

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

Petition: 71-001-21-1-5-00263-22
Petitioners: Zvonko V. and Dubravka J. Shilkovich
Respondent: St. Joseph County Assessor
Parcel: 71-13-01-401-004.000-001
Assessment Year: 2021

The Indiana Board of Tax Review issues this determination, finding and concluding as follows:

Procedural History

1. Zvonko V. and Dubravka J. Shilkovich contested the 2021 assessment of their property located at 61501 Fellows Street in South Bend. On February 25, 2022, the St. Joseph County Property Tax Assessment Board of Appeals (“PTABOA”) issued a Form 115 determination setting the assessment at \$175,900 (\$30,900 for land and \$145,000 for improvements).
2. The Shilkoviches then filed a Form 131 petition with us. We scheduled the matter for our small claims docket, and neither the Shilkoviches nor the Assessor filed a written request to opt out of those procedures.
3. On March 30, 2023, our designated administrative law judge, Joseph Stanford (“ALJ”), held a hearing on the Shilkoviches’ petition. Neither he nor the Board inspected the property. Zvonko Shilkovich represented himself and Frank Agostino appeared as counsel for the Assessor. The following people testified under oath: St. Joseph County Assessor Michael Castellon; Shannon Schalk, personal property director for the Assessor; and Zvonko Shilkovich.

Record

4. The official record for this matter includes the following:

Petitioners Exhibit 1:	Summary of land values,
Petitioners Exhibit 2:	Property information sheet for the subject property,
Petitioners Exhibit 3:	Property information sheet for the Obenchain property,
Petitioners Exhibit 4:	Property information sheet for the Taylor property,
Petitioners Exhibit 5:	Property information sheet for the Gordon property,
Petitioners Exhibit 6:	Property information sheet for the Wynen property,
Petitioners Exhibit 7:	Property information sheet for the Hamm property,
Petitioners Exhibit 8:	Property information sheet for the Stoller property,
Petitioners Exhibit 9:	2022 subject property record card (“PRC”),

Petitioners Exhibit 10:	2022 PRC for the Obenchain property,
Petitioners Exhibit 11:	2022 PRC for the Gordon property,
Petitioners Exhibit 12:	2022 PRC for the Hamm property,
Petitioners Exhibit 13:	2022 PRC for the Stoller property,
Petitioners Exhibit 14:	2021 PRC for the Gordon property,
Petitioners Exhibit 15:	2021 Form 11 for the subject property,
Petitioners Exhibit 16:	Plat map of the subject's neighborhood,
Petitioners Exhibit 17:	Land information sheet for the subject property,
Petitioners Exhibit 18:	Land information sheet for the Obenchain property,
Petitioners Exhibit 19:	Land information sheet for the Hamm property,
Petitioners Exhibit 20:	Land information sheet for the Gordon property,
Petitioners Exhibit 21:	Land information sheet for the Stoller property.
Respondent Exhibit 1:	Form 131,
Respondent Exhibit 2:	Form 115,
Respondent Exhibit 3:	Form 134,
Respondent Exhibit 4:	Form 130,
Respondent Exhibit 5:	2021 subject PRC,
Respondent Exhibit 6:	Memorandum list and valuation history,
Respondent Exhibit 7:	2022 PRC for the Stoller property.

5. The record also includes: (1) all petitions and other documents filed in this appeal, (2) all notices and orders issued by the Board or the ALJ, and (3) an audio recording of the hearing.

Findings of Fact

6. The subject property is located on a cul-de-sac in a residential subdivision. The property contains a home on 0.45 acres of land. In 2021, the land portion of the property's assessment was \$30,900. *Shilkovich testimony; Pet'rs Exs. 2, 16.*
7. The record contains assessment information for six other improved properties in the same subdivision, including some further down Fellows Street, but not on the cul-de-sac, and some on different cul-de-sacs. The lots range from 0.35 acres to 2.55 acres, and their 2021 land assessments ranged from \$16,800 to \$53,300. The Shilkoviches highlighted three of the lots:
- John and Barbara Obenchain's lot at 61443 Fellows Street. It is 0.35 acres, and its 2021 land assessment was \$16,800.
 - Henry and Carolyn Taylor's lot at 61405 Fellows Street. It is 0.36 acres, and its 2021 land assessment was \$16,800.
 - James and Jane Stoller's lot at 19385 Russell Court. It is .72 acres, and its 2021 land assessment was \$24,700.

