

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

Petition No.: 79-004-20-1-5-00544-21
Petitioner: Richard Mills
Respondent: Tippecanoe County Assessor
Parcel: 79-07-28-103-005.000-004
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 Petitioner appealed the 2020 assessment of his property located on South Street in Lafayette.
2. On June 30, 2021, the Tippecanoe County Property Tax Assessment Board of Appeals (“PTABOA”) issued a Form 115 sustaining the assessment at \$3,600 for land.
3. The Petitioner timely filed an appeal with the Board, electing to proceed under the small claims procedures.
4. On August 9, 2022, Dalene McMillen, the Board’s Administrative Law Judge (“ALJ”), held a telephonic hearing. Neither the Board nor the ALJ inspected the property.
5. Richard Mills appeared *pro se*. May Mills appeared as a witness for the Petitioner. Chris Coakes, project manager for the Assessor’s office appeared for the Assessor. Both Coakes and May Mills testified under oath.

Record

6. The parties submitted the following exhibits:

Petitioner Exhibit 1: Indiana Code § 6-1.1-6.8,
Petitioner Exhibit 2: Three photographs of the subject property,
Petitioner Exhibit 3: Plat map,
Petitioner Exhibit 4: Photograph of city lot on Alabama Street,
Petitioner Exhibit 5: William Worrall Mayo’s historical residence locations,

Petitioner Exhibit 6: Google map and plat map of subject property.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.

Findings of Fact

7. The subject property is a parcel of vacant land located behind the Mills' home. It is currently assessed at \$3,600. The land contains a fenced-in graveyard with headstones. Some graves belong to still-born children and others to indigenous persons. The property was previously owned by Dr. William Mayo, and the children were his patients. *M. Mills testimony; Coakes testimony; Pet'r Ex. 5.*

Contentions

8. Summary of the Petitioner's case:
 - a) The Petitioner contends the Assessor erred in assessing the subject property. In support of this, May testified that there are two graveyards on the property. She further stated that because of the graveyards, the subject property should be assessed at \$1.00 per acre according to Indiana Code § 6-1.1-6.8. *M. Mills testimony; Pet'r Ex. 1.*
 - b) May Mills also testified that people come from all over to conduct religious services and spread ashes on the subject property. *M. Mills testimony.*
9. Summary of the Respondent's case:
 - a) The Assessor claimed the subject property is correctly assessed as vacant excess residential land because it supports the Mills' homesite. *Coakes testimony.*

Analysis

10. The Petitioner 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).*

¹ The Respondent did not offer any exhibits for the record.

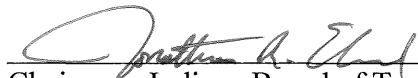
- b) Real property is assessed based on its market value-in-use. I.C. § 6-1.1-31-6(c); 2021 REAL PROPERTY ASSESSMENT MANUAL at 2. The cost approach, the sales comparison approach, and the income approach are three generally accepted techniques to calculate market value-in-use. Assessing officials primarily 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 (In. Tax Ct. 2005). For the 2020 assessment, the valuation date was January 1, 2020. *See* Ind. Code § 6-1.1-2-1.5.
- d) The Petitioner claims the subject property should be assessed at \$1.00 per acre because it contains graveyards. While Indiana Code § 6-1.1-6.8 does provide that certain cemetery land be assessed at \$1.00 per acre, there are very specific requirements that must be met in order for a parcel to be classified as cemetery land. In particular, the land must be (1) surveyed by a professional surveyor, and (2) included on the registry of Indiana cemeteries and burial grounds under I.C. § 14-21-1-13.5.
- e) The Petitioner provided no evidence that the subject property met either of these requirements. For that reason, he is not entitled to any relief on these grounds.²
- f) The Petitioner relates that the limestone fence was “put in by white people who were scared of dead people leaving the graveyard.” However, the Petitioner does not directly challenge the assessment on the grounds that the value of the parcel has been negatively impacted by the graves. Someday the Board may be called to consider the value of a haunted property, but not here.
- g) Because the Petitioner has not supported his 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).

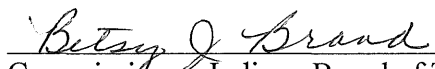
² May Mills also claimed that the subject property was being denied the \$1.00/acre assessment because the graveyards contain the remains of multi-racial and/or indigenous people rather than “white folks.” Mills pointed to no authority for the assertion that the application of the cemetery assessment statute depends on the racial identity of the remains, nor are we aware of any.

Final Determination

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

ISSUED: 11/7/2022


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>.