

REPRESENTATIVE FOR PETITIONERS: Stanley Reed, *pro se*

REPRESENTATIVE FOR RESPONDENT: Brian Cusimano, Attorney at Law

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

| | | |
|-------------------------|---|---------------------------------------|
| Stanley and Teresa Reed |) | Petition Nos.: 90-009-17-1-5-01974-17 |
| |) | |
| Petitioners, |) | |
| |) | |
| v. |) | Parcel No.: 90-02-22-501-019.000-009 |
| |) | |
| Wells County Assessor, |) | County: Wells |
| |) | |
| Respondent. |) | Assessment Year: 2017 |

Appeals from the Final Determinations of the
Wells County Property Tax Assessment Board of Appeals

December 21, 2018

FINAL DETERMINATION

The Indiana Board of Tax Review (“Board”) having reviewed the facts and evidence, and having considered the issues, now find and concludes the following.

INTRODUCTION

1. The parties offered competing opinions from licensed appraisers as to the value of Stanley and Teresa Reed’s property. The appraisers reached their opinions using mostly the same sales, although they differed significantly in how they adjusted the sale prices. While neither appraisal is perfect, we are more persuaded by the opinion of Michael

Sorg, the appraiser hired by the Wells County Assessor, in part because a recent sale of the most comparable property supports Sorg's valuation opinion.

PROCEDURAL HISTORY

2. On May 18, 2017, the Reeds filed an appeal with the Wells County Property Tax Assessment Board of Appeal ("PTABOA") contesting their 2017 assessment. The PTABOA determined the following:

Land: \$36,000 Improvements: \$244,300 Total: \$260,700

3. The Reeds responded by filing a Form 131 petition with the Board. They elected to proceed under our rules for small claims. We later granted the Assessor's request to transfer the appeal to our standard hearing procedures.
4. On September 27, 2018, our designated administrative law judge, Jeremy Owens ("ALJ"), held a hearing on the Reeds' petition. Neither he nor the Board inspected the property. The following people testified under oath: Stanley Reed, Sorg, and Matthew Halterman, an appraiser hired by the Reeds.

5. The parties offered the following exhibits:

| | |
|---------------------------------------|---|
| Petitioners' Exhibit 1: | Witness list |
| Petitioners' Exhibit 2: | Estimate from Residential Roofing, LLC. |
| Petitioners' Exhibit 3: | Matthew Halterman appraisal report |
| Respondent's Exhibit 1 ¹ : | 2017 property record card for the Reeds' property |
| Respondent's Exhibit 2: | Michael Sorg appraisal report |
| Respondent's Exhibit 3: | Multiple Listing Service sheet for 207 Ridge Ct. |

6. The record also includes the following: (1) all pleadings, motions, briefs, and documents filed in these appeals; (2) all orders and notices issued by the Board or our ALJ; and (3) a digital recording of the hearing.

¹ Although the Reeds used letters to identify their exhibits at the hearing, they marked the exhibits themselves with numbers. We refer to them by numbers.

OBJECTIONS

7. The Assessor objected to Petitioner’s Exhibit 2—a May 14, 2018 estimate for replacing the Reeds’ roof—on hearsay grounds. We overrule the objection. Assuming, without deciding, that the estimate is hearsay, our procedural rules allow us to admit hearsay, with one qualification: if the hearsay is objected to and does not fall within a recognized exception to the hearsay rule, we cannot base our determination solely on that evidence. 52 IAC 2-7-3. As discussed below, we do not base our determination on the estimate.

