

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

Petition: 45-004-17-1-5-001183-19
Petitioner: Jim Nowacki
Respondent: Lake County Assessor
Parcel: 45-09-04-476-007.000-004
Assessment Year: 2017

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

Procedural History

1. Jim Nowacki contested the 2017 assessment of his property. The Lake County Property Tax Assessment Board of Appeals issued a Form 115 determination valuing the property at \$4,900, all for land.
2. Nowacki then filed a Form 131 petition with the Board and elected to proceed under our small claims procedures. On November 15, 2022, our designated administrative law judge, Joseph Stanford (“ALJ”), held a hearing on Nowacki’s petition. Neither he nor the Board inspected the property.
3. Nowacki represented himself. The Lake County Assessor appeared through her hearing officer, Jessica Rios. Both testified under oath.

Record

4. The official record for this matter includes the following:
 - Petitioner Exhibit A: Two GIS maps,
 - Petitioner Exhibit B: Subject property record card showing 2017-2021 assessed values,
 - Petitioner Exhibit C: Valuation history.
5. The record also includes: (1) all petitions and other documents filed in this appeal, (2) all notices and orders issued by the Board or the ALJ, and (3) an audio recording of the hearing.

Findings of Fact

6. The property is a platted lot located at 9225 Sunrise Boulevard in Gary. Nowacki bought the lot for \$25 in 2009. *Nowacki testimony; Pet’r Ex. B.*

Contentions

A. Nowacki's Contentions

7. According to a "blue-ribbon panel" report, many properties in Lake County are assessed for more than their professionally appraised values. Nowacki alleges that the Assessor does not correct properties' assessments until after those properties "churn through the tax sale" process for years and eventually transfer to people who are not Gary residents, which is not fair to existing property owners. *Nowacki testimony and argument.*
8. The property's assessment has fluctuated between \$4,900 and \$9,700 over the past several years. Nowacki concedes that the assessment should be higher than the \$25 he paid for it, but he also argues that his purchase price cannot simply be ignored. He believes that a fair value is \$3,200. *Nowacki testimony and argument; Pet'r Ex. C.*
9. According to Nowacki, we should not automatically presume that the assessment is correct. That presumption requires that assessments are created in accordance with the assessment manual issued by the Department of Local Government Finance ("DLGF"). And the subject property's assessment was not created in accordance with the manual. A "land-value survey," which Nowacki claims was required by the manual, was submitted five years late. The land order was therefore also late. *Nowacki testimony and argument.*

B. The Assessor's Contentions

10. Nowacki offered no evidence to support his requested assessment of \$3,200. The Calumet Township Assessor already applied a 15% negative influence factor. *Rios testimony and argument.*

Analysis

11. Generally, an assessment determined by an assessing official is presumed to be correct. 2021 REAL PROPERTY ASSESSMENT MANUAL at 3. A petitioner has the burden of proving the assessment is incorrect and what the correct assessment should be. *Piotrowski v. Shelby Cty. Ass'r*, 177 N.E.3d 127, 131-32 (Ind. Tax Ct. 2021).
12. The goal of Indiana's real property assessment system is to arrive at an assessment reflecting a property's true tax value. 50 IAC 2.4-1-1(c); 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). Instead, it is determined under the DLGF's rules. 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 2.¹

¹ The 2011 Real Property Assessment Manual, which applied to assessments determined in 2017 and 2018, used the same definition. 2011 REAL PROPERTY ASSESSMENT MANUAL at 2.

13. Evidence in an assessment appeal should be consistent with that standard. For example, a market-value-in-use appraisal prepared in accordance 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). A party may also offer actual construction costs, sales information for the property under appeal or comparable properties, and any other information compiled according to generally accepted appraisal principles. *See Eckerling v. Wayne Twp. Ass'r*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006). Regardless of the method used, a party must explain how its evidence relates to the relevant valuation date. *Long v. Wayne Twp. Ass'r*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). The valuation date for a 2017 assessment was January 1, 2017. *See* I.C. § 6-1.1-2-1.5(a).
14. Nowacki essentially asks us to reduce his assessment on grounds that a delinquent land-value survey and land order resulted in an assessment that does not comply with the Manual. But Nowacki did not offer any evidence to support his bare allegations about the land-value survey and land order. Even if we were to assume that his allegations are true, Nowacki did not explain why that would relieve him of the need to offer market-based evidence to support his request for a reduced assessment. The Tax Court has repeatedly explained that a taxpayer cannot make a prima facie case merely by pointing to an assessor's incorrect application of assessment regulations but must instead offer market-based evidence to show that the assessment does not reflect its property's market value-in-use. *Piotrowski*, 177 N.E.3d at 132.
15. Nowacki offered no probative market-based evidence to support a lower assessment. To the extent he relies on his purchase price, or at least argues that we should not ignore it, we give that evidence no weight. Nowacki bought the property in 2009, eight years before the January 1, 2017 valuation date, and he offered no evidence to relate his purchase price to that date.
16. Similarly, to the extent Nowacki's references to a "blue-ribbon" panel's report amount to a request for an equalization adjustment based on a lack of uniformity in assessments, he failed to make an actionable claim. He did not submit the panel's report. Nor did he offer any other evidence showing the common level of assessment for properties in Calumet Township or Lake County.
17. Finally, Nowacki's claim that his assessment fluctuated in previous years does nothing to prove that his 2017 assessment is incorrect. As the Tax Court has explained, "each tax year—and each appeal process—stands alone." *Fisher v. Carroll Cnty. Ass'r*, 74 N.E.3d 582, 588 (Ind. Tax Ct. 2017). Evidence of a property's assessment in one year therefore has little bearing on its true tax value in another. *Fleet Supply, Inc. v. State Bd. of Tax Comm'rs*, 747 N.E.2d 645, 650 (Ind. Tax Ct. 2001).

Conclusion

18. Nowacki failed to offer any market-based evidence to show that his assessment should be reduced. We therefore find for the Assessor and order no change.

Date: 2/13/2023



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>>.