

REPRESENTATIVES FOR PETITIONERS:

David A. Wuthrich, *pro se*

REPRESENTATIVE FOR RESPONDENT:

Kim Miller, Noble County Assessor

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

David A. Wuthrich,	)	Petition No.:	57-009-14-1-5-10274-15
)		
Petitioner,	)	Parcel No.:	57-19-32-400-021.000-009
)		
v.	)	County:	Noble
)		
Noble County Assessor,	)	Township:	Noble
)		
Respondent.	)	Assessment Year:	2014

Appeal from the Final Determination of the
Noble County Property Tax Assessment Board of Appeals

Issued: February 5, 2016

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:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Introduction

1. While the taxpayer, David Wuthrich, focused mainly on how his home and garage were assessed, those buildings contribute relatively little to his lakefront property’s overall

value. The evidence, including an appraisal offered by the Noble County Assessor, supports the total assessment of \$91,900.

Procedural History

2. Mr. Wuthrich appealed his 2014 assessment to the Noble County Property Tax Assessment Board of Appeals (“PTABOA”). On June 2, 2015, the PTABOA issued its determination changing how the subject property’s overall assessment was allocated between land and improvements, but not changing the total amount. Mr. Wuthrich then timely filed a Form 131 petition with the Board.
3. On September 10, 2015, our designated administrative law judge, Dalene McMillen, held a hearing on the petition. Neither she nor the Board inspected the property.
4. The following people testified under oath: David Wuthrich; Kim Miller, Noble County Assessor; and William F. Schnepf, Jr., a certified general appraiser.
5. Mr. Wuthrich offered the following exhibits:

Petitioner Exhibits 1-2:	Form 131 petition,
Petitioner Exhibits 3-4:	Form 115 Notification of Final Assessment Determination,
Petitioner Exhibit 5:	2010 listing for two 1985 double-wide mobile homes,
Petitioner Exhibit 6:	1985 purchase order for the subject manufactured home,
Petitioner Exhibits 7-8:	NADAguides.com Value Report for 1985 Redman manufactured home, July-August 2015, pages 1-3,
Petitioner Exhibits 9-45:	Photographs of the subject home,
Petitioner Exhibit 46:	1987 proposal to build subject garage,
Petitioner Exhibits 47-51:	Photographs of the subject garage,
Petitioner Exhibit 52:	2014 RE/MAX listing for Lot 28 N 982 W Shipshe Lake, Shishewana,
Petitioner Exhibit 53:	Plat map showing subject property,
Petitioner Exhibit 54:	List of prior years’ assessments,
Petitioner Exhibits 55-60:	Photographs of the subject site and home,
Petitioner Exhibit 61:	2011 receipt for installing new well,
Petitioner Exhibits 62-63:	Photographs of the subject property’s home,
Petitioner Exhibit 64:	2001 receipt for costs associated with sewer,

Petitioner Exhibit 65: August 17, 2015 email from Tri-Lakes Regional Sewer District to Mr. Wuthrich,
 Petitioner Exhibit 66: 1985 purchase order for the subject home,
 Petitioner Exhibits 67-68: 2008 U.S. Department of Energy R-Value Recommendations for New and Existing Homes,
 Petitioner Exhibits 69-70: 2015 listing for 1971 manufactured home in Shipshewana,
 Petitioner Exhibits 71-72: 2015 listing for 1987 manufactured home in Sheperd, Michigan,
 Petitioner Exhibits 73-74: 2015 listing for 1996 manufactured home in Vanderbilt, Michigan,
 Petitioner Exhibit 75: Beacon summary report for the subject property,
 Petitioner Exhibits 76-77: Summary of Mr. Wuthrich's testimony.

6. The Assessor offered the following exhibits:

Respondent Exhibit 1: Qualifications of William Schnepf, appraiser,
 Respondent Exhibit 2: Residential appraisal report prepared by William F. Schnepf, Jr., dated August 20, 2015.

7. The following additional items are part of the record:

Board Exhibit A: Form 131 petition,
 Board Exhibit B: Hearing notice,
 Board Exhibit C: Hearing sign-in sheet.

