

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

Petition: 45-004-17-1-5-00310-20
Petitioner: Gold Coast Rand Development Corp.
Respondent: Lake County Assessor
Parcel: 45-08-16-177-021.000-004
Assessment Year: 2017

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

Procedural History

1. Gold Coast Rand Development Corp. contested the 2017 assessment of its property located at 2316-18 Polk Street in Gary. The Lake County Property Tax Assessment Board of Appeals (“PTABOA”) issued a Form 115 determination valuing the vacant lot at \$1,200.
2. Gold Coast then filed a Form 131 petition with the Board and elected to proceed under our small claims procedures. On February 28, 2022, our designated administrative law judge, Joseph Stanford (“ALJ”), held a telephonic hearing on Gold Coast’s petition. Neither he nor the Board inspected the property.
3. Gold Coast’s president, Andy Young, appeared for Gold Coast. The Lake County Assessor’s hearing officer, Robert Metz, appeared for the Assessor. Both testified under oath.

Record

4. The official record for this matter includes: (1) all petitions and 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.¹
5. Neither party offered any exhibits.

¹ The ALJ also granted Gold Coast’s request to incorporate Young’s testimony from the hearing on *Gold Coast Rand Dev. Corp v. Lake Cnty Ass’r*, pet. no. 45-004-17-1-5-00309-20 into the record in this appeal. That case was heard immediately before this appeal.

Contentions

A. Gold Coast's Contentions

6. Gold Coast contends that it was “unduly prejudiced” by the hearing being held telephonically. According to Gold Coast’s representative, Andy Young, a key part of Gold Coast’s case consisted of evidence accessible through the GIS system. Had we held the hearing either in-person or through a video application like Zoom, he could have offered that evidence. *Young argument.*
7. Gold Coast argues that the Assessor failed to input into her computer system a stipulation agreement reached with Gold Coast in 2012. If the Assessor had followed that agreement, trending factors that the Assessor applied in the following years would have resulted in a lower 2017 assessment. *Young argument and testimony.*
8. According to Gold Coast, the base rates that Calumet Township used to assess land are “arbitrary.” Neither Lake County nor Calumet Township has provided any support for how the rates were determined. Calumet Township’s GIS map is old and contains obsolete base rates. The neighborhood boundaries have not changed since the 1980s and the base rates have not changed since at least 2007. Gold Coast further claims that the Calumet Township Assessor did not use enough sales of representative parcels in setting base rates for the township’s neighborhoods. And the variance in base rates between similar neighborhoods exceeds the 20% allowable maximum. *Young testimony and argument.*
9. A lot just across the alley is 37 ½ feet and is also assessed at \$1,200. And there is a 25-foot lot at 2324 Polk Street that is assessed for only \$800.² There are differing base rates among properties in the same neighborhood. According to Young, Lake County has 9,300 of “these parcels” that it cannot unload and is thinking about lowering its asking price from \$500 to \$100. *Young testimony.*
10. Finally, Gold Coast contends that Lake County officials do not follow Ind. Code § 6-1.1-4-13.6, which requires the Assessor to determine the value of all classes of land and submit those values to the PTABOA. Instead, the Calumet Township Assessor submits values to the Assessor, who merely passes them along to the PTABOA. *Young argument and testimony.*

B. The Assessor's Contentions

11. The Assessor argues that Gold Coast did not offer any evidence to support a different assessment and therefore failed to meet its burden of proof. *Metz argument.*

² We infer that Gold Coast’s lot measurements indicate the amount of street frontage.