FINDINGS OF FACT

A. The Reeds’ property

8. The Reeds’ property is located at 1604 Brook Court Ossian, Indiana. It is part of Brook Ridge Estates. The property contains a two-story home with a partially finished basement that was built in 1999. *Pet’r Ex. 3; Resp’t Exs. 1-2.*

B. Appraisals

9. Each party hired a certified appraiser to value the property. Both appraisers prepared reports in conformity with the Uniform Standards of Professional Appraisal Practice (“USPAP”). *Pet’rs Ex. 3; Resp. Ex. 2; Halterman testimony; Sorg testimony.*

1. Inspection and valuation date

10. The Assessor’s appraiser, Michael Sorg, inspected the home. Unlike Sorg, the Reeds’ appraiser, Matthew Halterman, did not inspect the home’s interior. He chose to do a “drive-by” appraisal instead. Halterman explained that he had an existing relationship with the Reeds and had previously appraised the property. According to Halterman, he simply needed to update his previous appraisals. When asked whether USPAP allowed appraisal updates, Halterman responded that he prepared an appraisal report, rather than an update. *Pet’rs Ex. 3; Resp’t Ex. 2; Halterman testimony; Sorg testimony.*

11. Sorg estimated the home's effective age at 15 years, even though it was 19 years old on the valuation date. Sorg did not observe that the roof, furnace, or air-conditioning unit needed to be repaired or replaced, and Ms. Reed said nothing about that when Sorg inspected the property. But Halterman noted that the shingles were only in "fair" condition, and the Reeds got an estimate of \$17,600 for replacing the roof in May 2018. We therefore find that the roof was near the end of its useful life. *Pet'rs Ex. 2-3; Resp't Ex. 2; Sorg testimony.*
12. Sorg valued the property as of January 1, 2017, while Halterman valued it as of March 1, 2017. Halterman was not aware that the valuation date for 2017 assessments was January 1, 2017. *Pet'rs Ex. 2; Resp't Ex. 3; Halterman testimony; Sorg testimony.*

2. Sales-comparison analyses

13. Both appraisers relied on the sales-comparison approach in forming their valuation opinions, although Halterman also developed the cost approach. *Pet'rs Ex. 3, Resp. Ex. 2; Halterman testimony; Sorg testimony.*
14. The appraisers only used sales from Brook Ridge Estates. Halterman used seven sales, while Sorg used six. But they had five sales in common. Each appraiser adjusted his sale prices to account for various ways in which the sold properties differed from the Reeds' property. There were several disparities in their adjustments. In some instances, Halterman and Sorg agreed on the underlying data but disagreed about whether that data warranted an adjustment. Thus, while they agreed that four of the five sales involved seller concessions ranging from \$1,000 to \$3,000, only Halterman adjusted the sale prices to account for those concessions. Although Sorg testified that he also adjusted for those concessions, his appraisal report shows otherwise. In his report, he justified his decision not to adjust for concessions on grounds that they were "typical for the market." *Resp't Ex. 3; Sorg testimony.*

15. Similarly, Sorg adjusted the sale price for a property that sold in February 2016 by \$10,000 to account for the differences in market conditions between that sale date and his January 1, 2017 valuation date, but he did not adjust any of the other sales, including one that pre-dated the February 2016 sale. To quantify his adjustment, Sorg used annual changes to the average sale price for homes in Brook Ridge Estates, although he acknowledged that there were only a handful of sales each year. Halterman, by contrast, did not adjust for differences in market conditions. *Pet'rs Ex. 3; Resp't Ex. 2; Sorg testimony.*

16. Some other disparities appear to stem from the appraisers using different underlying data for the same properties, or simply making mistakes. For example, they did not have the same measurements for the Reeds' home or for some of the comparable homes in terms of above-grade living area, or basement size and finish. While we have few objective facts to resolve most of those discrepancies, we find that Halterman used the wrong above-grade living area for 207 Ridge Ct. While he listed that home as having 2,452 square feet, both Sorg and an MLS data sheet indicate that the home had only 2,248 square feet. Halterman could not recall whether he got his measurements from the broker, MLS, or the property's record card. According to Halterman, using the MLS measurements would increase his calculation of the property's adjusted sale price, taking it from \$231,500 up to \$238,000. In another instance, Sorg simply made a mistake by failing to adjust a property's sale price for the fact that it had a two-car garage. *Pet'rs Ex. 3; Resp't Exs. 2-3; Halterman testimony; Sorg testimony.*