8. The property under appeal contains a single-family home with detached garage located at 5417 Groveland Drive, Albion.

9. The PTABOA determined the following values:

Land: \$52,200	Improvements: \$39,700	Total: \$91,900
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10. At the hearing Mr. Wuthrich requested the following assessment:

Land: \$25,576	Improvements: \$19,584	Total: \$45,160
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Burden of Proof

11. Generally, a taxpayer seeking review of an assessment must prove the assessment is wrong and what the correct value should be. Indiana Code § 6-1.1-15-17.2 creates an exception to the general rule and assigns the burden of proof to the assessor in specified circumstances, including where the assessment under appeal represents an increase of more than 5% over the prior year's assessment for the same property. I.C. § 6-1.1-15-17.2(a) and (b). If the assessor has the burden and fails to prove the assessment is correct, it reverts to the previous year's level or to another amount shown by probative evidence. *See* I.C. § 6-1.1-15-17.2(b).

12. The parties agree that the assessment increased by more than 5% between 2013 and 2014, going from \$48,400 to \$91,900. The Assessor therefore has the burden of proof.

Assessor's Contentions

13. The assessment increased in 2014 because assessors must do ratio studies and trend property values annually. They trend values by comparing assessments to sales from the same neighborhood. Based on those sales, assessors calculate adjustments to make the assessments reflect market conditions. They then perform ratio studies to make sure the trended values are within statistically acceptable ranges. The Department of Local Government Finance approves the ratio studies. *Miller testimony*.

14. In response to Mr. Wuthrich's appeal, the Assessor hired William F. Schnepf, Jr., a certified general appraiser, to appraise the property. He prepared an appraisal in accordance with the Uniform Standards of Professional Appraisal Practice ("USPAP") and estimated a value of \$96,000 as of March 1, 2014. *Miller & Schnepf testimony; Resp't Exs. 1-2*.

15. Mr. Schnepf began by collecting information from the Assessor and various other sources, including from items offered by Mr. Wuthrich at the PTABOA hearing. He also drove by the property and observed the neighborhood. He made an extraordinary

assumption that the information provided by others was correct and reflected the property as of its effective valuation date. *Schnepf testimony; Resp't Ex. 2 at 6-7, 10.*

16. Mr. Schnepf developed the cost and sales-comparison approaches. He began his analysis under the cost approach by determining the land's value. To do so, he analyzed sales of waterfront parcels from Big Lake, where the subject property is located, and Skinner Lake. The two lakes have similar prices for lakefront homes, which range from small manufactured homes to year-round homes. The comparable land parcels were between 6,306 and 19,864 square feet and had between 40 and 108 feet of effective frontage. The unit prices ranged from \$1.99/sq. ft. to \$8.28/sq. ft. and from \$400/f. ft. to \$1,155/f. ft. He determined unit values of \$5.80/sq. ft. and \$705/f. ft. for the subject parcel.
17. According to Mr. Schnepf, the subject parcel has 10,367 square feet and 120 effective front feet. Mr. Wuthrich disputed the first figure, claiming that a "Beacon" report for the property reflects only 9,744 square feet. The Assessor responded that Beacon reports are not always accurate and that her office used GIS mapping to determine the parcel's actual size, which is the number Mr. Schnepf used in his appraisal. In any case, after applying the square-foot and front-foot unit values to the subject parcel, Mr. Schnepf arrived at total land values of \$60,129 and \$84,600, respectively. Because he felt that both were credible, he gave them equal weight and arrived at a value of \$72,400. He also valued site improvements "as is" at \$10,000. *Miller & Schnepf testimony; Resp't Ex. 2 at 13-14.*
18. Next, Mr. Schnepf used the Marshall & Swift Residential Cost Handbook to determine the replacement cost new for the building improvements, which he described as a fair-to-low-quality manufactured home with a 360-square-foot detached garage. Because the Marshall & Swift costs were current, he used a comparative cost index to arrive at a retroactive cost as of March 1, 2014. The index resulted in an adjustment of a little more than 2%. He extracted lump-sum depreciation from the market and determined a total depreciated cost of \$16,121 for the home and garage. When combined, the values for the

property's various components (land, site improvements, and buildings) totaled \$98,500 (rounded). *Schnepf testimony; Resp't Ex. 11, 14.*

