

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

Petition No.: 53-004-22-1-5-01068-22
Petitioner: KJ Unionville, LLC
Respondent: Monroe County Assessor
Parcel: 53-05-10-300-008.000-004
Assessment Year: 2022

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

Procedural History

1. On June 15, 2022, KJ Unionville, LLC (“KJ”) contested the 2022 assessments of real property located at 5275 North Old State Road 37, Bloomington, Indiana, 47408. The Monroe County Property Tax Assessment Board of Appeals (“PTABOA”) issued a Form 115 determination for the 2022 valuation year determining the following values:

Land: \$85,200 Improvements: \$0 Total: \$85,200

2. On June 29, 2023, Natasha Marie Ivancevich, the Board’s Administrative Law Judge (“ALJ”), held a telephonic hearing. Neither the Board nor the ALJ inspected the property.
3. John Johantges appeared as the tax representative for the Petitioner. Marilyn Meighen appeared as counsel for the Monroe County Assessor. Johantges and Judy Sharp, Monroe County Assessor, testified under oath.

Record

4. The Petitioner introduced the following exhibits.

Petitioner Ex. 1:	Report of Appraisers
Petitioner Ex. 2:	Sales Disclosure Form

5. The Respondent introduced the following exhibits:

Respondent Ex. A:	Property Record Card
Respondent Ex. B:	Complaint for Appropriation of Real Estate
Respondent Ex. C:	Report of Appraisers
Respondent Ex. D:	I.C. § 32-24-1-11
Respondent Ex. E:	Motion to Extend Deadline
Respondent Ex. F:	I.C. § 32-24-1-11

Respondent Ex. G: Sales Disclosure Form
Respondent Ex. H: Stipulation of Dismissal

6. 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 17.03-acre tract of land. *Respondent Ex. A.*
8. Monroe County sought to appropriate a portion of the subject property for use as a bike path. As part of the action, a “Report of Appraisers” was filed on December 9, 2021, with the local court. This report concluded that the fair market value of the appropriated portion was \$2,250. The report did not include a description of the property, any explanation of the methods used, or any additional information about the property beyond the concluded value. The parties reached an agreement in the appropriation action and on April 16, 2022, Monroe County purchased 0.585 acres of the subject property for \$15,000. *Johantges testimony; Sharp testimony; Pet’r Exs. 1-2; Resp’t Ex. B.*

Contentions

9. Summary of the Petitioner’s case:
 - a) KJ argued the value for the entire property could be derived from the \$2,250 value from the Report of Appraisers (“Report”). In support of this, KJ argued that the appropriated portion was the “heart of the parcel” and the rest of the property could not be worth any more. *Johantges testimony; Pet’r Exs. 1-2.*
10. Summary of the Respondent’s Case:
 - a) The Respondent argued the assessment is correct because the appropriation happened after the January 1, 2022, assessment date. In addition, the Assessor noted that the assessment was not based on the \$15,000 sales price, but rather a \$5,000/acre excess residential rate. *Sharp testimony; Resp’t Ex. A; G.*

Burden of Proof

11. Generally, the taxpayer has the burden of proof when challenging a property tax assessment. Accordingly, the assessment on appeal, “as last determined by an assessing official or the county board,” will be presumed to equal “the property’s true tax value.” Indiana Code § 6-1.1-15-20(a) (effective March 21, 2022).
12. However, the burden of proof shifts if the property’s assessment “increased more than five percent (5%) over the property’s assessment for the prior tax year.” I.C. § 6-1.1-15-

20(b). Subject to certain exceptions, the assessment “is no longer presumed to be equal to the property's true tax value, and the assessing official has the burden of proof.” *Id.*

13. If the burden has shifted, and “the totality of the evidence presented to the Indiana board is insufficient to determine the property's true tax value,” then the “property's prior year assessment is presumed to be equal to the property's true tax value.” I.C. § 6-1.1-15-20(f).
14. Here, the current assessment of \$85,200 is lower than the previous year’s assessment of \$91,100. KJ has the burden of proving the assessment is incorrect and what the correct assessment should be.

Analysis

15. KJ failed to make a case for any reduction in the assessment.
 - a) The Board is the trier of fact in property tax appeals, and its charge is to “weigh the evidence and decide the true tax value of the property as compelled by the totality of the probative evidence before it.” I.C. § 6-1.1-15-20(f). The Board’s conclusion of a property's true tax value “may be higher or lower than the assessment or the value proposed by a party or witness.” *Id.* Regardless of which party has the initial burden of proof, either party “may present evidence of the true tax value of the property, seeking to decrease or increase the assessment.” I.C. § 6-1.1-15-20(e). “If the totality of the evidence presented to the Board is insufficient to determine the property’s true tax value,” then the “property’s prior year assessment is presumed to be equal to the property’s true tax value.” I.C. § 6-1.1-15-20(f).
 - b) In order to meet its burden of proof, a party “must present objectively verifiable, market-based evidence” of the value of the property. *Piotrowski v. Shelby Cty. Assessor*, 177 N.E.3d 127, 132 (Ind. Tax Ct. 2021) (citing *Eckerling v. Wayne Twp. Assessor*, 841 N.E.2d 674, 677-78 (Ind. Tax Ct. 2006)). For most real property types, neither the taxpayer nor the assessor may rely on the mass appraisal “methodology” of the “assessment regulations.” *P/A Builders & Developers, LLC v. Jennings County Assessor*, 842 N.E.2d 899, 900, (Ind. Tax Ct. 2006). This is because the “formalistic application of the Guidelines’ procedures and schedules” lacks the market-based evidence necessary to establish the market value-in-use of a specific property. *Piotrowski*, 177 N.E.3d at 133.
 - c) Market-based evidence may include “sales data, appraisals, or other information compiled in accordance with generally accepted appraisal principles.” *Peters v. Garoffolo*, 32 N.E.3d 847, 849 (Ind. Tax Ct. 2015). Relevant assessments are also admissible, but arguments that “another property is ‘similar’ or ‘comparable’ simply because it is on the same street are nothing more than conclusions . . . [and] do not constitute probative evidence.” *Marinov v. Tippecanoe Cty. Assessor*, 119 N.E.3d 1152, 1156 (Ind. Tax Ct. 2019). Finally, the evidence must reliably indicate the


property's value as of the valuation date. *O'Donnell v. Dept. of Local Gov't. Fin.*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006).

- d) KJ claimed the subject property's value should be extrapolated from the appraised value from the appropriation case. However, the Report filed in that case does not have a description of the property being appraised; an effective date of the valuation; or a certification that the appraisal was performed in accordance with the Uniform Standards of Professional Appraisal Practice. Further, the Report does not explain how the value was determined or what data was considered to reach the value. Additionally, the Report does not value the whole property. Rather, it only valued the portion of the property subject to the appropriation. Nothing in the record indicates that the appraisers would have come to similar per acre conclusions if they had been asked to value the entire property. For these reasons, we find the report insufficient to support any value for the subject property as of the relevant valuation date. To successfully make a case for a lower assessment, a taxpayer must use market-based evidence to "demonstrate that their suggested value accurately reflects the property's true market value-in-use." *Eckerling v. Wayne Co. Ass'r*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006). Because KJ failed to provide any other evidence supporting a lower value, we find it has failed to make a case for any change in the assessment.
- e) Because KJ has not supported its 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

16. In accordance with the above findings and conclusion, the Board orders no change to the 2022 assessment.

ISSUED: SEPTEMBER 19, 2023



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>>.