REPRESENTATIVE FOR THE PETITIONER: Thomas DeCola, *pro se*

REPRESENTATIVE FOR THE RESPONDENT: Michelle Schouten, Starke County Assessor

BEFORE THE
INDIANA BOARD OF TAX REVIEW

Railroad Homes, LLC,	)	Petition No.: 75-014-24-1-5-00755-24
Petitioner,	)	Parcel No.: 75-08-29-204-041.000-011
v.	)	County: Starke
Starke County Assessor,	)	Township: Wayne
Respondent.	)	Assessment Year: 2024

June 11, 2025

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 2024 assessment of an unimproved lot in Starke County. The Assessor had the burden of proof but failed to provide reliable, market-based evidence supporting any value for the subject property. The Petitioner claimed the subject property should be assessed at the agricultural rate based on the "developer's discount," but failed to show any violation of the relevant statute. Because the totality of the evidence is insufficient to support any value, the prior year's assessment is presumed

correct under the burden-shifting statute. Thus, we order the 2024 assessment reduced to the prior year's value of $2,700.

PROCEDURAL HISTORY

2. The Petitioner filed a Form 130 appeal with the county on May 14, 2024, appealing the 2024 assessment of its property located at White Street in San Pierre.[1]

3. The Starke County Property Tax Assessment Board of Appeals ("PTABOA") held a hearing on September 19, 2024. On September 20, 2024, the PTABOA sustained the assessment at $3,000 for land. The Petitioner filed a 131 petition with the Board on September 27, 2024.

4. On March 13, 2025, Dalene McMillen, the Board's Administrative Law Judge ("ALJ"), held a telephonic hearing. Neither the Board nor the ALJ inspected the property.

5. Thomas DeCola, President of Railroad Homes, LLC, Michelle Schouten, Starke County Assessor, and Reassessment Project Manager John Viveiros testified under oath.

6. The Petitioner offered the following exhibits:

Petitioner Exhibit 1:	Notice of Railroad Homes, LLC ("Railroad Homes") Doing Business in Starke County, dated May 6, 2024,
Petitioner Exhibit 2:	Quit-claim deed from Thomas DeCola to Railroad Homes, dated May 9, 2024,
Petitioner Exhibit 3:	Railroad Homes Articles of Incorporation, dated May 6, 2024,
Petitioner Exhibit 4:	Indiana Articles of Organization for Railroad Homes, dated May 6, 2024,
Petitioner Exhibit 5:	Internal Revenue Service employer identification number for Railroad Homes, dated May 6, 2024,
Petitioner Exhibit 6:	State of Indiana Certificate of Organization for Railroad Homes, dated May 6, 2024,
Petitioner Exhibit 7:	Platted development design and aerial map,

[1] The Petitioner's Form 131 incorrectly showed the property address as 390 Clay Street in North Judson, while the Form 115 issued by the PTABOA showed the address as White Street in San Pierre. The parties confirmed on the record that the correct address is White Street in San Pierre.

Petitioner Exhibit 8:	Notifications of Final Assessment Determination – Form 115s for parcel numbers 75-08-29-204-041.000-011, 75-08-29-204-046.000-011, 75-09-16-302-004.000-014 and 75-09-16-302-032.000-014,
Petitioner Exhibit 9:	Property record card for 500 South in North Judson,
Petitioner Exhibit 10:	Indiana Code § 6-1.1-4-12,
Petitioner Exhibit 11A:	Taxpayer's Notice to Initiate Appeal – Form 130 ("Form 130") for parcel 75-09-16-302-032.000-014,
Petitioner Exhibit 11B:	Form 130 for parcel 75-09-16-302-004.000-014,
Petitioner Exhibit 11C:	Form 130 for parcel 75-08-29-204-041.000-011,
Petitioner Exhibit 11D:	Form 130 for parcel 75-08-29-204-046.000-011,
Petitioner Exhibit 12:	Quit-claim deed from Railroad Homes, LLC to Railroad Homes, LLC and plat map of Railroad Heights Subdivision.