Analysis

12. We first reject Gold Coast's claim that holding the hearing telephonically instead of in-person or via Zoom or a similar video application "unduly biased" Gold Coast's ability to present its case. We initially sent Gold Coast a hearing notice on November 16, 2021, scheduling a telephonic hearing for January 12, 2022. Gold Coast requested a continuance. In that request, Gold Coast did not claim that a telephonic hearing would cause a hardship or request either an in-person or Zoom hearing. We granted Gold Coast's request and converted the scheduled hearing into a telephonic case management conference. Gold Coast did not participate in the conference.
13. On January 13, 2022, we sent Gold Coast a second hearing notice, rescheduling the telephonic hearing for February 28, 2022. Our hearing notice states, "[i]f you believe a telephonic conference would cause a hardship, you may request a continuance and explain why it should be granted." Again, Gold Coast neither claimed that a telephonic hearing would cause hardship nor requested an in-person or Zoom hearing. Although our hearing notice contains detailed instructions about how and where to send copies of documentary evidence before the hearing, Gold Coast did not send any evidence. Young failed to explain why Gold Coast could not identify, offer, and exchange printouts of the GIS images it claims were so crucial to its presentation. Gold Coast has therefore waived any claim that it was prejudiced by holding the hearing telephonically.
14. Turning to the merits, an assessment determined by an assessing official generally 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 Cty. Ass'r*, 177 N.E.3d 127, 131-32 (Ind. Tax Ct. 2022).³
15. We find that Gold Coast failed to meet its burden. The goal of Indiana's real property assessment system is to arrive at an assessment reflecting a property's true tax value. 50 IAC 2.4-1-1(c); MANUAL at 2. True tax value does not mean "fair market value" or "the value of the property to the user." I.C. § 6-1.1-31-6(c), (e). Instead, it is determined under the rules of the Department of Local Government Finance ("DLGF"). I.C. § 6-1.1-31-5(a); I.C. § 6-1.1-31-6(f). The DLGF defines true tax value as "market value-in-use," which it in turn defines as "[t]he 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, from the property." MANUAL at 2.⁴
16. Evidence in an assessment appeal should be consistent with that standard. For example, a market-value-in-use appraisal prepared in accordance with the Uniform Standards of

³ At the time of the hearing, Ind. Code § 6-1.1-15-17.2 identified certain circumstances where an assessor had the burden of proving that an assessment was correct, including where it represented an increase of more than 5% over the previous year's assessment. I.C. § 6-1.1-15-17.2 (repealed by P.L. 174-2022 § 32 (effective on passage)). Young indicated the Gold Coast did not intend to argue that the Assessor had the burden of proof.

⁴ The 2011 Real Property Assessment Manual, which applied to the assessment date at issue in this appeal, used the same definition. 2011 REAL PROPERTY ASSESSMENT MANUAL at 2.

Professional Appraisal Practice often will be probative. *See id.*; *see also*, *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, sales information for the property under appeal or comparable properties, and any other information compiled according to generally accepted appraisal principles. *See Eckerling v. Wayne Twp. Ass'r*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006). Simply attacking the methodology used to determine an assessment, however, does not suffice; instead, a party must offer market-based evidence to show that the property's assessed value does not reflect its market value-in-use. *Piotrowski*, 177 N.E.3d at 132.

17. Gold Coast contends that we should reduce the subject property's 2017 assessment. Although Gold Coast did not specify a value at the hearing, it requested a \$1,000 assessment on its Form 131 petition. But it did not offer any market-based evidence to show the property's market value-in-use. Young's generalized statements about the assessments of other lots fall well short of the type of comparison needed to carry probative weight. *See Long v. Wayne Twp. Ass'r*, 821 N.E.2d 866, 470-71 (Ind. Tax Ct. 2005) (holding that taxpayers' comparative sales data lacked probative value where they failed to compare relevant characteristics or explain how differences affected value). The same is true for his vague claim that Lake County cannot unload similar properties and is considering lowering its asking price to \$100. The rest of Gold Coast's evidence and arguments merely address the methodology used to determine assessments.
18. Finally, we give no weight to Gold Coast's argument that the 2017 assessment would be much lower if local officials had trended what he claimed was the assessment he and the Calumet Township Assessor had agreed to for 2012. But Gold Coast offered no evidence that the purported 2012 agreement covered any other years. Nor did it identify the trending factors it claimed should be applied, much less offer any market-based evidence to support those factors. Without that evidence, the property's 2012 assessment is irrelevant. As the Tax Court has explained, "each tax year—and each appeal process—stands alone." *Fisher v. Carroll Cty. Ass'r*, 74 N.E.3d 582, 588 (Ind. Tax Ct. 2017). Evidence of a property's assessment in one year therefore has little bearing on its true tax value in another. *Fleet Supply, Inc. v. State Bd. of Tax Comm'rs*, 747 N.E.2d 645, 650 (Ind. Tax Ct. 2001).
19. Because Gold Coast offered no probative market-based evidence to show the property's correct market value-in-use for 2017, it failed to make a prima facie case for lowering its assessment.

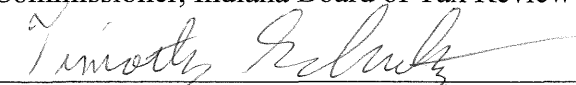
Conclusion

20. Gold Coast failed to offer any market-based evidence to show that its property was assessed for more than its market value-in-use. We therefore find for the Assessor and order no change.

Date: MAY 31, 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>.