

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

Petition No.: 41-009-20-1-4-00791-21
Petitioners: Brad & Michelle Hubler
Bradley Chevrolet
Respondent: Johnson County Assessor
Parcel: 41-08-10-044-008.000-009
Assessment Year: 2020

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

Procedural History

1. The Petitioners appealed the 2020 assessment of their property located at 1550 North Morton Street in Franklin.
2. On October 19, 2021, the Johnson County Property Tax Assessment Board of Appeals (“PTABOA”) issued a Form 115 valuing the property at \$654,900 for land and \$628,300 for improvements for a total assessment of \$1,283,200.
3. The Petitioners timely filed an appeal with the Board, electing to proceed under the small claims procedures.
4. On March 3, 2022, Dalene McMillen, the Board’s Administrative Law Judge (“ALJ”) held a telephonic hearing. Neither the Board nor the ALJ inspected the property.
5. Melissa Michie appeared as the Petitioners’ attorney. Johnson County Assessor’s appraiser, Michael Watkins, appeared for the Respondent and was sworn.

Record

6. The parties submitted the following exhibits:

| | |
|-----------------------|--|
| Petitioner Exhibit 1: | Exterior photographs of pre-owned car sales office, |
| Petitioner Exhibit 2: | 2020 versus 2019 assessed values comparison, |
| Petitioner Exhibit 3: | 2020 subject property record card, |
| Petitioner Exhibit 4: | Real Property Assessment Guidelines, Appendix D, pages 14 and 15, |

Petitioner Exhibit 5: Real Property Assessment Guidelines, Appendix D, pages 42 and 43,
Petitioner Exhibit 6: Real Property Assessment Guidelines, Appendix G, page 16.

Respondent Exhibit 1: 2019 subject property record card,
Respondent Exhibit 2: 2020 subject property record card.¹

- 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.

Contentions

7. Summary of the Petitioner's case:

- a) The subject property is a commercial pre-owned car sales and service facility on 3.966 acres of land. The Petitioners contend the Respondent incorrectly valued the pre-owned sales office. *Pet'r Ex. 1, 3; Michie argument.*
- b) The Petitioners obtained a building permit on October 3, 2018, to remove a small modular sales office and build a 1,836 sq. ft. pre-owned sales office at a listed cost of \$175,000. The Petitioners claimed that the assessments on their improvements should not have increased by more than this amount, rather than the \$242,500² that it did increase. *Michie argument; Pet'r Exs. 1-3.*
- c) The Petitioners also offered the Real Property Assessment Guidelines ("Guidelines") models and schedules for commercial structures. They claimed that because the sales office is a steel structure like the collision center it should be priced from the same schedule. *Michie argument; Pet'r Exs. 3-6.*

8. Summary of the Respondent's case:

- a) The Respondent argued that the Petitioners did not meet their burden of proof because instead of providing evidence of a different market value-in-use, the Petitioners merely contested the methodology applied to determine the assessment. *Watkins testimony.*

¹ The Respondent submitted Respondent Exhibits 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13 but did not enter them into the record.

² The property record card shows the new pre-owned sales office is being assessed at \$236,000. The \$242,500 is the total increase for all improvements between 2019 and 2020. *Pet'r Ex. 3.*

Burden of Proof

9. Generally, a taxpayer seeking review of an assessing official's determination has the burden of proof. Indiana Code § 6-1.1-15-17.2³ creates an exception to that general rule and assigns the burden of proof to the assessor in two circumstances—where the assessment under appeal represents an increase of more than 5% over the prior year's assessment, or where it is above the level determined in a taxpayer's successful appeal of the prior year's assessment. I.C. § 6-1.1-15-17.2(b) and (d). This section does not apply if the new assessment is based on substantial renovations or new improvements, zoning, or uses that were not considered in the prior assessment. I.C. § 6-1.1-15-17.2(c).
10. Here, the parties agree the Petitioners added a new improvement between 2019 and 2020. The Petitioners did not offer any argument that the burden should shift to the Respondent. Accordingly, the burden shifting provision of Ind. Code § 6-1.1-15-17.2 do not apply and the burden remains with the Petitioners

Analysis

11. The Petitioners failed to make a prima facie case for reducing the assessment.
 - a) Real property is assessed based on its market value-in-use. I.C. § 6-1.1-31-6(c); 2011 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.4-1-2). 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.
 - b) 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 2020 assessment, the valuation date was January 1, 2020. *See* Ind. Code § 6-1.1-2-1.5.
 - c) The Petitioners offered the building permit cost for the pre-owned sales office. They argued that the Assessor erred in not using that cost, or in the alternative, valuing the building using a different pricing schedule from the Guidelines. Even if the Assessor made errors, simply attacking the methodology is insufficient to rebut the presumption that the assessment is correct. *Eckerling v. Wayne Twp. Ass'r*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006). To make a case, a taxpayer must show the current assessment does not accurately reflect the subject property's market value-in-

³ I.C. § 6-1.1-15-17.2 was repealed by P.L.174-2022 on March 21, 2022. We analyze the law as it existed at the time of the evidentiary hearing.

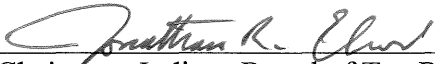
use. *Id*; see also *P/A Builders 7 Developers, LLC v. Jennings Co. Ass'r*, 842 N.E.2d 899, 900 (Ind. Tax Ct. 2006) (explaining that the focus is not on the methodology used by the assessor but instead on determining what the correct value is). The Tax Court has recently reaffirmed this principal, holding 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 (In. Tax Ct. 2021).

- d) Here, the Petitioners failed to provide any probative market-based evidence. In particular, we note that we do not find the permit cost at all persuasive because there is no evidence showing that the cost listed on the permit was the actual cost of construction nor any evidence as to how that cost translated to market-value in use. Beyond that, the Petitioners only argued about how the Assessor applied the guidelines. Such an argument is insufficient. Because the Petitioners did not provide probative, market-based evidence supporting a different value for the subject property they are not entitled to any relief.
- e) 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).

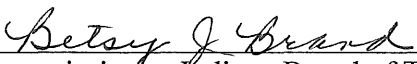
Final Determination

In accordance with the above findings and conclusions, the Board orders no change to the 2020 assessment.

ISSUED: 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>>.