7. The Respondent offered the following exhibits:

Respondent Exhibit 1:	2024 subject property record card ("PRC"),
Respondent Exhibit 5:	Aerial map of the subject property,
Respondent Exhibit 7:	Multiple listing sheet for White Street in San Pierre,
Respondent Exhibit 9:	Sales comparison analysis,
Respondent Exhibit 11:	Location summary map,
Respondent Exhibit 12:	2024 PRC for 900 West in San Pierre,
Respondent Exhibit 13:	Sales disclosure form for 900 West in San Pierre,
Respondent Exhibit 14:	Aerial map for 900 West in San Pierre,
Respondent Exhibit 15:	2024 PRC for 2810 Layton Court in North Judson,
Respondent Exhibit 16:	2024 PRC for Driftwood Lane (parcel 75-09-15-101-016.000-013) in North Judson,
Respondent Exhibit 17:	2024 PRC for Driftwood Lane (parcel 75-09-15-101-017.000-013) in North Judson,
Respondent Exhibit 18:	2024 PRC for 5121 South Driftwood Lane in North Judson,
Respondent Exhibit 19:	2024 PRC for Driftwood Lane (parcel 75-09-15-101-031.000-013) in North Judson,
Respondent Exhibit 20:	Sales disclosure form for Driftwood Lane (parcel 75-09-15-101-017.000-013) in North Judson,
Respondent Exhibit 21:	2023 PRC for Wesley Street in North Judson,
Respondent Exhibit 22:	Sales disclosure form for Wesley Street in North Judson.[2]

[2] The Respondent did not submit Respondent Exhibits 2, 3, 4, 6, 8 and 10.

8. 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) the digital recording of the hearing.

FINDINGS OF FACT

9. The subject property is a 150 ft. by 150 ft. vacant lot in the unincorporated town of San Pierre. As of the assessment date at issue, the subject property was owned by Thomas DeCola, the owner and registered agent of the Petitioner. DeCola deeded the subject property to the Petitioner via quit claim on May 9, 2024. For 2024, the subject property was assessed as unusable, non-rural land. This classification did not change between 2023 and 2024, but the record is silent as to how precisely the subject property was assessed prior to DeCola's original purchase of the subject property. On June 27, 2024, the subject property was listed with another parcel for a combined price of $21,000. *DeCola testimony; Viveiros testimony; Resp't Ex. 1, 7; Pet'r Exs. 2-4.*

10. The Assessor presented a sales comparison analysis prepared by John Viveiros. Viveiros selected sales of vacant land that he believed were similar to the subject property in topography. The sale dates ranged from July 2023 to June 2024. Viveiros found the comparables land sales sold for prices ranging from $0.20/sq. ft. to $0.44/sq. ft., while the subject land was valued at $0.13 per sq. ft. Overall, we find Viveiros did not demonstrate that this analysis comported with generally accepted appraisal practices. For that reason, we find it insufficient to support any value. *Viveiros testimony; Resp't Exs. 9, 11-22.*

11. The 2024 assessment under appeal of $3,000 is an approximately 11% increase over the prior year's assessment of $2,700. *Resp't Ex. 1.*

RESPONDENT'S CONTENTIONS

12. The Assessor argued that the sales comparison analysis she presented showed the subject property was not over-assessed. *Viveiros testimony.*

13. The Assessor also argued that Indiana Code § 6-1.1-4-12 does not mandate that property owned by a developer automatically receives an agricultural assessment. Instead, it prohibits reassessing undeveloped land until it is transferred to another person that is not a land developer, construction of a structure begins, or a building permit is issued. *Schouten testimony; Viveiros testimony.*

PETITIONER'S CONTENTIONS

14. The Petitioner argued that it qualifies as a land developer as defined by I.C. § 6-1.1-4-12 because it holds land for sale in inventory in the ordinary course of business. In addition, the Petitioner claimed that according to that statute and *Wendy H Elwood Trust v. Bartholomew County Assessor,* 217 N.E. 3d 1286 (Ind. Tax Ct. 2023) the subject property should be assessed with the agricultural base rate. *DeCola testimony; Pet'r Ex. 10.*

BURDEN OF PROOF

15. Generally, the taxpayer has the burden of proof when challenging a property tax assessment. Accordingly, the assessment on appeal, "as last determined by an assessing official or the county board," will be presumed to equal "the property's true tax value." I.C. § 6-1.1-15-20(a) (effective March 21, 2022).

