

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

Petition: 20-015-18-1-5-00953-19
Petitioners: My Properties, LLC
Respondent: Elkhart County Assessor
Parcel: 20-11-09-433-018.000-015
Assessment Year: 2018

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

PROCEDURAL HISTORY

1. My Properties, LLC (“My Properties”) appealed its 2018 assessed value of \$135,100 for a four-unit apartment building located at 212 East Washington Street in Goshen to the Elkhart County Property Tax Assessment Board of Appeals (“PTABOA”) which denied the appeal and issued a decision with no change in the assessed value. My Properties timely appealed to the Board, electing to proceed under the Board’s small claims procedures.
2. On August 5, 2020, Joseph Stanford, Administrative Law Judge (“ALJ”) heard the case telephonically. Neither the Board nor the ALJ inspected the property.
3. Myron Borntreger, President, appeared for My Properties and was sworn as a witness. Attorney Beth Henkel represented the Assessor. Gavin Fisher, an Indiana licensed residential appraiser, was sworn as the Assessor’s witness.

RECORD

4. The official record for this matter is comprised of the following:

Petitioner Exhibit 1:	Assessor’s Evaluation Form
Petitioner Exhibit 2:	Rental data collection sheet
Respondent Exhibit R-1:	Appraisal of Subject Property
Respondent Exhibit R-2:	Property Record Card of Subject

5. 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.

SUMMARY OF CONTENTIONS

6. The Assessor:

- a. The Assessor contended that the 2018 assessed value is too low and provided an appraisal compliant with the Uniform Standards of Professional Appraisal Practice (“USPAP”) prepared and supported with testimony from Gavin Fisher, an Indiana licensed residential appraiser. He estimated the value as of January 1, 2018, at \$145,000. *Fisher testimony, Resp’t Ex. R-1.*
- b. Fisher developed the income and sales comparison approaches to value. He applied a gross rent multiplier (“GRM”) of 57.5 to a market rent of \$2,500 per month using the income approach. He extracted the GRM from market data using properties he contended were comparable to the subject. The three properties he used were all converted to apartment units and were over 100 years old, like the subject. All three comparisons were in the urban Goshen rental market. Fisher’s income approach yielded a value of \$143,750. *Fisher testimony; Resp’t Ex. R-1.*
- c. Fisher considered and developed the sales comparison approach. He relied on the same three properties as comparable sales. He adjusted to account for differences in the number of rental units. He noted this as the most significant adjustment. This approach yielded a value of \$150,000. *Fisher testimony; Resp’t Ex. R-1.*
- d. Fisher testified that he relied most heavily on the income approach to determine market value-in-use using the GRM for rental properties with between one and four units. He calculated a final reconciled value of \$145,000. He noted that while the appraisal was USPAP-compliant, its use was to determine assessed value, and was not specifically written for other purposes, such as to satisfy a mortgage company’s collateral interest in executing a mortgage loan to a home buyer. *Fisher testimony; Resp’t Ex. R-1.*

7. My Properties:

- a. My Properties contended that the subject property’s assessed value is too high. The Assessor should base the assessed value on the property’s actual rental data of \$1,850 per month, and not market rent of \$2,500 which is grossly inaccurate for the subject. The market rent is not relevant. When Fisher’s GRM of 57.5 is applied to the actual rent, the resulting value should be \$106,375. The Board should change the assessed value accordingly. *Borntrager testimony.*
- b. The Assessor offered an appraisal that is not specific to the property and that would not meet the requirements of mortgage lending companies for a bank or for government lending agency standards. For example, My Properties contended that the appraisal fails to consider the steep, sloped walls which reduces the living space for the upstairs unit, thereby reducing its desirability. The appraisal does

not reflect the property's characteristics. Thus, it is generic and not relevant to the subject property's value. *Borntrager testimony; Pet'r. Exs. 1, 2.*

BURDEN OF PROOF

8. Generally, the taxpayer has the burden to prove that an assessment is incorrect and what the correct assessment should be. *See Meridian Towers East & West v. Washington Twp. Ass'r*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003). Ind. Code § 6-1.1-15-17.2 provides however, that when a subject property's assessed value increases by more than 5% from the prior year, then the Assessor must make a prima facie case that the assessed value is correct. In this appeal, the 2018 assessed value was \$135,100 and the prior year, 2017, the assessed value was \$98,400. The Assessor acknowledged that the 2018 assessed value exceeded a 5% increase from the prior year and accepted the burden. We agree that the Assessor has the burden.

ANALYSIS

9. The Assessor met her burden of proof that the 2018 assessed value of \$145,000 was correct and My Properties did not make a prima facie case to lower it or that the assessed value was incorrect.
 - 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). For this appeal, the valuation date was January 1, 2018. *See* Ind. Code § 6-1.1-2-1.5.
 - c. The most effective method to establish value can be through the presentation of a market value-in-use appraisal, completed in conformance with USPAP. *O'Donnell*, 854 N.E.2d at 94. Here, the Assessor offered a USPAP-compliant appraisal prepared by Fisher, an Indiana licensed residential appraiser. Fisher estimated the subject property's market value-in-use to be \$145,000 retrospective to January 1, 2018.
 - d. Fisher discussed key aspects of his appraisal, noting that he chose three similar converted properties over 100 years old in the same market area with similar physical conditions in developing both his income and sales comparison

approaches. He adjusted for the number of units and calculated a GRM based on market rents, reaching a value of \$143,750 for the income approach.

- e. In developing the sales comparison approach, he used the same three properties. He adjusted valuations based upon the number of units in each property to reach a valuation of \$150,000.
- f. For his final valuation, he reconciled his two values, placing the most weight on the income approach. Ind. Code § 6-1.1-4-39 (b) states that the preferred method of valuation for buildings with between one and four rental units is the GRM which Fisher used. *See Indiana MHC, LLC, v. Scott County Assessor*, 987 N.E. 2d 1182, 1185-86 (Ind. Tax Court 2013) for a discussion of using market rents in an income capitalization approach to valuing property. For his final reconciled value retrospective to January 1, 2018, Fisher calculated market value-in-use at \$145,000.
- g. My Properties made only general conclusory statements that the appraisal did not meet standards needed to obtain a mortgage, and that therefore, it was too general to be relevant. As Fisher explained, the appraisal was USPAP-compliant, and appraisal requirements for mortgages are written for different uses than for determining market value-in-use for purposes of assessed value. My Properties failed to produce evidence that the subject property was substantially inferior to Fisher's comparables. The appraisal was relevant and established that the 2018 assessed value of \$145,000 was correct.

CONCLUSION

- 10. The Assessor met her burden of proof that the market value-in-use for 2018 was \$145,000. As discussed above, My Properties failed to present any reliable evidence that supported a lower value. The Assessor requested an increase in the assessed value and provided a USPAP-compliant appraisal with testimony from a licensed appraiser in support of her request. The appraiser described his use of the sales comparison and income approaches in detail, and the Board finds that the Assessor made a prima facie case to raise the assessed value to \$145,000.

FINAL DETERMINATION

In accordance with the above findings and conclusions, the Board finds for the Assessor and orders that the 2018 assessed value be changed to \$145,000.

ISSUED: November 4, 2020

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>>.