

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

Petition: 46-042-20-1-5-00565-20
Petitioner: Francis Anton Engel III
Respondent: LaPorte County Assessor
Parcel: 46-06-17-100-063.000-042
Assessment Year: 2020

The Indiana Board of Tax Review issues this determination, finding and concluding as follows:

Procedural History

1. Francis Anton Engel III contested the 2020 assessment of his property located at 4694 W. Burgundy Trail in LaPorte. The LaPorte County Property Tax Assessment Board of Appeals (“PTABOA”) issued a Form 115 determination denying Engel’s appeal and raising the property’s assessment to \$319,900 (\$58,800 for land and \$261,100 for improvements).
2. Engel filed a Form 131 petition with the Board and elected to proceed under our small claims procedures. On March 9, 2021, our designated administrative law judge, Erik Jones (“ALJ”), held a telephonic hearing on Engel’s petition. Neither he nor the Board inspected the property.
3. Bradley J. Adamsky appeared as counsel for the LaPorte County Assessor and Engel represented himself. Engel, his wife Angela, the Assessor, Michael Schultz, and his chief deputy, Stacey Sweitzer, were sworn as witnesses. Only Engel and Sweitzer testified.

Record

4. The official record for this matter includes the following:

Respondent Exhibit A	Sales Disclosure Form,
Respondent Exhibit B	Listing Summary for 4694 W. Burgundy Trail,
Respondent Exhibit C	2020 Percentage Change Posted spreadsheet for Concord Vineyard,
Respondent Exhibit D	2020 Property Record Card (“PRC”),
Respondent Exhibit E	2020 PRC with Sweitzer’s notes from PTABOA hearing.
5. The record also includes: (1) all petitions, briefs, motions, or other documents filed in this appeal, (2) all notices and orders issued by the Board or the ALJ, and (3) an audio recording of the hearing.

Objection

6. Engel objected to the Assessor citing one of our determinations, *Hubler Realty Co. v. Hendricks Cnty. Ass'r*, Pet. Nos. 32-012-06-1-4-00115, et al. (IBTR Dec. 2009). According to Engel, that decision had nothing to do with his assessment. The ALJ took Engel's objection under advisement. We overrule the objection. Citations to authority are not evidentiary and therefore may not be excluded through objections. Although our determinations are not precedential, parties are free to cite to them in arguing their appeals.

Contentions

A. The Assessor's Contentions

7. The PTABOA based its determination on the best evidence of the property's value—its recent arm's-length sale price. On June 15, 2019, a real estate agent listed the property for sale at \$324,899. A little over one month later, the Engels bought it for \$319,900. *Sweitzer testimony; Resp't Ex. B.*
8. Before the PTABOA increased the assessment, the Assessor had valued the property at \$291,400. That was an increase of more than 6% over the 2019 assessment of \$255,800. To explain that increase, the Assessor's chief deputy, Stacey Sweitzer, gave an overview of how assessments are evaluated and adjusted through the process of conducting ratio studies. First, Assessors gather sales from the calendar year leading up to an assessment date. To be included in a study, a sale must meet various criteria. For example, it must have been at arm's length and the property must have been exposed to the market. Sweitzer determined that the subject property's July 2019 sale was valid and included it in her ratio study for the Engels' neighborhood, Concorde Vineyard. *Sweitzer testimony; Resp't Exs. A-C, E.*
9. Next, assessors stratify the validated sales into groups, such as all sales within an assessment neighborhood, and analyze them. They compare each sale price to the property's assessment to determine a ratio. The ratios within a grouping must meet certain guidelines, including that the median assessment-to-sale price ratio must be between .9 and 1.1. Where median ratio for a neighborhood is not within those guidelines, as was the case with Concorde Vineyard, an Assessor can further stratify the properties, or she can reassess the neighborhood. Sweitzer decided to reassess Concorde Vineyard. When reassessing a neighborhood, assessors reexamine land base rates. They also make sure they have the correct data for improvements. The data for some properties may change, which affects their assessments in a way that is specific to those properties. Assessors also apply market factors based on the sales data for the neighborhood. Those adjustments apply uniformly. *Sweitzer testimony.*
10. Following the reassessment, the Assessor's original value for the subject property (prior to the PTABOA raising the assessment on appeal) represented a 13.9% increase over its

