

REPRESENTATIVE FOR THE PETITIONER:

Preet Singh, *pro se*

REPRESENTATIVE FOR THE RESPONDENT:

Chris Coakes, Project Manager, Tippecanoe County Assessor’s Office

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

RDS LLC,	)	Petition No.:	79-004-20-1-4-00543-21
)		
Petitioner,	)	Parcel No.:	79-07-23-451-034.000-004
)		
v.	)	County:	Tippecanoe
)		
Tippecanoe County Assessor,	)	Township:	Fairfield
)		
Respondent.	)	Assessment Year:	2020

November 7, 2022

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. The Petitioner appealed the 2020 assessment of its commercial property. Because the Petitioner failed to provide reliable, market-based evidence proving the market value-in-use of the property, the Board finds for the Assessor.

PROCEDURAL HISTORY

2. The Petitioner appealed the 2020 assessment of its property with the Tippecanoe County Assessor. On June 3, 2021, the Tippecanoe County Property Tax Assessment Board of Appeals (“PTABOA”) issued its determination lowering the assessment to \$1,200,000. The Petitioner timely filed an appeal with the Board.
3. On August 9, 2022, Dalene McMillen, the Board’s Administrative Law Judge (“ALJ”), held a telephonic hearing. Neither the Board nor the ALJ inspected the property.
4. Preet Singh and Chris Coakes testified under oath.
5. The Petitioner offered no exhibits.
6. The Respondent offered the following exhibits:
 - Respondent Exhibit 1: Subject property record card,
 - Respondent Exhibit 2: Notification of Final Assessment Determination – Form 115.
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) a digital recording of the hearing.

FINDINGS OF FACT

8. The subject property consists of a restaurant building and land located at 3840 South Street in Lafayette, Indiana. It was formerly used as a Logan’s Roadhouse. Logan’s ceased occupying the building sometime in 2020. Because of the property’s poor condition, the Petitioner decided to demolish the restaurant. A permit for demolition was issued on January 27, 2021. *Singh testimony; Coakes testimony; Resp’t Ex. 1.*

PETITIONERS' CONTENTIONS

9. The Petitioner argued the subject property is over-assessed. In support of this, Singh testified that after Logan's vacated the property, the building was in such poor condition that it needed to be demolished. Singh noted that because Logan's filed bankruptcy, the Petitioner did not receive any money from them in 2020 for rent or taxes. The Petitioner asked to reduce the subject property's assessment to \$500,000. *Singh testimony.*
10. Singh also testified that although the property record card shows the land is 2.234 acres, the land size is actually 1.64 acres. *Singh testimony.*

RESPONDENT'S CONTENTIONS

11. The Assessor claims the subject property is assessed correctly. Coakes testified that the PTABOA lowered the 2020 assessment from \$1,499,200 to \$1,200,000 due to the "conditional issues" of the property. *Coakes testimony; Resp't Exs. 1 & 2.*
12. Coakes also testified that a permit to demolish the structures was issued on January 27, 2021. Thus, the structures still existed on the property as of the January 1, 2020, assessment date. *Coakes testimony; Resp't Ex. 1.*

ANALYSIS

13. Generally, an assessment determined by an assessing official is presumed to be correct. 2011 REAL PROPERTY ASSESSMENT MANUAL at 3.¹ The petitioner has the burden of proving the assessment is incorrect and what the correct assessment should be. *Piotrowski v. Shelby County Assessor*, 177 N.E.3d 127, 131-32 (Ind. Tax Ct. 2022).
14. 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

¹ The Department of Local Government of Finance adopted a new assessment manual for assessments from 2021 forward. 52 IAC 2.4-1-2.

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 property or comparable properties, appraisals, and any other information compiled in accordance with generally accepted appraisal principles.

15. 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); *see also Long v. Wayne Twp. Ass'r*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). For the 2020 assessment, the valuation date was January 1, 2020. *See* Ind. Code § 6-1.1-2-1.5.
16. Here, the Petitioner requested the subject property's assessment be reduced to \$500,000. But it offered no market-based evidence supporting that value. Instead, the Petitioner primarily focused on the fact that the subject property needed to be demolished. But all of the evidence it presented was related to the condition of the property well after the assessment date at issue: January 1, 2020. As the Assessor points out, the demolition permit was not granted until more than a year after that date. In addition, Singh testified that Logan's vacated the property sometime in 2020. Thus, it appears Logan's continued to use the property and the property was functional as a restaurant as of the assessment date. Because the Petitioner failed to provide any probative, market-based evidence showing the value of the subject property as of January 1, 2020, it is not entitled to any relief.
17. Singh also testified that the subject property's acreage was incorrect on the property record card. But he failed to explain how he came to that conclusion. 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). In addition, even if the Assessor made an error,

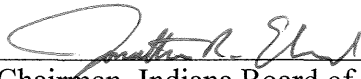
simply attacking the methodology used to develop the assessment is insufficient to make a prima facie case. *Eckerling v. Wayne Twp. Ass'r*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006). To successfully make a case for a lower assessment, a taxpayer must use market-based evidence to “demonstrate that their suggested value accurately reflects the property’s true market value-in-use.” *Id.*

18. Where the Petitioner has not supported its 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).

SUMMARY OF FINAL DETERMINATION

19. The Petitioner failed to offer probative market-based evidence to show that the property was assessed for more than its market value-in-use. Thus, we find for the Assessor and order no change to the 2020 assessment.

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>.