

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

Petition Nos.: **27-023-22-1-4-00368-25**
27-023-23-1-4-00369-25

Petitioner: **SNH RMI Northwood Manor Properties LLC**
Respondent: **Grant County Assessor**
Parcel: **27-03-36-102-001.001-023**
Assessment Years: **2022 & 2023**

The Indiana Board of Tax Review (“Board”) issues this determination in the above matter, and finds and concludes as follows:

Procedural History

1. The Petitioner appealed the 2022 and 2023 assessments of its property located at 1590 West Timberview Drive in Marion on June 1, 2022, and May 10, 2023 respectively.
2. The Grant County Property Tax Assessment Board of Appeals (“PTABOA”) held a hearing for both years on January 10, 2024. The Petitioner claimed they did not receive notice of the hearing. The PTABOA issued its determinations on January 26, 2024, sustaining the following assessments:

Year	Land	Improvements	Total
2022	\$811,400	\$3,568,100	\$4,379,500
2023	\$811,400	\$3,687,300	\$4,498,700

3. The Petitioner appealed both years to the Board on May 2, 2025, electing to proceed under the small claims procedures. This was after the 45-day deadline to appeal the PTABOA decisions under Indiana Code § 6-1.1-15-3.
4. On September 9, 2025, Dalene McMillen, the Board’s Administrative Law Judge (“ALJ”), held a telephonic hearing. Neither the Board nor the ALJ inspected the property.
5. Certified Tax Representative Garrett Amato appeared for the Petitioner. Brian Cusimano appeared as the Assessor’s attorney. Amato, Grant County Assessor Rhonda Wylie, and Allison Myers, an employee of the Assessor, testified under oath.

Record

6. The parties submitted the following exhibits:

Petitioner Exhibit 1: Reconstructed income & expense analysis
(Confidential),

Petitioner Exhibit 2: Actual YE 2021-2022 financials **(Confidential)**,

Petitioner Exhibit 3: Cap rate support.

Respondent Exhibit A: 2022 subject property record card ("PRC"),

Respondent Exhibit B: 2023 subject PRC,

Respondent Exhibit C: Notice of Hearing on Petition – Real Property (By County Property Tax Assessment Board of Appeals) – Form 114 for January 1, 2022,

Respondent Exhibit D: Notice of Hearing on Petition – Real Property (By County Property Tax Assessment Board of Appeals) – Form 114 for January 1, 2023.

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 two-story wood frame 46,417 sq. ft. senior living facility built in 1999 located on 5.01 acres in Marion. *Resp't Exs. A & B.*

9. The 2022 assessment under appeal of \$4,379,500 is an approximately 3.26% increase over the prior year's assessment of \$4,241,400. *Resp't Ex. A.*

10. The 2023 assessment under appeal of \$4,498,700 is an approximately 2.72% increase over the prior year's assessment of \$4,379,500. *Resp't Ex. B.*

Contentions

11. Summary of the Petitioner's case:

a) The Petitioner claimed that their late appeals to the Board should be excused because they did not receive notice of the PTABOA hearings. Amato testified that he searched his files and had no record of them. He also testified that he contacted the Petitioner and they indicated they also had no record of the notices. *Amato testimony.*

- b) The Petitioner also presented an income approach that Amato developed using the subject property's actual income and expenses.¹ Amato selected capitalization rates from CoStar Analytics for each year. He concluded to values of \$1,148,500 for 2022 and negative \$86,400 for 2023. *Amato testimony; Pet'r Exs. 1-3.*
- c) The Petitioner argued that this analysis shows the assessments at issue are too high. Rather than ask for those values, the Petitioner requested the Board change the assessments to mirror the 2024 assessment of \$3,379,900. *Amato testimony.*

12. Summary of the Respondent's case:

- a) The Assessor argued that the Form 131 appeals to the Board were untimely. In support of this, the Assessor offered evidence regarding the procedures the office uses to mail the notices for PTABOA hearings. In addition, the Assessor testified that no notices were returned. *Wylie testimony; Myers testimony; Resp't Exs. C & D.*
- b) The Assessor also argued that the Petitioner failed to make a case for any change in the assessment because their evidence was solely related to the subject property and was not compared to the market.

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 2022 assessment under appeal is an approximately 3.26% increase over the prior year's assessment. Therefore, the Petitioner has the burden of proof. Deciding where the burden of proof lies for 2023 depends on our determination for 2022.

¹ We omit the specific numbers because they were designated as confidential.

