

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

Petition No.: 57-004-21-1-5-00871-21
Petitioners: Chad & Bethany Days
Respondent: Noble County Assessor
Parcel: 57-09-04-300-300.000-004
Assessment Years: 2021

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

Procedural History

1. Chad & Bethany Days appealed the 2021 assessment of their property located at 1109 Bellvue Drive in Kendallville, Indiana.
2. On November 16, 2021, the Noble County Property Tax Assessment Board of Appeals (“PTABOA”) reduced the assessment to \$21,200 for land and \$65,700 for improvements for a total assessment of \$86,900.
3. The Days timely appealed to the Board, electing to proceed under the small claims procedures.
4. On July 13, 2022, Dalene McMillen, the Board’s Administrative Law Judge (“ALJ”), held a telephonic hearing. Neither the Board nor the ALJ inspected the property.
5. Chad and Bethany Days appeared *pro se* and were sworn. Attorney Ayn Engle represented the Respondent. Josh Pettit of Nexus Group appeared as a witness for the Assessor and was sworn.

Record

6. The parties submitted the following exhibits:
 - Petitioner Exhibit D1: 2021 Notice of Assessment of Land and Structures – Form 11,
 - Petitioner Exhibit D2: Beacon property information for 117 North Lincoln Street in Kendallville,

Petitioner Exhibit D3: Beacon property information for 603 East Mitchell Street in Kendallville,
Petitioner Exhibit D4: Modified gross rent multiplier analysis.

Respondent Exhibit R1: 2021 subject property record card,
Respondent Exhibit R2: Beacon aerial map,
Respondent Exhibit R3: Indiana Association of Realtors “Local Market Update for May 2021,”
Respondent Exhibit R4: Comparable sales analysis,
Respondent Exhibit R5: Comparable gross rent multiplier analysis,¹
Respondent Exhibit R7: Rental worksheet for subject property (**Confidential**).

- 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.

Objections

7. The Days made objections to two of the Assessor’s Exhibits on similar grounds. For Respondent’s Exhibit R4, the comparable sales analysis, the Days claimed it was not relevant because the comparable properties were owner-occupied rather than owned by investors. The Days also objected to Respondent’s Exhibit R5, the GRM analysis, because they disagreed with the time adjustments. Both objections go more to the weight of the evidence should be given rather than its admissibility. Thus, we overrule them and admit the exhibits.
8. The Assessor made a hearsay objection to some of Bethany Days’ testimony regarding a conversation between the Days and someone at the Department of Local Government Finance. The Days did not argue that any exception to the hearsay rule applied. We admit the evidence pursuant to 52 IAC 4-6-9, which provides that we may admit hearsay that is objected to as long as it is not the sole basis for our determination.

Findings of Fact

9. The subject property is a single-family ranch style rental home with approximately .19 acres of land located in an older neighborhood. *Days testimony; Pettit testimony; Resp’t Ex. R1.*

¹ The Respondent submitted Respondent Exhibit 6 but did not enter it into the record.

Contentions

10. Summary of the Days' case:
 - a) The Days primarily focused on attacking the Assessor's evidence. They did not provide any valuation evidence of their own. In particular, they argued that the Assessor's gross rent multiplier method ("GRM") was flawed because it incorrectly used contract sales and adjusted purchase prices. They presented a revised analysis of the Assessor's GRM analysis in which they determined the Assessor should have used a multiplier of 98. *B. Days testimony; Pet'r Exs. D2-D4.*
11. Summary of the Assessor's case:
 - a) The Respondent claimed the subject property is assessed correctly. The Assessor presented a GRM analysis using a monthly rent of \$800 and a GRM of 109. This resulted in an estimated value of \$87,200. The GRM was developed from 2018, 2019 and 2020 sales. The sales were adjusted for time of sale and number of units. Pettit testified that, due to rounding issues in the county's system, the 2021 assessment is slightly lower than the estimate from the GRM. *Pettit testimony; Resp't Exs. R1, R2, R5 & R7.*
 - b) Pettit testified that the Indiana Association of Realtor's Local Market Update for May 2021 shows that from May 2020 to May 2021 the median sales price in Noble County increased 15.2%. The report also shows that the first five months from January through May of 2021 the median sales price increased 13%. *Pettit testimony; Resp't Ex. R3.*
 - c) The Assessor also submitted sales information for seven properties that sold in 2019 and 2020 that Pettit claimed were similar to the subject property. He testified that this data showed that homes similar in size and location are increasing in value. *Pettit testimony; Resp't Ex. R4.*

Analysis

12. The Petitioners 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. 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.

- 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* Ind. Code § 6-1.1-2-1.5.
- d) Indiana Code § 6-1.1-4-39(b) states the gross rent multiplier is the preferred method of valuing real property that has at least one (1) and not more than four (4) rental units.
- e) Here, as the party challenging the PTABOA decision, the Days had the burden of proof. To make a case, a taxpayer must show the current assessment does not accurately reflect the subject property's market value-in-use. *Id.*; *see also P/A Builders 7 Developers, LLC v. Jennings Co. Ass'r*, 842 N.E.2d 899, 900 (Ind. Tax Ct. 2006) (explaining that the focus is not on the methodology used by the assessor but instead on determining what the correct value is). The Tax Court has recently reaffirmed this principal, holding that a taxpayer must present "objectively verifiable, market-based evidence to show that the property's assessed value does not reflect its market value-in-use." *Piotrowski BK #5643, LLC v. Shelby Cnty Ass'r*, 177 N.E.3d 127 (Ind. Tax Ct. 2021).
- f) The Days did not present any probative, market-based evidence of their own. Instead, they limited their case to only attacking the Assessor's evidence. They claimed that the Assessor should have derived a different multiplier from the sales in the GRM analysis. But this alone is insufficient. Neither Pettit nor the Days provided any reliable explanation of how the sales in the GRM analysis were selected and verified. 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). Thus, even were we to accept the Days' largely unsupported assertion that the Assessor miscalculated the GRM, that analysis would still be insufficient to support any reduction in value. The Days needed to provide independent, market-based evidence supporting a different value for the subject property as required by *Piotrowski*. Because they failed to do so, they have not shown they are entitled to any reduction in their assessment.
- g) Because the Days have not supported their claim with probative evidence, the Assessor'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).

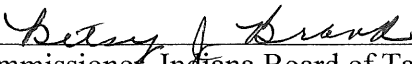
Final Determination

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

ISSUED: 10/11/2022



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>.