

REPRESENTATIVE FOR THE PETITIONER: Walter Owens, *pro se*

REPRESENTATIVE FOR THE RESPONDENT: Scott Potts, White County Consultant

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

WEO LLC,)	Petition No.: 91-018-21-1-5-00817-21
)	
Petitioner,)	Parcel No.: 91-75-30-000-010.100-018
)	
v.)	County: White
)	
White County Assessor,)	Township: Princeton
)	
Respondent.)	Assessment Year: 2021

November 2, 2022

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 2021 assessment of his residential property in White County. But he failed to present any reliable evidence supporting his requested value. The Assessor offered a USPAP-compliant appraisal that we find to be credible. Thus, we order the 2021 assessment changed to reflect the appraised value.

PROCEDURAL HISTORY

2. WEO LLC appealed the 2021 assessment of a single-family home located at 413 South Range Street in Wolcott, IN with the White County Assessor. On October 6, 2021, the White County Property Tax Assessment Board of Appeals (“PTABOA”) issued its determination reducing the assessment to \$8,400 for land and \$26,300 for improvements for a total of \$34,700. WEO LLC timely appealed to the Board.
3. On August 8, 2022, Dalene McMillen, the Board’s Administrative Law Judge (ALJ), held a telephonic hearing. Neither the Board nor the ALJ inspected the property.
4. Walter Owens, Managing Member of WEO LLC appeared for the Petitioner. Scott Potts, a consultant for the White County Assessor, appeared for the Respondent. Both testified under oath.
5. The Petitioner offered no exhibits.
6. The Respondent offered the following exhibits:
 - Respondent Exhibit A: Department of Local Government Finance – Professional Appraisal Certification for Scott Potts and related documents,
 - Respondent Exhibit B: Residential appraisal report of the subject property prepared by Kristi Croushore and Gregory Vogel II with and effective date of January 1, 2021.
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) the digital recording of the hearing.

FINDINGS OF FACT

8. The subject property is a 1.5 story home in poor condition located on approximately .27 acres of land in Wolcott. *Resp’t Ex. B.*

9. The Assessor engaged Kristi Croushore and Gregory D. Vogel II of Vogel Real Estate and Appraisals to appraise the market value of the subject property as of January 1, 2021. They certified that their appraisal complied with the Uniform Standards of Professional Appraisal Practice (“USPAP”). To develop their opinion of value, they chose to use the sales-comparison approach. They selected nine comparable properties that sold for prices ranging from \$27,000 and \$87,500 between April 2020 and May 2021. They adjusted the comparables for a number of factors including conditions of sale, site size, gross living area, basement finish, condition and room count. After adjustment, the sale prices ranged from \$29,886 to \$60,307. They reconciled these sales to a value of \$38,000, giving the most weight to the most similar property. *Resp’t Ex B.*

PETITIONER’S CONTENTIONS

10. WEO LLC argued that the subject property is over-assessed. In support of this, Owens testified that no improvements have been made to the subject property in 10 years, but the county increased the 2021 assessment by 75%. He also noted that surrounding counties have not increased their assessments by that much. *Owens testimony.*
11. WEO LLC also argued that the appraisal report submitted by the Assessor should not be considered because a property’s assessed value should not be the same amount as its appraised value. Owens also claimed that the appraisal was not reliable because one of the appraisers was also a realtor. *Owens testimony.*

RESPONDENT’S CONTENTIONS

12. The Assessor argued that the subject property’s assessment should be increased. In support of this, the Assessor pointed to the \$38,000 valuation from the Vogel appraisal. *Potts testimony; Resp’t Ex. B.*

ANALYSIS

13. Generally, an assessment determined by an assessing official is presumed to be correct. 2021 REAL PROPERTY ASSESSMENT MANUAL at 3. The petitioner has the burden of proving the assessment is incorrect and what the correct assessment should be. *Eckerling v. Wayne Twp. Ass'r*, 841 N.E.2d 674, 678 (Ind. Tax. Ct. 2006).
14. Real property is assessed based on its market value-in-use. Ind. Code § 6-1.1-31-6(c); 2021 REAL PROPERTY ASSESSMENT MANUAL at 2. The cost approach, the sales comparison approach, and the income approach are three generally accepted techniques to calculate market value-in-use. Assessing officials primarily use the cost approach, but other evidence is permitted to prove an accurate valuation. Such evidence may include actual construction costs, sales information regarding the subject property or comparable properties, appraisals, and any other information compiled in accordance with generally accepted appraisal principles.
15. Regardless of the method used, a party must explain how the evidence relates to the relevant valuation date. *O'Donnell v. Dep't of Local Gov't Fin.*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006); *see also Long v. Wayne Twp. Ass'r*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). For the 2021 assessment, the valuation date was January 1, 2021. *See* Ind. Code § 6-1.1-2-1.5.
16. WEO LLC argued that the subject property's assessment should not have increased, but it offered no support for that contention. Statements that are unsupported by probative evidence are conclusory and of no value to the Board in making its determination. *Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1118 (Ind. Tax Ct. 1998). To make a case, a taxpayer must show the current assessment does not accurately reflect the subject property's market value-in-use. *P/A Builders and Developers, LLC v. Jennings Co. Ass'r*, 842 N.E.2d 899, 900 (Ind. Tax Ct. 2006). To do that, a taxpayer must present "objectively verifiable, market-based evidence." *Piotrowski BK #5643, LLC v. Shelby Cnty Ass'r*, 177 N.E.3d 127 (Ind. Tax Ct. 2021).

17. In this case, WEO LLC failed to offer any such evidence. It only argued that no changes were made to the subject property and that its assessment increased more than the assessments in nearby counties. But it is insufficient to simply attack the methodology used to develop the assessment. Instead, parties must use market-based evidence to “demonstrate that the suggested value accurately reflects the property’s true market value-in-use.” *Eckerling v. Wayne Twp. Ass’r*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006). But WEO LLC failed to do so.

18. The Assessor did offer market-based evidence in the form of the Vogel appraisal. WEO LLC made two main criticisms of the appraisal: (1) that it was unreliable because one of the appraisers was also a realtor, and (2) that appraised value should not equal the assessed value. As to the first point, there is no evidence in the record that either appraiser had any incentive to inflate the value for this particular property, nor do we find any evidence that they would. In addition, they certified that their appraisal complied with USPAP. Overall, we find their opinion reliable. Turning to WEO LLC’s second argument, we note that Owen’s claim that an assessment should not equal a value from an appraisal is incorrect. While this appraisal was for the market value, rather than the market value-in-use, in markets where properties of the same type are frequently exchanged and used by both the buyer and seller for the same general purpose, the market value-in-use will equal the market value. *Trimas Fasteners*, 923 N.E.2d 496, 497 (Ind Tax Ct. 2010.) Thus, a market value appraisal can be reliable evidence of value. In this case, we find it to be the only reliable evidence in the record. For that reason, we order the assessment changed to reflect the value from the Vogel appraisal.

SUMMARY OF FINAL DETERMINATION

19. The 2021 assessment must be increased to the appraised value of \$38,000.

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>.