16. However, the burden of proof shifts if the property's assessment "increased more than five percent (5%) over the property's assessment for the prior tax year." I.C. § 6-1.1-15-20(b). Subject to certain exceptions, the assessment "is no longer presumed to be equal to the property's true tax value, and the assessing official has the burden of proof." *Id.*

17. If the burden has shifted, and "the totality of the evidence presented to the Indiana board is insufficient to determine the property's true tax value," then the "property's prior year assessment is presumed to be equal to the property's true tax value." I.C. § 6-1.1-15-20(f).

18. Here, the assessment under appeal is an increase of approximately 11% over the prior year's assessment. Thus, the Assessor has the burden of proof.

ANALYSIS

19. The Indiana Board of Tax Review is the trier of fact in property tax appeals, and its charge is to "weigh the evidence and decide the true tax value of the property as compelled by the totality of the probative evidence before it. I.C. § 6-1.1-15-20(f). The Board's conclusion of a property's true tax value "may be higher or lower than the assessment or the value proposed by a party or witness." *Id.* Regardless of which party has the initial burden of proof, either party "may present evidence of the true tax value of the property, seeking to decrease or increase the assessment." I.C. § 6-1.1-15-20(e).

20. The goal of Indiana's real property assessment system is to arrive at an assessment reflecting a property's true tax value. 52 IAC 2.4-1-2; 2021 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). 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).

21. For most real property, 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 a similar user, from the property." MANUAL at 2. In order to meet its burden of proof, a party must present objectively verifiable, market-based evidence. *Piotrowski v. Shelby County Ass'r,* 177 N.E.3d 127, 132 (Ind. Tax Ct. 2021) (*citing Eckerling v. Wayne Twp. Ass'r,* 841 N.E.2d 674, 677-78 (Ind. Tax Ct. 2006)). Market-based evidence may include "sales data, appraisals, or other information compiled in accordance with generally accepted appraisal principles." *Peters v. Garoffolo,* 32 N.E.3d 847, 849 (Ind. Tax Ct. 2015). Relevant assessments are also admissible, but arguments that "another property is 'similar' or 'comparable' simply because it is on the same street are nothing more than conclusions … [and] do not

constitute probative evidence." *Marinov v. Tippecanoe County Ass'r,* 119 N.E.3d 1152, 1156 (Ind. Tax Ct. 2019). Finally, the evidence must reliably indicate the property's value as of the valuation date. *O'Donell v. Dept. of Local Gov't Fin.,* 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006).

22. In this case, the Assessor has the burden of proving the 2024 assessment is correct. The Assessor did offer some market-based evidence in the form of sales of purportedly comparable properties. But conclusory statements that a property is "similar" or "comparable" to another property do not constitute probative evidence of the comparability of the properties. *Long v. Wayne Twp. Assessor,* 821 N.E.2d 466, 470-71 (Ind. Tax Ct. 2005). In addition, a party seeking to use sales or assessment comparables must identify the characteristics of the subject property, explain how those characteristics compare to the characteristics of the purportedly comparable properties and explain how any differences affect the relative market values-in-use of the properties. *Id.* at 471. The Assessor offered some evidence regarding differences and similarities between the purportedly comparable properties and the subject property, but did not explain how any differences affected their respective values. For this reason, we find the sales-comparison analysis insufficient to establish any value for the subject property. Thus, we find the Assessor failed to meet her burden of proof.

23. We now turn to the Petitioner's evidence. The Petitioner did not provide any market-based evidence in support of a specific value. Instead, it only argued that the subject property should receive an agricultural assessment based on the "developer's discount" statute.

24. The "developer's discount" stems from I.C. § 6-1.1-4.12, which provides in relevant part:

> (a) As used in this section, "land developer" means a person that holds land for sale in the ordinary course of the person's trade or business …
> (b) As used in this section, "land in inventory" means:
> (1) a lot; or
> (2) a tract that has not been subdivided into lots;

to which a land developer holds title in the ordinary course of the land developer's trade or business.

...

(i) Except as provided in subsection (k) and subject to subsection (j), land in inventory may not be reassessed until the next assessment date following the earliest of :

(1) the date on which title to the land is transferred by:

(A) the land developer; or

(B) a successor land developer that acquires title to the land:

to a person that is not a land developer;

(2) the date on which construction of a structure begins on the land; or

(3) the date on which a building permit is issued for construction of a building or structure on the land.