19. Turning to the sales-comparison approach, Mr. Schnepf explained that there were fewer sales of improved properties available to analyze because of the "2008 financial meltdown." He therefore looked at comparable properties from competing lakes in Noble, Whitley, and LaGrange counties. *Schnepf testimony.*
20. He ultimately used six sales of properties with manufactured homes. They were located on limited-hour ski lakes in LaGrange and Noble counties. He adjusted the sale prices to account for various ways in which the comparable properties differed from the subject property, including differences in site value, age, and physical characteristics. The adjusted sale prices ranged from \$95,300 to \$99,900. He arrived at a reconciled value of \$96,000, which he based on the two comparable sales (sales 4 & 5) that required the least gross adjustment. *Schnepf testimony; Resp't Ex. 2 at 10-14.*
21. In reconciling his conclusions, Mr. Schnepf found that the cost approach was "slightly subordinate" to the sales-comparison approach. He therefore settled on \$96,000 as the property's market value-in-use. *Resp't Ex. 2 at 14.*

Mr. Wuthrich's Contentions

22. Mr. Wuthrich bought his manufactured home for \$21,300 (rounded) on May 2, 1985. It has the characteristics of a mobile home but meets the definition of a manufactured home because it was built after June 15, 1976. It was designed and built in a factory and was moved to the site in two sections. The sections were transported on the home's steel frame, which was attached to axles and wheels. The home does not sit on a foundation, but rather on cement block piers over sandy gravel soil. And it has un-insulated vinyl siding. *Wuthrich testimony; Pet'r Exs. 6, 9-21, 55-60, 62, 66, 77.*

23. The assessment is too high in light of the home's construction quality and condition. It has a 100-amp aluminum wiring electrical system. The floors and doors are warped. And the ceiling has R-19 insulation, while the U.S. Department of Energy recommends R-30 to R-38 insulation. *Wuthrich testimony; Pet'r Exs. 63, 66-68, 76-77.*
24. The garage was built for \$3,600 in 1987. The Assessor assigned the garage a quality grade of C-1. Based on its minimal construction quality, Mr. Wuthrich believes the grade should be D, which would translate to a value of \$6,300. *Wuthrich testimony; Pet'r Exs. 49-50, 77.*
25. Mr. Wuthrich claims the home should be valued using guidelines from the National Automotive Dealers Association ("NADA"). He offered a "NADAGuide.com Value Report" from August 16, 2015. The report is from the NADA's automated site, which generates a value based on "user-selected criteria." The value generated by the site represents the "depreciated replacement cost of the home and added features in retail dollars." The report shows a base value of \$10,984.36 for a 1985 Redman Monterey II manufactured home. It also includes values for additional selected features totaling \$4,346.28. Using the home's base value (excluding the additional features) plus the costs for central air installed in 2010 (\$2,300) and a D-grade garage, Mr. Wuthrich came to a value of \$19,584.36 for the building improvements. *Wuthrich testimony; Pet'r Exs. 7-8, 77.*
26. As an alternative, Mr. Wuthrich offered listings for five doublewide mobile homes. The first two listings were from 2010: a 1,456-square-foot home listed for \$18,900 and a 1,344-square-foot home listed for \$19,000. The next three were from 2015: a 1,352-square-foot home built in 1971 and listed for \$9,900; a 1,680-square-foot home built in 1987 and listed for \$12,500; and a 1,680-square-foot home built in 1996 and listed for \$11,900. According to Mr. Wuthrich, those listings show the subject home was assessed too high. *Wuthrich testimony; Pet'r Exs. 5, 69-74.*

27. Mr. Wuthrich compared his land assessment to a 2014 listing for land on Lake Shipshewana. Like Big Lake, Lake Shipshewana has ski restrictions. According to Mr. Wuthrich, the Lake Shipshewana parcel is comparable to the subject parcel. Both are in platted rural developments and have public sewers. They also have similar road frontage and lakefront access. The Lake Shipshewana parcel is 21,960 square feet and was listed for \$32,900, or \$1.50 per square foot. Applying that unit value to the subject parcel's 9,744 square feet and adding what Mr. Wuthrich paid to install a well (\$5,000) and sewer improvements (\$5,960), the subject land should be valued \$25,576. *Wuthrich testimony; Pet'r Exs. 52, 61, 64-65, 77.*
28. Based on (1) his calculations for the home and garage, and (2) the list price for the Lake Shipshewana parcel, Mr. Wuthrich believes the subject property should be valued at \$45,160 (rounded).
29. Mr. Wuthrich criticized several aspects of Mr. Schnepf's appraisal.
- Mr. Schnepf reported the subject parcel as having 10,376 square feet. According to Beacon report, it only has 9,744 square feet.
 - Mr. Schnepf made an extraordinary assumption about the quality and condition of the home and garage instead of inspecting them himself. He could have asked to inspect the property, but did not do so. Because he photographed and observed the property from the road, he failed to see the buildings' defects.
 - The appraisal does not indicate whether Mr. Schnepf inspected the interiors of his purportedly comparable homes to see if they were of similar quality and had similar deficiencies as the subject home.
 - Mr. Schnepf did not compare individual components of comparables 4 and 5 to the subject property. Instead, he simply indicated that those two properties required the least gross adjustment.
 - Mr. Schnepf failed to explain how Mr. Wuthrich's exhibits influenced his conclusions about the home's depreciation and instead applied lump-sum depreciation.

