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.: 75-014-24-1-5-00758-24
	)	
Petitioner,	)	Parcel No.: 75-09-16-302-004.000-014
	)	
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 its 2024 assessment of its vacant land in Starke County claiming it should be assessed at the agricultural rate based on the "developer's discount." But it failed to show any violation of the relevant statute. Thus, we order no change to the 2024 assessment.

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 1 North Street in North Judson.

3. The Starke County Property Tax Assessment Board of Appeals ("PTABOA") held a hearing on September 19, 2024. On September 20, 2024, the PTABOA reduced the assessment to $900 for land. The Petitioner timely 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,
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 exhibit:

Respondent Exhibit 3:	2024 subject property record card ("PRC").[1]

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 0.29-acre rear lot with no road frontage in North Judson. Thomas DeCola, the owner and registered agent of the Petitioner, was the owner as of the assessment date at issue. DeCola deeded the subject property to the Petitioner via quit claim on May 9, 2024. For 2024, the subject property was assessed as undeveloped land. *DeCola testimony; Viveiros testimony; Pet'r Exs. 2-4; Resp't Ex. 3.*

10. The subject property's 2024 assessment of $900 was a decrease from the prior year's assessment of $1,000. *Resp't Ex. 3*

PETITIONER'S CONTENTIONS

11. 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,

[1] The Respondent did not submit Respondent Exhibits 1, 2 and 4 thru 29.

the Petitioner claimed that I.C. § 6-1.1-4-12(k) entitles the subject property to receive the agricultural rate because it was a "tax sale property." *DeCola testimony; Pet'r Ex. 10.*

RESPONDENT'S CONTENTIONS

12. The Assessor argued that Indiana Code § 6-1.1-4-12 does not mandate that property owned by a developer automatically receive 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. *Viveiros testimony.*

BURDEN OF PROOF

13. 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).

14. 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.*

15. 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).

16. Here, the assessment decreased from the prior year's assessment and both parties agreed the Petitioner had the burden of proof. Thus, we find the burden rests with the Petitioner.

ANALYSIS

17. 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).

18. 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).

19. 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).

20. Here, the Petitioner had the burden of proof but 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.

21. 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).

22. Thus, the developer's discount is not a discount price or a specific assessment. Instead, it prohibits certain land from being re-classified 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)).

23. 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.

24. The Petitioner primarily relies on I.C. § 6-1.1-4-12(k), arguing that because the subject property was a "tax sale property" at some unknown point in the past, it must receive an agricultural assessment. But this is an incorrect interpretation of that statute. Instead,

I.C. § 6-1.1-4-12(k) only mandates an agricultural assessment when land is acquired by a developer from a local unit of government that "acquired the land in a tax sale procedure" and had held the land for less than three years. This does not mean all land that is sold at tax sale receives an agricultural assessment, but rather only land that a local unit of government itself acquires at tax sale and then sells to a developer within three years. In this case, there is no evidence that a local unit of government ever held title to the subject property. Thus, I.C. § 6-1.1-4-12(k) does not apply.

25. Finally, to the extent the Petitioner argues that some other provision of I.C. § 6-1.1-4-12 would require an agricultural assessment, we find that it has failed to make a case for any violation of that statute. Absent the exception of subsection (k) just discussed, the statute only prohibits the reassessment of land held by a developer until one of the triggering events occurs. Here, the Petitioner has failed to show that the subject property ever received an agricultural assessment or that it was ever reassessed or reclassified in violation of I.C. § 6-1.1-4-12. Thus, it is not entitled to any relief on these grounds.

26. The Assessor did not request any change in the assessment or present any evidence of value. Because the totality of the evidence is insufficient to support any value the current assessment is presumed correct under I.C. § 6-1.1-15-20.

SUMMARY OF FINAL DETERMINATION

27. Neither party presented any reliable evidence of value and the Petitioner failed to make a case for any change in the assessment based on I.C. § 6-1.1-4-12. Thus, the current assessment is presumed correct, and we order no change to the assessment.

The Final Determination of the above captioned matter is issued by the Indiana Board of Tax Review on the date written above.

Jonathan R. Elrod
Chairman, Indiana Board of Tax Review

Betsy J. Brand
Commissioner, Indiana Board of Tax Review

Timothy Ellenberger
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>.