

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

Petition No.: 42-021-21-1-5-00743-21
Petitioner: Derrek Allen
Respondent: Knox County Assessor
Parcel: 42-03-16-407-003.000-021
Assessment Year: 2021

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

Procedural History

1. Allen challenged the 2021 assessment of his single-family home and associated land located at 403 East State Road 58 in Edwardsport, Indiana.
2. On September 20, 2021, the Knox County Property Tax Assessment Board of Appeals (“PTABOA”) issued its Form 115 determination valuing the subject property at \$9,500 for land and \$52,300 for improvements for a total of \$61,800. Allen timely appealed to the Board.
3. On November 16, 2022, Chairman Jonathan Elrod, acting as the Board’s Administrative Law Judge (“ALJ”), held an in-person hearing. Neither the Board nor the ALJ inspected the property.
4. Derrek Allen appeared *pro se*. Kelley K. Hopwood, the Knox County Assessor, represented herself. Robert Woodward, a Knox County Field Deputy, appeared as a witness for the Assessor. All were sworn and testified under oath.¹

Record

5. The official record for this matter is made up of the following:
 - a) Exhibits:

Petitioner Ex. 1:	Comparative Analysis prepared by Ronald Ackman,
Petitioner Ex. A 1-7:	Photographs of Subject Property with notes,
Petitioner Ex. B:	Ron Ackman Letter,
Petitioner Ex. C:	Summary of Argument.

¹ Robert Woodward assumed the office of Knox County Assessor in January of 2023.

Respondent Ex. R1: Residential Appraisal Prepared by Kim Murray,
Respondent Ex. R2: Property Record Card.

- b) 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

6. The subject property is a 1,394 square foot home on approximately 0.727 acres in Edwardsport, Indiana. *Resp't. Ex. R-2.*
7. Allen and his wife inherited the home from Allen's father-in-law, Leslie Patterson, upon his death in 2019. Allen and his wife have not had the property retitled, but Allen has been paying the property taxes. The property record card lists Leslie Patterson as the property owner. *Allen testimony; Woodward testimony; Resp't. Ex. R-2.*
8. Ronald Ackman, a licensed Real Estate Broker, prepared a "Comparative Market Analysis" of the value of the subject property as of June 7, 2021. Ackman developed a sales-comparison analysis in which he compared the subject property with four purportedly comparable properties. He rated each comparable as superior, inferior, or equal to the subject property based on factors such as square footage, age, condition basement/garage, location, lot size, and sale date. Ackman concluded to a value of \$22,000 as of June 7, 2021. The analysis does not show how any individual factor contributed to the overall rating. Ackman did not certify his valuation complied with the Uniform Standards of Professional Appraisal practice ("USPAP"). We also note that the copy provided to the Board is blurry and difficult to decipher in some places.
9. Kim R. Murray, an Indiana Licensed Appraiser, appraised the fee simple interest of the market value of the subject property as of August 10, 2022. She certified that her appraisal complied with USPAP. Murray developed a sales-comparison approach in which she compared the subject property to three purportedly comparable properties. She adjusted the comparables for factors such as conditions of sale, site size, condition, HVAC, basement. She reconciled the sales to a value of \$63,000 as of August 10, 2022.

Contentions

10. Summary of the Petitioners' case:
 - a) Allen argues the subject property's assessment should not have increased from \$21,300 in 2020 to \$62,800 in 2021. In particular, he did not believe the condition should have been changed from fair to average. Allen also testified about several deficiencies in the subject property including water leaks. Finally, Allen also submitted a comparative market analysis developed by Ronald Ackman, a real estate broker. *Allen testimony; Pet'r Exs. 1, A-C.*

11. Summary of the Respondent's case:
- a) The Assessor contends Allen is not the taxpayer as defined by statute, and thus has no authority to appeal the PTABOA decision to the board. *Hopwood testimony*; *Woodward testimony*.

Analysis

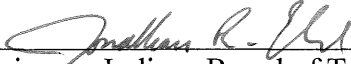
12. Before examining the merits, we must determine whether Derrek Allen has authority to pursue this appeal.
- a) Indiana Code 6-1.1-15-1.1 provides that a "A taxpayer may appeal an assessment of a taxpayer's tangible property...." I.C. § 6-1.1-15-0.8 defines taxpayer as:
- (1) an owner of the property at the time of the issuance of the assessment or tax bill;
 - (2) a person statutorily or contractually obligated to pay property taxes on the property; or
 - (3) a tenant obligated under a lease to reimburse the owner for property taxes on the property.
- b) Here, Allen's un rebutted testimony established that he and his wife inherited the home from Allen's father-in-law in 2019, well before the assessment date at issue, but they have not yet had the property retitled. "An unrecorded interest may be the product of inattention ... or it could be a simple administrative delay in probating an estate or recording a deed." *Lake County Auditor v. Burks*, 802 N.E.2d 896, 899 (Ind. 2004). A delay in recording a new title does not mean that an heir does not have an interest in the property. *Id.*
- c) The Assessor argues that Allen does not have authority to pursue this appeal because he is not listed as the owner on the property record card. But the Assessor pointed to no authority, nor are we aware of any, that links a taxpayer's authority to appeal their taxes to what is shown on a property record card. Allen and his wife, as the heirs, were both the owners of the subject property on the assessment date and statutorily obligated to pay the taxes. Each of those facts independently allow Allen authority to contest the subject property's assessment. A simple delay in recording does not extinguish their interest in the subject property or their ability to pursue an appeal.
18. We now examine whether Allen made a case for any reduction in the assessment.
- d) 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. *Piotrowski v. Shelby County Assessor*, 177 N.E.3d 127, 131-32 (Ind. Tax Ct. 2022).

- e) Real property is assessed based on its market value-in-use. Indiana 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.
- f) 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 (In. Tax Ct. 2005). For the 2021 assessment, the valuation date was January 1, 2021. *See* I.C. § 6-1.1-2-1.5.
- g) We first note that Allen testified to several deficiencies in the subject property, including water leaks. But he did nothing to quantify the effect those deficiencies had on the value of the subject property. Allen also contended the Assessor should not have changed the subject property's condition from fair to average when no changes were made to the property. Allen's argument amounts to an attack on the Assessor's methodology. 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).
- h) Allen did offer some market-based evidence in the form of the Comparative Market Analysis prepared by Ronald Ackman, a real estate broker. Ackman did not certify that his analysis complied with USPAP. While Ackman's analysis does identify some differences between the subject property and the purportedly comparable properties, it does little beyond that. There is no explanation in the analysis for how Ackman developed his adjustments. In addition, nothing in the record shows that Ackman possessed the necessary expertise or familiarity with the local market to accurately value the subject property. For these reasons, we find his analysis unreliable.
- i) Because the Petitioners have not supported their claim with probative evidence, the Respondent's duty to support the assessment with substantial evidence is not triggered. *Lacy Diversified Indus. v. Dep't of Local Gov't Fin.*, 799 N.E.2d 1215, 1221-1222 (Ind. Tax Ct. 2003).


Final Determination

19. In accordance with the above findings and conclusions, the Board finds for the Assessor and orders no change to the 2021 assessed value.

ISSUED: 2/10/2023



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>.