17. The two appraisers similarly assigned different condition ratings to the Reeds' home as well as to some of the comparable homes. But neither appraiser rated the Reeds' home as being in better condition than he rated any of the comparable homes. Sorg assigned a higher condition rating to two of the comparable homes and adjusted their sale prices downward, while Halterman assigned all of the comparable homes the same condition rating as the Reeds' home. *Pet'rs Ex. 2; Resp't Ex. 3; Halterman testimony; Sorg testimony.*

18. The biggest distinctions between the two appraisals lie in how Halterman and Sorg quantified their adjustments. For example, they had starkly different views on how swimming pools affected value: Halterman adjusted the sale prices for the two properties with pools downward by \$10,000 each, while Sorg adjusted them by only \$3,000. According to Sorg, pools are worthless in Indiana because they can be used for only a few months out of the year. Halterman simply testified that some buyers would pay for a pool while others would not. *Pet'rs Ex. 3; Resp't Ex. 2; Sorg testimony.*
19. Halterman also used far larger per-unit adjustments for differences in above-grade living area than Sorg did. Sorg used roughly \$20/sq. ft., which he based on "personal experience and . . . quality." Halterman, by contrast, used roughly \$35/sq. ft. Although Halterman did not clearly lay out what he based his adjustment on, he referenced various considerations, including (1) data showing that newer houses in Wells County with between 1,800 and 2,000 square feet sold on average for approximately \$29,000 less than houses with between 2,000 and 2,200 square feet; (2) cost data; and (3) his experience and judgment. *Pet'rs Ex. 3; Resp't Ex. 2; Sorg testimony; Halterman testimony*
20. The appraisers also used different adjustments for basement size and finish. Sorg used \$8/sq. ft. for basement size and \$5/sq. ft. for finish. Halterman's report makes it difficult to determine his per-unit adjustments for those items. In some instances, his report appears to list separate gross adjustments for each, while he appears to have combined the two in other instances. Although Halterman did not testify as to the amount he used for either adjustment, he did say that he typically observed market differences in the range of what Sorg used for his adjustments. But whether considered together or separately, Halterman's adjustments are much larger than Sorg's. *Pet'rs Ex. 3; Resp't Ex. 2; Sorg testimony; Halterman testimony.*
21. Both appraisers agreed that the fewer adjustments needed the more comparable the property. Sorg's gross and net adjustments constituted a lower percentage of each property's gross sale price than did Halterman's. Much of that stems from differences in how they quantified adjustments for size (both above-grade and basement) and

swimming pools. But one property—211 Ridge Court—largely minimized those differences. It sold for \$262,000 without any concessions. It was the closest in size to the Reeds' home and did not have a pool. It had the lowest percentage of gross adjustments of Halterman's sales and the second lowest of Sorg's sales. Sorg and Halterman had an adjusted sale price for that property of \$255,948 and \$254,000, respectively. *Pet'rs Ex. 3; Resp't Ex. 2; Sorg testimony; Halterman testimony.*

22. The appraisers made similar adjustments to the three sales they did not share in common. We have appended a table comparing most of the relevant adjustments for the five shared sales to the end of these findings and conclusions. *Pet'rs Ex. 3; Resp't Ex. 2.*