According to Mr. Wuthrich, those discrepancies and errors make Mr. Schnepf's appraisal unreliable and biased in favor of the Assessor.¹ *Wuthrich testimony; Pet'r Ex. 76; Resp't Ex. 2.*

Analysis

30. We begin by noting that Indiana has a detailed statutory and regulatory scheme for determining whether a given home is a mobile/manufactured home (as opposed to a more traditional type of home that is built on site and considered an improvement to real property), and if so, whether it should be classified as a "real property mobile home" or an "annually assessed mobile home." *See* 50 IAC 3-3-2-3 through -4; 50 IAC 3.3-3-1. Real property mobile homes are assessed under the 2011 Real Property Assessment Guidelines using the residential cost schedules. 50 IAC 3.3-3-1(b). That is the same method used to assess real property generally. By contrast, the true tax value for annually assessed mobile homes is the least of the values determined using the following: the NADA guide, a timely sale price of the mobile home, or sale prices for generally comparable mobile homes. *See* 50 IAC 3.3-3-1(c); 50 IAC 3.3-3-1(b); I.C. § 6-1.1-31-7(b)(6).

31. Determining whether a given home falls within the definition of a mobile home (which includes manufactured homes), and if so, whether it should be classified as a real property mobile home or an annually assessed mobile home, are fact-sensitive inquiries that require reading and interpreting various statutes and administrative rules.² We need not decide those questions in this case, however. The home is only one component of the subject property, and it contributes relatively little to the property's overall value.

¹ When the Assessor offered Mr. Schnepf's appraisal, Mr. Wuthrich said he had no objection. He later said he "object[ed]" to the appraisal because of the errors listed above. We do not interpret that as an objection to the appraisal's admissibility, but rather as impeachment of its evidentiary weight. To the extent Mr. Wuthrich intended to object to the appraisal's admissibility, we overrule that objection.

² *See, e.g.,* 50 IAC 3.3-2-2 through -4 (defining "mobile home(s)", "real property mobile home(s)" and "annually assessed mobile home(s)"); I.C. § 6-1.1-7-1(b) (referenced in 50 IAC 3.3-2-3 and defining mobile homes); I.C. § 9-13-2-96 (defining manufactured homes); 42 U.S.C. § 5402(6) (referenced in I.C. § 9-13-2-96 and defining manufactured homes).

Largely for that reason, the evidence supports the subject property's overall assessment regardless of how the home is classified.

32. We turn first to our analysis of the home (and the rest of the property) as real property. Indiana assesses real property based on its true tax value, which the 2011 Real Property Assessment Manual defines as “the 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, for the property.” 2011 REAL PROPERTY ASSESSMENT MANUAL 2 (incorporated by reference at 50 IAC 2.4-1-2). A party's evidence in a tax appeal must be consistent with that standard. *See id.* For example, a market value-in-use appraisal prepared according to USPAP often will be probative. *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, sale or assessment information for the subject or comparable properties, and any other information compiled according to generally accepted appraisal principles. *See id.*; *see also*, I.C. § 6-1.1-15-18. In any case, the party must explain how its evidence relates to the property's market value-in-use as of the relevant valuation date. *Long v. Wayne Twp. Ass'r*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). For 2014 assessments, the valuation date was March 1, 2014. *See* I.C. § 6-1.1-4-4.5(f); 50 IAC 27-5-2(c).
33. The Assessor offered Mr. Schnepf's USPAP-compliant appraisal in which he valued the property at \$96,000. Mr. Schnepf developed two of the three generally accepted valuation approaches—the cost and sales-comparison approaches. And he determined the property's market value-in-use as of the relevant valuation date—March 1, 2014. The appraisal therefore makes a prima facie case that the property is worth at least the amount for which it is assessed.
34. Mr. Wuthrich sought to impeach Mr. Schnepf's appraisal in various ways. First, he criticized Mr. Schnepf's use of a slightly larger land area for the subject parcel than the Beacon website reflects. The Assessor, however, credibly explained that the website is not always accurate and that Mr. Schnepf used the land area determined through GIS

mapping. Regardless, the difference is small, and Mr. Schnepf did not rely on price-per-square-foot as his only means for valuing the site. We therefore give little weight to Mr. Wuthrich's criticism on that point.

