

REPRESENTATIVE FOR PETITIONER: Kathryn J. Miller, pro se

REPRESENTATIVE FOR RESPONDENT: Eric Grossman, pro se

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

KATHRYN J. MILLER,)	Petition No.: 79-004-19-1-5-00078-20
)	
Petitioner,)	Parcel No.: 79-07-28-435-019.000-004
)	
v.)	County: Tippecanoe
)	
TIPPECANOE COUNTY ASSESSOR,)	Assessment Year: 2019
)	
Respondent.)	

Appeal from the Final Assessment of the
Tippecanoe County Property Tax Assessment Board of Appeals

April 4, 2021

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. Kathryn J. Miller contested her 2019 assessment. She bore the burden of proof but failed to provide probative market-based evidence supporting a lower assessment. We therefore find for the Assessor and order no change to the 2019 assessment.

PROCEDURAL HISTORY

2. Miller challenged the 2019 assessment of her property located at 905 South 24th Street in Lafayette. On January 7, 2020, the Tippecanoe County Property Tax Assessment Board of Appeals (“PTABOA”) issued a final determination upholding the original assessment of \$75,700 (\$28,700 for land and \$47,000 for improvements).
3. Miller timely filed a Form 131 petition with the Board. On January 26, 2021, David Smith, our designated administrative law judge (“ALJ”), held a telephonic hearing on the petition. Neither he nor the Board inspected the subject property.
4. Miller and Tippecanoe County Assessor Eric Grossman testified under oath.
5. Miller submitted the following exhibits:

Petitioner Ex. 1:	List of comparable houses used by the Assessor
Petitioner Ex. 2:	Photos of each house used by the Assessor
Petitioner Ex. 3:	Beacon list of houses sold in subject homes’ neighborhood code
Petitioner Ex. 4:	Photos of other comparable properties closer to subject property
6. The Assessor submitted the following exhibits:

Respondent Ex. 1:	Assessor’s case narrative
Respondent Ex. 2:	2020 Property Record Card (“PRC”) for subject property
Respondent Ex. 3:	Indiana Code § 6-1.1-15-17.2
Respondent Ex. 4:	Model-Based Prediction of Housing Sale Prices in Tippecanoe County (June 2016)
Respondent Ex. 5:	List of comparable properties and attribute comparisons
Respondent Ex. 6:	GIS map of subject property area
7. The record also includes the following: (1) all pleadings, briefs, motions, and documents filed in this appeal; (2) all notices and orders issued by the Board or our ALJ; and (3) an audio recording of the hearing.

BURDEN OF PROOF

8. 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's assessment, 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).
9. Here, the assessment increased from \$73,600 in 2018 to \$75,700 in 2019—an increase of less than 5%. Neither party offered any argument regarding the burden of proof. Our ALJ preliminarily ruled that Miller has the burden because the assessment increased by less than 5%, and we adopt that ruling.

MILLER'S CONTENTIONS

10. Miller does not understand the property tax assessment system. It is not fair or right. Miller's house is 1,658 square feet, does not have a basement, and is in fair-to-poor condition. The comparables on the Assessor's Exhibit 5 are not comparable to Miller's property. The Assessor used properties that were in other, nicer neighborhoods. He also used several properties with basements that were smaller and in better condition, and that sold for more than her property is worth. The photos show the better condition of the Assessor's comparables, as well as the interiors of other comparable properties the Assessor did not use. *Miller testimony; Pet'r Exs. 1-4.*
11. Fifteen of the houses the Assessor used were less than 1,150 square feet, and several had either whole or partial basements that affected the square footage count. Miller contends that the Assessor used remodeled homes for his comparables, which caused them to sell for higher values. Miller could not find four of the Assessor's comparables when she attempted to research them. She has no knowledge of the Uniform Standards of Professional Appraisal Practice ("USPAP") or how they are used in valuing properties.

Miller contends her property was worth no more than \$68,000 on the assessment date.
Miller testimony; Pet'r Exs. 1-4.

THE ASSESSOR'S CONTENTIONS

12. The PTABOA's final assessed value is correct. The subject property is in an older, diverse area that is primarily residential. The subject property is in the bottom end of value, quality, and design, and Grossman agrees it is in fair condition. There are several rental properties in the subject area, but because the State does not tax rental properties like other residential properties, Grossman did not use any rentals as comparables in his analysis. Miller is correct that many of the properties come from nicer, nearby neighborhoods, and that many of the comparables appear to be in better condition than the subject property. However, comparable does not mean identical. Miller has not used generally accepted appraisal principles to provide evidence of the property's market value-in-use as of the assessment date. *Grossman testimony; Resp't Exs. 1-6.*

ANALYSIS

13. 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." I.C. § 6-1.1-31-6(c), (e). It is instead 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." MANUAL at 2.
14. Evidence in an assessment appeal should be consistent with that standard. For example, market value-in-use appraisals that comply with USPAP 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). So may 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.*; *see also* I.C. § 6-1.1-15-18 (allowing parties to offer evidence of comparable properties' assessments in property tax appeals but explaining that the determination of comparability must be made in accordance with generally accepted appraisal and assessment practices). Regardless of the method used to prove true tax value, a party must explain how its evidence relates to the property's value as of the relevant date. *O'Donnell v. Dep't of Local Gov't Fin.*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006). The valuation date for this appeal is January 1, 2019. Ind. Code § 6-1.1-2-1.5(a).

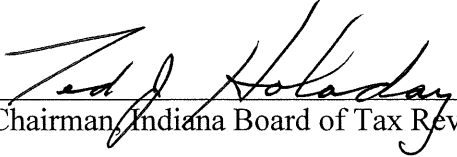
15. Miller contends that her 2019 assessment should be \$68,000, but she failed to present any probative market-based evidence to support that value. Statements that are unsupported by probative evidence are conclusory and of no value to the Board in making its determination. *Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1118 (Ind. Tax Ct. 1998).
16. Because Miller did not offer any probative market-based evidence to demonstrate the property's correct market value-in-use for 2019, she failed to make a prima facie case for a lower assessment. Where a Petitioner has not supported her 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). Thus, we need not analyze the Assessor's evidence.

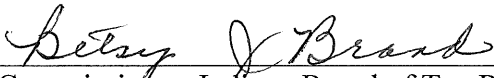
CONCLUSION

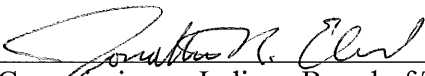
In accordance with the above findings of fact and conclusions of law, we find for the Assessor and order no change to the 2019 assessment.

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

ISSUED: APRIL 14, 2021


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>.