3. Reconciled values

a. Sorg's reconciliation

23. Sorg's adjusted sale prices ranged from \$234,448 to \$258,859. It is unclear how he weighed the various sales in reaching his valuation opinion. At the hearing he alternately testified (1) that he primarily considered the first three sales (318 Eagle Ct., 207 Ridge Ct., and 211 Ridge Ct.) and used the other three (1634 Diane Dr., 322 Eagle Ct., and 1600 Brook Ct.) as additional support, and (2) that he used the entire range for represented by the six sales. In his report, Sorg initially indicated that he gave all the sales equal weight, but he later indicated that he gave the one non-shared sale in his report (1634 Diane Dr.) additional weight because it had a newly built home. *Resp't Ex. 2; Sorg testimony.*
24. When questioned about the second statement at the hearing, Sorg alternately testified (1) that he considered the Reeds' home as essentially new, and (2) that \$5,000 downward adjustment for the Diane Drive home's superior condition could have accounted for its more recent construction. Sorg also testified that he did not give the sale much weight because the home was on a slab instead of a basement and that his reference to giving it additional weight meant that he thought the sale was significant to show that the subdivision was desirable enough that people were still building new homes there. We

credit that last explanation. The sale had the lowest unadjusted and second lowest adjusted price in Sorg's report. Had he truly given the sale significant weight, he would have reconciled to a lower value. *Resp't Ex. 2; Sorg testimony.*

25. In any event, Sorg settled on a value of \$255,000 for the Reeds' property, which was near the upper end of his range for the six sales. He believed that was appropriate due to the improving market for properties in the subdivision. He described that market as exuberant beginning in 2016. *Resp't Ex. 2; Sorg testimony.*

b. Halterman's reconciliation

26. Halterman's adjusted sale prices ranged from \$212,000 to \$254,000, with an average of \$229,986. Although he considered all the sales, he believed that one of the shared sales—1600 Brook Court, which sold for an adjusted price of \$213,000—was the most applicable. Because that property was adjacent to the Reeds' home, Halterman felt that the two properties had identical traffic and views. But Halterman did not adjust any of his comparable sales to account for differences in location. He also indicated that he thought the value of the Reeds' property fell near the overall average for his seven sales. That average was close to \$230,000—the value he ultimately settled on for the Reeds' property. *Pet'rs Ex. 3; Halterman testimony.*

CONCLUSIONS OF LAW

A. Burden of Proof

27. Generally, a taxpayer seeking review of an assessing official's determination has the burden of proof. Indiana Code § 6-1.1-15-17.2 creates an exception to that general rule and assigns the burden of proof to the assessor where, among other things, the assessment under appeal represents an increase of more than 5% over the prior year's assessment. I.C. § 6-1.1-15-17.2(b). The parties agree that the assessment increased by more than 5% between 2016 and 2017. The Assessor therefore has the burden of proof.

B. True Tax Value

28. Indiana assesses property based on its “true tax value,” which 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). 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). 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.” 2011 REAL PROPERTY ASSESSMENT MANUAL 2. Evidence in an assessment appeal should be consistent with that standard. For example, USPAP-compliant market-value-in-use appraisals 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).
29. Regardless of the method used to prove true tax value, a party must explain how its evidence relates to the property’s value as of the relevant valuation date. *O’Donnell v. Dep’t of Local Gov’t Fin.*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006). Otherwise, the evidence lacks probative value. *Id.* The valuation date for 2017 assessments was January 1, 2017. With these principals, we turn to the evidence.

C. Sorg’s appraisal is more persuasive than Halterman’s

30. The parties offered competing appraisals from qualified experts. Their opinions are generally probative. For that reason, we must weigh their opinions and the other evidence to determine what is the most persuasive estimate of the property’s true tax value.
31. Neither appraisal is perfect. Both appraisers made mistakes—Sorg failed to adjust a sale price to account for that property’s comparatively smaller garage and Halterman overstated the size of one of the shared comparable homes by approximately 200 square feet.