...

(k) This subsection applies to land in inventory that a for-profit land developer acquires from a:

(1) school corporation; or

(2) local unit of government ... but only if the local unit of government:

(A) acquired the land in a tax sale procedure under IC 6-1.1; or

(B) has held the land for not less than three (3) years prior to the date on which the for-profit land developer acquires if from the local unit of government.

Land in inventory to which this subsection applies shall be assessed on the first assessment date immediately following the date on which the land developer acquires title to the land in inventory. Notwithstanding section 13(a) of this chapter, land in inventory to which this subsection applies is considered to be devoted to agricultural use and shall be assessed at the agricultural land base rate. After the initial assessment under this subsection, land in inventory to which this subsection applies shall be reassessed in accordance with subsection (i).

25. Thus, the developer's discount is not a discount price or a specific assessment rate as the Petitioner claims. Instead, it prohibits certain land from being reclassified and assessed based on that new classification absent specified triggering events. The statute "promotes commercial development by allowing a developer's land to be assessed on the basis of its original (i.e., its pre-purchase) classification until an objective event signaling the commencement of development occurs." *Hamilton County Assessor v. Allisonville Rd. Dev., LLC,* 988 N.E.2d 820, 823 (Ind. Tax Ct. 2013). Generally, where acreage is divided into lots or land is rezoned for, or put to, a different use, the land must be reclassified and assessed based on its new classification. Subsection (i), which is

commonly referred to as the "developer's discount," creates an exception to that rule that prohibits "land in inventory," i.e., land that a "land developer" holds for sale in the ordinary course of its trade or business, from being reclassified and reassessed until one of three additional trigger events occurs: (1) the land developer transfers the property to someone who is not a land developer; (2) a structure is built on the land; or (3) a building permit is issued. Generally speaking, both the developer's discount and I.C. § 6-1.1-4-12 as a whole were "designed to encourage developers to buy farmland, subdivide it into lots, and resell the lots." *Allison Rd. Dev.,* 988 N.E.2d at 823 (*quoting Aboite Corp. v. State Bd. of Tax Comm'rs,* 762 N.E.2d 254, 257 (Ind. Tax Ct. 2001)).

26. The Assessor does not dispute that Thomas DeCola, the owner as of the assessment date, was a developer. Likewise, the Assessor does not dispute that the subject property was land held in inventory. Rather, the Assessor argues that the current assessment does not violate I.C. § 6-1.1-4-12 because the subject property has not been reassessed.

27. Contrary to the Petitioner's claim, I.C. § 6-1.1-4-12 does not mandate an agricultural assessment for land held in inventory by a developer except in very specific circumstances.[3] Instead, it prohibits reclassification or reassessment. If agricultural land is acquired by a developer, the statute prohibits that land from being reassessed or reclassified until one of the triggering events occurred. Likewise, land that was not previously assessed as agricultural land before it is acquired by a developer continues to keep its non-agricultural classification until a triggering event occurs. In this case, the Petitioner has failed to show that the subject property ever received an agricultural assessment or that it was reassessed or reclassified in violation of I.C. § 6-1.1-4-12. The Petitioner also pointed to *Wendy H Elwood Trust v. Bartholomew County Assessor*, 217 N.E.3d 1286 (Ind. Tax Ct. 2023). But that case dealt with filing deadlines for contesting

[3] I.C. § 6-1.1-4-12(k) does mandate an agricultural assessment when land is acquired by a developer from a school corporation or a local unit of government that acquired the land in a tax sale and has held the land for less than three years. There is no evidence in this case that DeCola acquired the property from either a school corporation or a local unit of government. Thus, this subsection does not apply.

the application of the developer's discount statute. It did not hold, as the Petitioner claims, that all land held by a developer receives an agricultural assessment. For these reasons, we find the Petitioner has not demonstrated it is entitled to any relief on these grounds.

SUMMARY OF FINAL DETERMINATION

28. The Petitioner failed to make a case for any change in the assessment based on I.C. § 6-1.1-4-12. The Assessor had the burden of proof under I.C. § 6-1.1-15-20 and the totality of the evidence is insufficient to support any value. Thus, the prior year's assessment is presumed correct. We order the 2024 assessment reduced to the prior year's value of $2,700.

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>.