2019 assessment. That was well within the range of increases for the neighborhood. While the PTABOA's determination represented a 25.06% increase over the previous year, it was still within the range. *Sweitzer testimony; Resp't Ex. D.*

11. Although Engel compared the assessment-to-sale ratio from the subject property's 2019 sale to the ratio from its previous sale in 2013, Sweitzer did not do the ratio study for that year. In any case, each assessment year stands alone. According to the Assessor, Engel's citation to data from the Federal Housing Finance Agency's ("FHFA") home price index concerning the rate of depreciation for the subject property's zip code is similarly misplaced. Sweitzer did not base the subject property's assessment on data from other areas within the same zip code. The zip code covers a broad area that includes incomparable neighborhoods, such as downtown LaPorte. *Sweitzer testimony; Adamsky argument.*

B. Engel's Contentions

12. Engel alleges that both the Assessor's original assessment and the PTABOA's determination were incorrect. They both represent substantially greater year-over-year appreciation than the 6.4% the FHFA's home price index indicated for the zip code. *Engel testimony and argument.*
13. According to Engel, the Assessor could not reasonably explain how the rate of appreciation varied so widely within such a small neighborhood. While Sweitzer testified that she looked at improvements for individual properties, Engel had not made any improvements to the subject property since buying it. And the Assessor did not explain how the subject property somehow appreciated at over double the FHFA's rate. *Engel testimony and argument.*
14. Engel also argued that Sweitzer's methodology was inconsistent with previous years. The subject property sold for \$240,000 in 2013, but in 2014 it was assessed for \$205,800, or approximately 86% of that sale price. By contrast, the Assessor initially set the 2020 assessment at 90% of the property's 2019 sale price. And the PTABOA valued it at 100%. Neither the Assessor nor the Board has the authority to change assessment methodology—that is for the legislature to do. *Engel testimony and argument.*
15. Finally, Engel argued that assessing properties based on recent sales suppresses values for properties that have not sold. That is inequitable, particularly for new members of the community. *Engel argument.*

Analysis

16. Generally, a taxpayer seeking review of an assessing official's determination has the burden of proof. Various statutes, including Ind. Code § 6-1.1-15-17.2, create exceptions to that general rule and assign the burden of proof to the assessor under specified circumstances, including where a property's assessment has increased more than 5% over

the previous year. Based on the increase between 2019 and 2020, the parties agreed that the Assessor had the burden of proof.