35. We similarly give little weight to Mr. Wuthrich's other criticisms. In claiming that Mr. Schnepf failed to compare individual components of comparable sales 4 and 5 to the subject property, Mr. Wuthrich misreads the appraisal. The appraisal's sales-comparison grid reflects individual adjustments to both sale prices. Likewise, Mr. Schnepf's decision to rely on information from others, such as the Assessor and Mr. Wuthrich, instead of inspecting the subject home's interior himself, does little to detract from the reliability of his valuation opinion. As evidenced by Mr. Schnepf's analysis under the cost approach, he viewed the home as contributing little to the property's overall value, making the need for an interior inspection less significant. In fact, his characterization of the home as fair-to-low quality is consistent with Mr. Wuthrich's own evidence.
36. Mr. Wuthrich offered little probative evidence to support a different value other than what Mr. Schnepf estimated in his appraisal. The amounts Mr. Wuthrich spent to buy the home and build the garage more than 25 years before the relevant valuation date do nothing to show their values as of that date. His evidence of the home's construction quality and condition, while relevant, does not translate to a particular value, or even a range of values. Again, Mr. Schnepf accounted for the home's relative lack of quality in forming his valuation opinion.
37. The NADA-generated value for the home may be relevant, especially if one views the home as an annually assessed mobile home rather than as real property. But as discussed below, the NADA-generated value is barely less than the combined value for the home and garage that Mr. Schnepf estimated under the cost approach. Mr. Wuthrich's claim that the garage should be assessed using a lower quality grade under the 2011 Real Property Assessment Guidelines fails for the same reason. It also fails for another reason—Tax Court has explained that strictly applying the Guidelines does not

necessarily show a property's true tax value in an assessment appeal. *See Eckerling v. Wayne Twp. Assessor*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006).

38. Finally, Mr. Wuthrich offered a listing for land he believed was comparable to the subject parcel. He generally compared the two parcels in terms of several relevant characteristics, although he did not explain how various differences affected their relative values. To the extent the listing carries any probative weight, it is less persuasive than Mr. Schnepf's more-comprehensive analysis of the subject parcel's land value.
39. Thus, when the subject property is viewed entirely as real property, Mr. Schnepf's appraisal shows that its overall value was at least equal to, if not more than, the amount for which it was assessed (\$91,500).
40. We reach the same conclusion even if the home is classified as an annually assessed mobile home. Those homes must be valued in accordance with 50 IAC 3.3-5-1(b). *See* 50 IAC 3.3-3-1. According to that section, an annually assessed mobile home

[S]hall have a true tax value set at the least of the values determined using:
(1) the [NADA] Guide;
(2) the purchase price of the mobile home if the:
 (A) sale is of a commercial enterprise nature;
 (B) buyer and seller are not related by blood or marriage; and
 (C) sale date is within one (1) year prior to or subsequent to the January 15 valuation date; or
(3) sales data for generally comparable mobile homes

50 IAC 3.3-5-1(b).

41. The subject home did not sell within a year of the valuation date. The record likewise contains no actual sales data for comparable mobile homes. But using the lowest list price identified by Mr. Wuthrich (\$9,900), the value of the subject property as a whole would still be \$92,300 after adding Mr. Schnepf's value estimates for the land and site improvements (\$82,400). That total, which does not even account for the garage, is \$300 more than the property's assessment. The same is true if we use the NADA-generated

value for the home. In that case, the property's total value (excluding the garage) would be \$97,700 (rounded).³

SUMMARY OF FINAL DETERMINATION

42. The Assessor has proved that the true tax value of the property as a whole is at least \$91,900. 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.

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>>.

³ \$10,984.36 (NADA base value) + \$4,346.28 (NADA accessories) + \$82,400 (land and site improvements) = \$97,730.64. The NADA values were from 2015. They would be approximately 2% lower using the comparative cost index that Mr. Schnepf relied on in trending his Marshall & Swift costs to March 1, 2014. The difference is nominal.