court held that I.C. § 6-1.1-15-17.2 continues to apply to appeals filed before that date. While *Lexington Square* involved facts where the Board held the hearing before the statute's repeal, we are bound to follow *Lexington Square*.

² This statute does not apply if there are structural improvements or substantial renovations that were not considered in the prior assessment year. I.C. § 6-1.1-15-20(d). Despite the property being only partially complete, there is no evidence of any substantial changes in the property between the assessment years issue.

rely on the mass appraisal “methodology” of the assessment regulations.” *P/A Builders & Developers, LLC v. Jennings County Ass’r.*, 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.

30. 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); *see also Long v. Wayne Twp. Ass’r.*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). For each assessment date, the valuation date was January 1 of the respective year. I.C. § 6-1.1-2-1.5.

B. Miller’s Evidence

31. To meet his burden, Miller provided both the Lanham and Goldin appraisals. As discussed above, Lanham appraised the subject property as of July 9, 2021, approximately six months removed from each respective date of value. In addition, her appraisal report does not include nearly the level of detail and supporting analysis of either the Goldin or Johnson reports. Nor did she provide supporting testimony at the hearing. For these reasons, we find the Lanham appraisal to be less persuasive than the other evidence in the record.
32. We now turn to Goldin’s appraisals. Overall, we find Goldin presented probative estimates of value. He sufficiently explained much of his reasoning, and he provided adequate support for many of his adjustments. But most of the comparables he selected were significantly smaller than the subject property—in some cases less than half the

size. These differences required large adjustments. We find this detracts from the reliability of his conclusions and could have resulted in understating the value of the subject property. These comparables also presented a wide range of adjusted sale prices, a fact Goldin himself acknowledged could undercut the reliability of his analysis. Despite this concern, we find the Goldin appraisal was probative evidence of the market value-in-use of the subject property as of the valuation date. We now turn to the Assessor's evidence.

C. The Assessor's Evidence

33. The Assessor provided a USPAP-compliant appraisal prepared by Ashley Johnson, MAI. Johnson developed both the cost and sales-comparison approaches to estimate the property's market value-in-use as of the relevant valuation dates. We find Johnson's opinions to be well-supported, and she generally provided good explanations of her adjustments. In particular, we find her sales-comparison approach to be well-developed and reliable evidence of value. Miller took issue with Johnson's decision to use sales further removed from the valuation dates than Goldin, but we find she adequately supported her market conditions adjustments. In addition, widening her range allowed her to use comparables that were similar to the subject in size and quality.

34. We also find that Johnson's cost approach provided good support for her overall conclusions. While the cost approach presented some hurdles given the subject property's over-improvement and unfinished components, we find Johnson provided good explanations for how she addressed those issues. Specifically, the cost approach was based on typical replacement costs, which allays concerns that her sales-comparison approach might require adjustments for obsolescence. With similar values the cost approach tends to confirm the reliability of the sales-comparison approach. Overall, we find Johnson presented reliable evidence of the value of the subject property for each assessment date at issue.

D. Johnson's Appraisal was More Persuasive

35. This was a difficult valuation assignment because of the unique nature of the subject property and the lack of similar comparables. Indeed, neither appraiser was able to bracket the subject property in terms of size or overall quality (discounting the unfinished components). Nevertheless, we find Johnson's selection of comparables in her sales-comparison approach to be markedly superior to Goldin's. As noted above, some of Goldin's comparables were less than half the size of the subject, while Johnson's were significantly closer in size overall. They also better mirror the subject property in terms of overall quality. While Johnson did venture farther from the subject property by selecting a comparable from Indianapolis, we find this choice was appropriate and yielded better overall data.
36. In addition, Johnson better supported many of her adjustments. In particular, we note that Johnson presented a more comprehensive site valuation as a component of her cost approach. This valuation provided significantly better support for her site adjustments, a crucial component of both valuations. While Goldin provided some support for his site adjustments, we find Johnson's to be more reliable. Overall, we find Johnson's sales-comparison approach more persuasive than Goldin's.
37. Johnson also developed a cost approach while Goldin did not. While not as persuasive as either sales-comparison approach in the record, we do find Johnson's cost approach to be additional support for her conclusions—support Goldin's appraisal was lacking. We also credit Johnson's testimony that potential buyers of the subject property would consider construction as an alternative to purchasing an existing property. This fact makes the cost approach relevant. In addition, by undertaking the cost approach, Johnson demonstrated a better understanding of the impact of the subject property's unfinished components on its overall value. This resulted in Johnson adjusting her comparables downward for this factor by \$506,000 compared to Goldin's \$160,000. On balance, Johnson's decision to develop and present a cost approach resulted in a more thorough and reliable analysis.

38. For these reasons we find Johnson's opinion of \$2,200,000 for the 2021 assessment year to be the most reliable evidence of value, and order the assessment reduced to that amount. Because the 2022 assessment of \$2,459,500 is over 5% more than that amount, the Assessor bears the burden of proof for that year under I.C. § 6-1.1-15-20. Again, we find Johnson's opinion to be reliable evidence of value and the most persuasive evidence in the record. Thus, we order the 2022 assessment reduced to that amount: \$2,400,000.

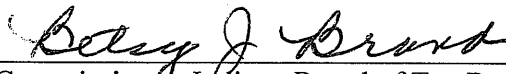
CONCLUSION

39. Johnson's conclusions are the best evidence of the subject property's market value-in-use for each assessment date at issue. Therefore, we order the assessments changed to those amounts: \$2,200,000 for 2021 and \$2,400,000 for 2022.

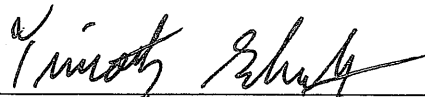
The Final Determination of the above captioned matter is issued by the Indiana Board of Tax Review on the date written above.



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>>.