

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

Petition No.: 04-006-21-1-4-00598-21
Petitioner: Michael Daugherty
Respondent: Benton County Assessor
Parcel: 04-13-20-400-005.000-006
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. The Petitioner appealed the 2021 assessment of his property located at 1160 West 650 South in Boswell.
2. On July 26, 2021, the Benton County Property Tax Assessment Board of Appeals (“PTABOA”) issued a Form 115 valuing the property at \$315,200 for land and \$64,900 for improvements for a total assessment of \$380,100.
3. The Petitioner timely appealed to the Board, electing to proceed under the small claims procedures.
4. On July 27, 2022, Dalene McMillen, the Board’s Administrative Law Judge (“ALJ”), held a hearing in Fowler. Neither the Board nor the ALJ inspected the property.
5. Michael Daugherty, owner appeared *pro se*. Benton County Assessor Kelly Balensiefer and Sara Cantu, Deputy Assessor appeared for the Assessor. All were sworn and testified under oath.

Record

6. The parties submitted the following exhibits:

Petitioner Exhibit 1:	Property record card for 2743 West State Road 352,
Petitioner Exhibit 2:	Property record card for 2594 West State Road 352,
Petitioner Exhibit 3:	Property record card for 2802 West State Road 352,
Petitioner Exhibit 4:	Property record card for 6221 East Old U.S. Highway 52,
Petitioner Exhibit 5:	Property record card for 1642 North U.S. Highway 41,

- Petitioner Exhibit 6: Property record card for 414 West Main Street,
 Petitioner Exhibit 7: Property record card for 0 State Road 556
 Petitioner Exhibit 8: Property record card for 208 South Church Street,
 Petitioner Exhibit 9: Property record card for 5 Bottle Drive,
 Petitioner Exhibit 10: Subject property record card.
- Respondent Exhibit 1: Taxpayer's Notice to Initiate an Appeal – Form 130 (“Form 130”),
 Respondent Exhibit 2: 2021 subject property record card,
 Respondent Exhibit 3: Letter from Assessor's office to Michael Daugherty, PTABOA – Notice of Hearing on Petition – Real Estate – Form 114 and Joint Report by Taxpayer / Assessor to the County Board of Appeals of a Preliminary Informal Meeting – Form 134 (“Form 134”),
 Respondent Exhibit 4: Assessor's 2020 appeal exhibit list, Form 130, 2020 subject property record card, six photographs of subject property, two aerial maps of subject property and 2020 Land Order for Grant Township,
 Respondent Exhibit 5: Sale listing summary sheet on subject property, Coldwell Banker Commercial listing sheet, racetrack equipment list, concession stand equipment list, Business Tangible Personal Property Return – Form 103-Short **(Confidential)**, Business Tangible Personal Property Return – Form 104, letter from Assessor's office to Michael Daugherty and Form 134.

- a) 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

7. The subject property is a racetrack with a general retail area, nine utility sheds, restroom, and bleachers on 25.783 acres. *Resp't Ex. 2.*
8. The subject property was purchased on November 27, 2013, for \$154,500. *Daugherty testimony; Pet'r Ex. 10.*

Contentions

9. Summary of the Petitioner's case:

- a) The Petitioner contends the Assessor erred in assessing the subject property's land. In support of this, he noted that the 2021 land assessment of \$315,200 is far above the 2013 sale price of \$154,500. To correct this, the Petitioner argued that the land type should be changed from primary and secondary land to undeveloped usable land. *Daugherty testimony; Pet'r Ex. 10.*
- b) Daugherty testified that the subject property was listed for sale in July of 2018, for \$700,000. The sale price was reduced in November of 2018, to \$599,000. Ultimately, the listing was withdrawn in approximately January or February of 2019. Daugherty also refused an unsolicited offer in May of 2022 for \$200,000. *Daugherty testimony.*
- c) In addition, Daugherty presented the assessments of nine other properties in the same county. These included two other properties with racetracks, three industrial properties, two commercial properties, one agricultural property, and a golf course. He pointed out that several of the properties had land assessments that were significantly lower than the subject property's, even though some of them brought in more revenue than the subject property. He argued that the assessments of these properties demonstrated that the subject property was over-assessed. *Daugherty testimony; Pet'r Exs. 1-9.*

10. Summary of the Assessor's case:

- a) The Assessor claimed the subject property is assessed correctly. The subject land was classified as primary, secondary, public road, legal ditch, undeveloped usable and undeveloped unusable land. In addition, the assessment includes a 50% negative influence factor to account for a flood plain. *Balensiefer & Cantu testimony; Resp't Ex. 2.*
- b) The Assessor also argued that the Petitioner's comparables were not reliable evidence because several were smaller than the subject property. In addition, the Assessor noted that the agricultural property was not comparable because it was being farmed. *Balensiefer & Cantu testimony; Resp't Ex. 2.*

Analysis

11. The Petitioner failed to make a prima facie case for reducing the assessment.

- a) 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).

- b) 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.
- c) 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 I.C. § 6-1.1-2-1.5.*
- d) The Petitioner argued that the subject property's land should have been assessed differently. 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).
- e) The Petitioner did offer some such evidence. In particular, he pointed to his 2013 purchase of the subject property for \$154,500. The purchase price can be the best evidence of a property's value. *Hubler Realty Co. v. Hendricks Co. Ass'r*, 938 N.E.2d 311, 315 (Ind. Tax Ct. 2010). But in this case, the purchase took place more than seven years prior to the January 1, 2021, valuation date. The Petitioner failed to relate the purchase price to the valuation date as required by *Long*. Consequently, the purchase price is not probative evidence of the property's market value-in-use.
- f) In addition, the Petitioner presented the assessments of several purportedly comparable properties. A party offering sales or assessment data must use generally accepted appraisal or assessment practices to show that the purportedly comparable properties are comparable to the property under appeal. *See Long*, 821 N.E.2d at 470-71. Conclusory statements that properties are "similar" or "comparable" do not suffice; instead, parties must explain how the properties compare to each other in terms of characteristics that affect market value-in-use. *Long*, 821 N.E.2d at 471. They must similarly explain how relevant differences affect values. *Id.*
- g) The Petitioner did not offer the type of analysis contemplated by *Long*. While the Petitioner identified the land assessments of nine properties, he offered little or no

evidence on the characteristics that affect the properties' overall market value-in-use. And he did not even attempt to explain how any relevant differences affected the properties' values. Without such analysis, this evidence is insufficient to support any reduction in value. Thus, we find the Petitioner has failed to make a case for any reduction in the assessment.


- h) Because the Petitioner has not supported his 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

In accordance with the above findings and conclusions, the Board orders no change to the 2021 assessment.

ISSUED: 10/21/2022


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>.