Analysis

17. The Assessor failed to demonstrate that the petitions were untimely.
 - a) Indiana Code § 6-1.1-15-3(d) requires a party seeking review of a county board determination to file a petition with the Board “not later than forty-five (45) days after the date of the notice given to the party or parties of the determination of the county board[.]” When the county board gives notice by mail, three additional days are added to the forty-five day period. 52 IAC 4-4-3(g). Under subsection (d), therefore, the “date of the notice given” is the event that triggers and limits appeal rights. As such, the party asserting untimeliness must establish, with competent evidence, when notice was given so that the statutory period can be measured. *See, e.g., Cooper Indus. v. City of South Bend*, 899 N.E.2d 1274, 1279 (Ind. 2009) (providing that the party raising a statute of limitations claim “bears the burden of proving the suit was commenced beyond the statutory time allowed” (internal citation omitted)).
 - b) The evidence offered on the notice question is limited. The Petitioner introduced copies of the PTABOA’s Form 115 determinations that bear a date in the box for the “mailing date.” The Assessor did not offer the Form 115s into evidence and did not otherwise establish that the determinations were actually mailed on January 26, 2024, as stated on the forms. The Assessor also did not present testimony describing when the PTABOA mailed the determinations or how mailing ordinarily occurs in the regular course of PTABOA business.² In contrast, Amato testified that while neither he nor the Petitioner received the Form 115s at the time they were supposedly mailed, they subsequently obtained them by email in 2025. Under these circumstances, the mailing date notations on the face of the Form 115s are not self-proving of the date notice was “given.”
 - c) The presumption of receipt associated with the mailbox rule arises only after proper mailing is shown. *See Tri Creek Lumber Co. v. State Bd. of Tax Comm’rs*, 558 N.E.2d 1130, 1132 (Ind. Tax Ct. 1990). Here, the record does not contain competent evidence that the PTABOA mailed either determination on the date imprinted on the Form 115s. The Assessor presented no documentary evidence or testimony about a routine mailing practice sufficient to show that notice was given by mail on a specific date. The Petitioner’s later-obtained copies of the Form 115s, coupled with Amato’s

² The Assessor did offer some evidence regarding the mailing of the Form 114 notices of hearing, but the Form 114s do not trigger the appeal deadlines, rather it is the Form 115s. The Assessor offered no evidence regarding the procedures for mailing the Form 115s.

testimony that neither he nor the Petitioner received contemporaneous notice, reinforces that the date on the Form 115s cannot, standing alone, establish the statutory trigger. Without proof of proper mailing, no presumption of receipt arises.

- d) The record does not establish the date on which notice was given under I.C. § 6-1.1-15-5(d). Consequently, the Board cannot determine that the petitions were filed more than forty-five days after the statutory trigger. Subsection (d) therefore does not support dismissal for untimeliness on this record, and we treat the petitions as timely.

18. The Petitioner failed to make a case for reducing the 2022 and 2023 assessments.

- a) 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).
- b) 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, true tax value is found 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 reflected by the utility received by the owner or by a similar user, from the property.” 2021 REAL PROPERTY ASSESSMENT MANUAL at 2.
- c) In order to meet its burden of proof, a party “must present objectively verifiable, market-based evidence” of the value of the property. *Piotrowski v. Shelby Cty. Assessor*, 177 N.E.3d 127, 132 (Ind. Tax Ct. 2021) (*citing Eckerling v. Wayne Twp. Assessor*, 841 N.E.2d 674, 677-78 (Ind. Tax Ct. 2006)). For most real property types, neither the taxpayer nor the assessor may rely on the mass appraisal “methodology” of the “assessment regulations.” *P/A Builders & Developers, LLC v. Jennings County Assessor*, 842 N.E.2d 899, 900 (Ind. Tax Ct. 2006). This is because the “formalistic application of the Guidelines’ procedures and schedules” lacks the market-based evidence necessary to establish the market value-in-use of a specific property. *Piotrowski*, 177 N.E.3d at 133.
- d) 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 Cty. Assessor*, 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'Donnell v. Dept. of Local Gov't Fin.*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006).

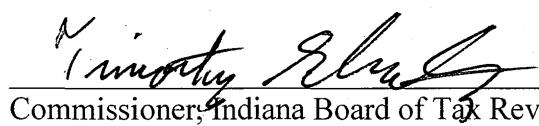
- e) The Petitioner offered an income capitalization approach for each year based on the subject property's actual income and expenses. Although examining a property's actual income and expenses is an important step, relying on them exclusively is inappropriate when appraising a property's market value-in-use. *See Indiana MHC, LLC v. Scott County Assessor*, 987 N.E.2d 1182, 1185-86 (Ind. Tax Ct. 2013) (citing THE APPRAISAL OF REAL ESTATE 493, 501, 509, 511-12 (12th ed. 2001) ("[T]o provide a sound value indication under the income capitalization approach, one must not only examine the historical and current income, expenses, and occupancy rates for the subject property, but the income, expenses and occupancy rates of comparable properties in the market as well.")) (emphasis in original).
- f) Here, the Petitioner failed to provide evidence comparing its actual income or expenses to other comparable properties in the market. In addition, although the Petitioner provided some support for the capitalization rates, it did not show that the person who prepared the analysis, Amato, had sufficient expertise or used generally accepted appraisal principles when he selected those rates. Finally, the Petitioner provided no reliable evidence showing that its requested value, the 2024 assessment, was appropriate for the 2022 and 2023 valuation dates. For these reasons, we find the Petitioner has failed to make a case for any change in the assessment.
- g) The Assessor did not ask for 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 2022 assessment is presumed correct under I.C. § 6-1.1-15-20. For 2023, the Petitioner again has the burden of proof and we reach the same result.

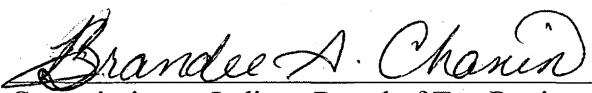
Final Determination

19. In accordance with the above findings and conclusions, the Board orders no change to the 2022 and 2023 assessments.

ISSUED: DECEMBER 6, 2025


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>>.