32. We have other concerns that affect each appraiser's credibility to some extent. Sorg offered confusing and seemingly contradictory explanations about how he reconciled his adjusted sale prices, particularly regarding the weight he gave to his one non-shared sale. But we were ultimately able to sort through those explanations. We are slightly more troubled by Sorg's failure to adjust several of his comparable sale prices to account for seller concessions. Without more, the brief explanation in his report—that concessions were typical for the market—makes little sense. As Halterman explained, subtracting the concessions is necessary to reflect what the buyers actually paid. And we are trying to determine what a buyer would actually pay for the Reeds' property. Also, like Halterman, we find that Sorg was inconsistent when he adjusted the sale price for a property that sold in February 2016 upward by \$10,000 to account for what he perceived as a surge in the market between 2015 and 2016 but did not similarly adjust the sale price for a property that sold in January 2016.
33. By contrast, we give little or no weight to the Reeds' claims that Sorg failed to account for the need to replace their roof, furnace, or air conditioning. Halterman did not adjust any of his sale prices for those factors either, even though he noted that the shingles on the Reeds' roof were only in fair condition. Neither appraiser specifically examined whether those items needed to be repaired or replaced in his comparable homes. With the exception of the Diane Drive property, each appraiser's comparable homes were close to the same age as the Reeds' home. Halterman rated all those homes as being in the same condition as the Reeds' home. And Sorg rated all but three of the homes as being in the same condition as the Reeds' home. He rated those three exceptions, including the newly built home on Diane Drive, as being in superior condition and adjusted their sale prices downward.
34. Halterman had his own credibility issues. For example, he used the wrong valuation date. While it was only three months off and had little bearing on his conclusions, the fact that he did not know the correct date reflects on the care he took in completing the assignment.

35. Those are all relatively minor points. Ultimately, our decision boils down to which appraiser more persuasively dealt with the five comparable sales they shared in common. By far the biggest differences in how the appraisers treated those sales were their adjustments for (1) size, including both above-grade living area and basement area, (2) basement finish, and (3) pools. Neither appraiser did much to explain how he quantified his size-based adjustments. To justify his adjustment for above-grade living area, Halterman pointed to some general data concerning average per-unit sale prices for Wells County homes in two different size ranges. And he offered a thoroughly unconvincing explanation for his other size-based adjustments. Sorg did even less, simply referring to his experience. As for their pool adjustments, neither appraiser pointed to any data whatsoever.
36. Fortunately, one of the shared sales—211 Ridge Court—provides a benchmark as the most comparable property. It sold for \$262,000 in January of 2016. It was the closest in size to the Reeds’ home and required little in the way of size adjustments from either appraiser. It had no in-ground pool. It required the smallest percentage of gross adjustments from Halterman and the second smallest from Sorg. And it required the smallest percentage of net adjustment from either appraiser. Both appraisers agreed that the smaller the percentage of adjustment required, particularly gross adjustment, the more comparable the property. Halterman and Sorg came up with adjusted sale prices for 211 Ridge Court that were within \$2,000 of each other and within \$1,000 of Sorg’s reconciled valuation for the Reeds’ property.
37. We recognize, as Halterman testified, that appraisal practice generally requires looking at more than one property. And neither appraiser expressly gave greater weight to the sale of 211 Ridge Court than he gave to his other sales. But we are not suggesting that the Reeds’ property should be valued based solely on one sale price. We instead look to that sale as an objective benchmark to help weigh the appraisers’ competing opinions.
38. We also recognize that Halterman claimed that the sale of 1600 Brook Ct. was most applicable because of its location next-door to the Reeds’ property. But we find that

claim unpersuasive in light of how he adjusted his sale prices. Halterman did not adjust any of his sale prices to account for location, while he made significant adjustments for size. In any case, his actual reconciliation shows that he gave no greater weight to the 1600 Brook Court sale than he gave to any other sale. His reconciled value was close to the average for all his adjusted sale prices and was significantly higher than the adjusted sale price for 1600 Brook Ct.

39. Thus, while both appraisers' valuation opinions are generally probative, we find Sorg's opinion to be the more persuasive of the two and the best evidence of true tax value in this appeal.