For 2022, most of the properties' land assessments were determined by applying an adjusted base rate to each lot's effective frontage, not to its total area. We find that the same was likely true for 2021. *Shilkovich testimony; Pet'rs Exs. 3-8, 10-16, 18-21.*

Conclusions of Law

8. Generally, an assessment determined by an assessing official is presumed to be correct. 2021 REAL PROPERTY ASSESSMENT MANUAL at 3. A petitioner has the burden of proving the assessment is incorrect and what the correct assessment should be. *Piotrowski v. Shelby Cnty. Ass'r*, 177 N.E.3d 127, 131-32 (Ind. Tax Ct. 2021).
9. The goal of Indiana's real property assessment system is to arrive at an assessment reflecting a property's true tax value. 50 IAC 2.4-1-1(c); 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). 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." MANUAL at 2.
10. Evidence in an assessment appeal should be consistent with that standard. For example, a market-value-in-use appraisal prepared in accordance with USPAP 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). A party may also offer actual construction costs, sales information for the property under appeal or for comparable properties, and any other information compiled according to generally accepted appraisal principles. *See Eckerling v. Wayne Twp. Ass'r*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006).
11. The Shilkoviches contest only their land assessment and rely solely on evidence concerning the land portions of assessments for other properties from their subdivision. The properties, however, are all improved. Because we are ultimately concerned with the market value-in-use for the subject property as a whole rather than the contributory values of selected components, we doubt the reliability of the Shilkoviches' approach. But the Assessor neither objected to the Shilkoviches focusing solely on the land component of the subject property's assessment nor offered any evidence of his own to show the property's overall value. We therefore address the Shilkoviches' claim on its own terms.
12. The Shilkoviches did not offer any probative market-based evidence to show that the subject land was assessed for more than its market value-in-use. At most, Zvonko Shilkovich argued that the other land assessments, particularly the ones for the lots owned by the Obenchains, Taylors, and Stollers, show that the subject lot was assessed too high. He argued that because the subject lot is about 20% larger than the Obenchains' and Taylors' lots, it should be assessed for only 20% more, or roughly \$20,000. Other than pointing to the lots' location in the same subdivision and to their

relative sizes, however, Zvonko did not compare the lots' various characteristics or explain how relevant differences affected values. His analysis therefore does not carry probative weight. *See Long v. Wayne Twp. Ass'r*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005) (finding that the taxpayers' comparable sales data lacked probative value where they failed to explain how their property's characteristics compared to those of purportedly comparable properties, and how differences affected market value-in-use). Even for the difference that Zvonko did attempt to account for—lot size—Zvonko did not support his premise that an increase in lot size automatically correlates to an identically proportional increase in value. To the contrary, the Assessor did not value most of the lots in the subdivision using a unit value premised strictly on total area, such as price per acre. He instead based those assessments on price per foot of effective frontage.

13. To the extent the Shilkoviches intended to claim a lack of uniformity and equality in assessments, they similarly failed to make a case. As the Tax Court has explained, “[o]ne way to measure uniformity and equality in property assessment is through an assessment ratio study.” *Thorsness v. Porter Cnty. Ass'r*, 3 N.E.3d 49, 51 (Ind. Tax Ct. 2014). Such a study “compare[s] the assessed values of properties within an assessing jurisdiction with objectively verifiable data, such as sales prices or market value-in-use appraisals.” *Id.* at 51 (quoting *Westfield Golf Practice Ctr., LLC v. Washington Twp. Ass'r*, 859 N.E.2d 396, 399 n. 3 (Ind. Tax Ct. 2007)). Where a ratio study shows an actionable lack of uniformity, a taxpayer may be entitled to an equalization adjustment bringing its assessment to the common level shown by the study. *Id.*
14. The Shilkoviches offered no objectively verifiable data to show the market value-in-use of the subject property or of any other property they claim was more favorably assessed. They therefore failed to make a prima facie case for an equalization adjustment. *See Westfield Golf*, 859 N.E.2d at 399) (finding that a taxpayer failed to prove lack of uniformity and equality where it failed to show the market value-in-use of its property or any of the properties it claimed were more favorably assessed).

Conclusion

15. The Shilkoviches failed to make a prima facie case for reducing their 2021 assessment. We therefore find for the Assessor and order no change to the assessment.

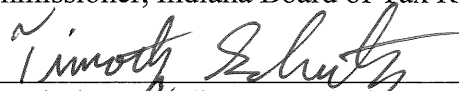
Date: JUNE 23, 2023



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>.