

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

Petition: 45-004-17-1-5-00277-19
Petitioner: James Nowacki
Respondent: Lake County Assessor
Parcel: 45-08-10-309-017.000-004
Assessment Year: 2017

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

Procedural History

1. James Nowacki contested the 2017 assessment of his property located at 1740 Massachusetts Street in Gary. The Lake County Property Tax Assessment Board of Appeals issued a Form 115 determination valuing the vacant platted lot at \$1,400.
2. Nowacki then filed a Form 131 petition with the Board and elected to proceed under our small claims procedures. On December 6, 2021, 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. Lake County Hearing Officer Robert Metz appeared for the Assessor. Both testified under oath.

Record

4. The official record for this matter includes the following:
 - Petitioner Exhibit A: Two GIS maps,
 - Petitioner Exhibit B: Property record card (2013-2017),
 - Petitioner Exhibit C: Property record card (2016-2020).
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.

Contentions

A. Nowacki’s Contentions

6. Nowacki argues that the subject property is assessed higher than its market value. He bought the property for \$100 at a tax sale auction in 2011. According to Nowacki, approximately 20,000 properties from Gary go to tax sale auctions, and most do not

attract even a minimal bid. But the auctions are well attended, and the parties (the county and prospective bidders) are not under any pressure to buy or sell. While Nowacki acknowledges that he paid less than the property is worth, he contends that its market value is only \$900. *Nowacki argument and testimony.*

7. In support of his requested assessment, Nowacki pointed to the property's 2019 assessment, which dropped to \$1,100. That is only \$200 more than his targeted value, and it is \$300 less than the current assessment. According to Nowacki, there is very little "market interest" in the subject property's neighborhood, as there are several vacant parcels and remnants of several collapsed buildings. No properties in the neighborhood have transferred for as much as \$1,400. *Nowacki testimony; Pet'r Exs. A, C.*
8. Nowacki claims that overassessment of properties is a major reason Gary has lost nearly two-thirds of its population and has so many abandoned properties. There is little or no interest in the abandoned properties, which go off the tax rolls and "churn through the system" for decades. As a result, Gary's parks, schools, and streets are vacant and abandoned. *Nowacki argument.*

B. The Assessor's Contentions

9. The Assessor argues that Nowacki did not offer any evidence to support his requested assessment of \$900. He therefore failed to meet his burden of proof. *Metz argument.*

Analysis

10. Generally, a taxpayer seeking review of an assessing official's determination has the burden of proof. Various statutes, including Ind. Code § 6-1.1-15-17.2, create exceptions to that general rule and assign the burden of proof to the assessor under specified circumstances, such as where a property's assessment has increased more than 5% over the previous year.
11. Nowacki does not argue that the burden should shift. And the assessment did not change between 2016 and 2017. *Metz testimony; Pet'r Ex. B.* Nowacki therefore had the burden of proof.
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); 2011 REAL PROPERTY ASSESSMENT MANUAL at 3.¹ 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 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

¹ The Department of Local Government Finance has adopted a new assessment manual and guidelines that apply to assessments for 2021 forward. 52 IAC 2.4-1-2 (filed Nov. 20, 2020) (incorporating 2021 Real Property Assessment Manual and Real Property Assessment Guidelines for 2021 by reference).

reflected by the utility received by the owner or by a similar user, from the property.”
MANUAL at 2.

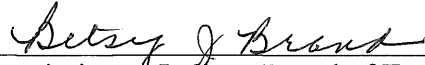
13. Evidence in an assessment appeal should be consistent with that standard. For example, a market-value-in-use appraisal prepared in accordance with the Uniform Standards of Professional Appraisal Practice often will be probative. *See id.*; *see also, Kooshtard Property VI, LLC v. White River Twp. 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, sales or assessment information for 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); *see also, I.C. § 6-1.1-15-18* (allowing parties to offer evidence of comparable properties' assessments to determine an appealed property's market value-in-use). 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). For 2017 assessments, the valuation date was January 1, 2017. *See I.C. § 6-1.1-2-1.5(a)*.
14. Nowacki contends that the subject property's 2017 assessment should be reduced to \$900. Although he testified that he bought the property at tax sale and made some arguments as to why he thought the parties at tax sales are typically motivated, he admitted that the property was worth more than his \$100 bid. To successfully make a case for a lower assessment, taxpayers must offer market-based evidence to “demonstrate that their suggested value accurately reflects the property's true market value-in-use.” *Eckerling*, 841 N.E.2d at 674, 678. Nowacki offered no such evidence.
15. We give no weight to the fact that the property's assessment dropped to \$1,100 in 2019. 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).
16. Because Nowacki offered no probative market-based evidence to show the subject property's correct market value-in-use for 2017, he failed to make a prima facie case for lowering the assessment.

Conclusion

17. Nowacki failed to offer probative market-based evidence to show that his property was assessed for more than its market value-in-use. We therefore find for the Assessor and order no change.

Date: 2/7/2022


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>.