FINAL DETERMINATION

40. After weighing the evidence, we find that Sorg's appraisal is the most persuasive evidence of the true tax value of the Reeds' property. We therefore find that the assessment must be changed to \$255,000—the amount set forth in that appraisal.

We issue this Final Determination on the date first 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>>.

Shared Sales

| | Reed | 211 Ridge Ct. | 1600 Brook Ct | 322 Eagle Ct | 318 Eagle Ct. | 207 Ridge Ct. |
|----------------------------|------------|------------------|---------------|---------------|------------------|-------------------------------|
| Sale Price | | \$262,000 | \$228,900 | \$279,000 | \$255,000 | \$254,000 |
| Sale/Valuation Date | | Jan. 2016 | Feb. 2016 | Aug. 2016 | Nov. 2016 | March 2017 |
| Sorg | 1/1/17 | | \$10,000 | | | |
| Halterman | 3/1/17 | | | | | |
| Concessions | | No | Yes | Yes | Yes | Yes |
| Sorg | | | | | | |
| Halterman | | | (\$3,000) | (\$2,500) | (\$1,500) | (\$1,000) |
| Above Grade | | 2,064 s.f. | 2,124 s.f. | 2,238 s.f. | 2,532 s.f. | 2,248/2,452 s.f. ² |
| Sorg, | 1,868 s.f. | (\$3,900) | (\$5,100) | (\$7,400) | (\$13,300) | (\$7,600) |
| Halterman | 1,884 s.f. | (\$6,500) | (\$8,500) | (\$12,500) | (\$22,500) | (\$20,000) |
| Basement | | 1,200 s.f. | 1,100 s.f. | 1,658 s.f. | 1,200/1,927 s.f. | 1,463/1,489 s.f. |
| Sorg | 1,431 s.f. | \$1,848 | \$2,648 | (\$1,816) | \$1,848 | \$1,500 |
| Halterman | 1,453 s.f. | \$3,500 | \$6,000 | (\$9,000) | (\$4,000) | \$1,000 |
| Basmt. Fin. | | 1,000/1,100 s.f. | 1,000 s.f. | 1,658 s.f. | 727 s.f. | 925/893 s.f. |
| Sorg | 1,033 s.f. | \$1,000 | \$1,000 | (\$2,925) | \$1,730 | |
| Halterman | 1,046 s.f. | (\$5,000) | | | | (\$2,500) |
| Condition | | Super./C4 | Good/ C4 | Super./ C4 | Good/ C4 | Good/ C4 |
| Sorg | Good | (\$5,000) | | (\$3,000) | | |
| Halterman | C4 | | | | | |
| Pool | | No | Yes | Yes | No | No |
| Sorg | No | | (\$3,000) | (\$3,000) | | |
| Halterman | No | | (\$10,000) | (\$10,000) | | |
| Garage | | 3 Car | 3 Car | 2.5 Car/2 Car | 2 Car | 3 Car |
| Sorg | 3 Car | | | | | |
| Halterman | 3 Car | | | \$5,000 | \$5,000 | |
| Net Adj. | | | | | | |
| Sorg | | 2.31% | 2.42% | 7.22% | 4.60% | 2.40% |
| Halterman | | 3.10% | 6.80% | 12.20% | 9.00% | 8.90% |
| Gross Adj. | | | | | | |
| Sorg | | 4.48% | 9.50% | 7.22% | 7.40% | 3.58% |
| Halterman | | 5.70% | 12.00% | 15.80% | 12.90% | 9.60% |
| Adjusted Price | | | | | | |
| Sorg | | \$255,948 | \$234,448 | \$285,859 | \$243,278 | \$247,900 |
| Halterman | | \$254,000 | \$213,400 | \$245,000 | \$232,000 | \$231,500 |

² Where a slash mark separates numbers, the first number is from Sorg's report and the second is from Halterman's.
Stanley and Teresa Reed
Findings and Conclusions
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