17. The Assessor met his burden. Real property is assessed based on its market value-in-use. *See* Ind. Code § 6-1.1-31-6(f); 2011 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.4-1-2). In an assessment appeal, parties may offer evidence that is relevant to a property’s market value-in-use. MANUAL at 2. Regardless of the method used, a party must explain how its evidence relates to the relevant valuation date. *Long v. Wayne Twp. Ass’r*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). For 2020 assessments, the valuation date was January 1, 2020. *See* I.C. § 6-1.1-2-1.5(a)(2).
18. The Assessor offered highly probative evidence of the property’s value—its July 2019 sale price. The sale was at arm’s length after the property had been exposed to the market through a realtor’s listing. And the sale occurred less than six months before the relevant valuation date for this appeal.
19. The primary question in an assessment appeal is: Does the assessment reflect the property’s market value in use? Engel does not really dispute that the PTABOA’s determination does so. Instead, he takes issue with the rate of appreciation over the previous year’s assessment. But as the Assessor correctly points out, each assessment year stands alone. *DuSablou v. Kaufman*, 160 N.E.3d 587, 594 n.5 (Ind. Tax Ct. 2020). Resolving a challenge to an assessment for a given year does not turn on how the property was previously assessed. *Id.*
20. That does not mean unusually large year-over-year increases in assessment are irrelevant. To the contrary, they shift the burden to the assessor to prove the property’s correct market value-in-use. But once an assessor comes forward with probative evidence of that value, a taxpayer cannot rely on the assessment increase to rebut that evidence. He instead must offer his own market-based valuation evidence. Engel failed to do so. At most, he complained about the methodology used to determine his assessment. That does not suffice. *See Eckerling v. Wayne Twp. Ass’r*, 841 N.E.2d at 674, 678 (Ind. Tax Ct. 2006) (holding that taxpayers failed to make a prima facie case that their assessment was incorrect because they focused strictly on the assessor’s methodology).
21. Engel nonetheless argues that the Assessor’s methodology resulted in widely divergent levels of appreciation within the same neighborhood and unfairly singled out for reassessment properties that had sold. Both arguments misunderstand Indiana’s assessment and appeal systems.
22. Engel’s first argument appears to allege a lack of uniformity and equality in assessment. As the Tax Court has explained, our assessment system no longer focuses on how assessment regulations were applied, but rather on whether assessments reflect the external benchmark of market value-in-use. *Westfield Golf Practice Ctr., LLC v. Washington Twp. Ass’r*, 859 N.E.2d 396, 398-99 (Ind. Tax Ct. 2007). Thus, “the end result—a uniform and equal *rate* of assessment—is required, but there is no requirement

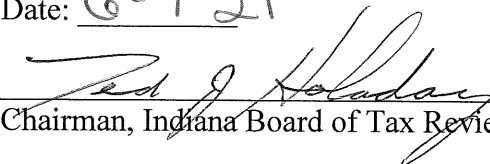
of uniform procedures to arrive at that rate.” *Id.* (quoting *State ex. Rel. Att’y Gen. v. Lake Superior Court*, 820 N.E.2d 1240, 1250 (Ind. 2005) (emphasis in original)). The taxpayer in *Westfield Golf* lost its uniformity-and-equality claim because it focused solely on the base rate used to assess its driving range landing area compared to the rates used to assess other driving ranges and failed to show the actual market value-in-use for any of the properties. *Id.* at 399. Engel’s challenge fails for much the same reason: while the July 2019 sale price shows his property’s market value-in-use, he offered no evidence to show the market value-in-use for any other properties from the neighborhood.

23. As for Engel’s claim that properties were singled out for reassessment because they sold, the facts show otherwise. Sweitzer used neighborhood sales—including the July 2019 sale of the subject property—to perform her ratio study. That study led to the Assessor reassessing the entire neighborhood, not just the properties that sold. And there is no indication that the Assessor pegged any individual property’s assessment to its sale price. To the contrary, he assessed the subject property at almost \$20,000 less than it sold for.
24. Unlike the Assessor, the PTABOA did rely on the subject property’s sale price in reaching its determination. But our state’s appeal process contemplates reviewing bodies doing precisely that. *See Hubler Realty Co. v. Hendricks Cnty. Ass’r*, 938 N.E.2d 311, 314-15 (Ind. Tax Ct. 2010) (explaining that market value-in-use evidence includes sales information for a property under appeal and rejecting argument that county PTABOA’s consideration of sale constituted sales-chasing or selective reappraisal). Indeed, if anybody selected the subject property for reappraisal, it was Engel. By appealing his assessment, he triggered a reexamination of the property’s actual market value-in-use. With that came the risk that the PTABOA or the Board might raise his assessment. *Id.* at 314.

Conclusion

25. The Assessor offered the only probative evidence of the subject property’s market value-in-use—the property’s arm’s length sale price from shortly before the relevant valuation date. Because that sale price supports the assessment, we find for the Assessor and order no change.

Date: 6-7-21


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 of 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>>.