

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

Petition: 45-004-17-1-5-001187-19
Petitioner: Jim Nowacki
Respondent: Lake County Assessor
Parcel: 45-09-04-476-010.000-004
Assessment Year: 2017

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

Procedural History

1. Jim Nowacki contested the 2017 assessment of his property. The Lake County Property Tax Assessment Board of Appeals issued a Form 115 determination valuing the property at \$4,600, all for land.
2. Nowacki then filed a Form 131 petition with the Board and elected to proceed under our small claims procedures. On November 15, 2022, our designated administrative law judge, Joseph Stanford (“ALJ”), held a hearing on Nowacki’s petition. Neither he nor the Board inspected the property.
3. Nowacki represented himself. The Lake County Assessor appeared through her hearing officer, Jessica Rios. Both testified under oath.

Record

4. The official record for this matter includes the following:
 - Petitioner Exhibit A: Two GIS maps,
 - Petitioner Exhibit B: Subject property record card showing 2017-2021 assessed values,
 - Petitioner Exhibit C: Valuation history.
5. The record also 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.

Findings of Fact

6. The subject property is a platted lot located at 9305 Sunrise Boulevard in Gary. Nowacki bought the property for \$25 in 2009. *Nowacki testimony; Pet’r Ex. B.*

Contentions

A. Nowacki's Contentions

7. According to Nowacki, we should not automatically presume that an assessment is correct. That presumption requires that assessments are created in accordance with the assessment manual issued by the Department of Local Government Finance ("DLGF"). In this instance, there was no "land-value survey" gathered and applied to a land order. And the land order was not timely submitted. The assessment therefore does not comply with the manual. *Nowacki testimony and argument.*
8. A "blue ribbon" panel has issued a series of reports finding that Lake County has a systemic problem in which properties churn through the system with assessments that are disconnected to market value. In one instance, according to data provided to Nowacki through a freedom of information request, a property was assessed for five times more than the value estimated by an appraiser the Assessor hired. Another property was assessed for 32 times its appraised value. And a third property was assessed for 600% of its appraised value. According to Nowacki, the Assessor does not correct properties' assessments until after those properties "churn through the tax sale" for years with nobody interested in buying them. As a result, the properties' ownership often ultimately transfers from Gary residents to "other entities," which Nowacki claims is a violation of the original property owners' civil rights. *Nowacki testimony and argument.*
9. Over the last several years, the subject property's assessment has fluctuated between \$4,600 and \$9,200. The Assessor cannot reasonably argue that all those assessments were correct. Nowacki concedes that the property is worth more than the \$25 he paid for it. He believes that a fair value is \$3,200. *Nowacki testimony and argument.; Pet'r Ex. C.*

B. The Assessor's Contentions

10. Nowacki offered no evidence to support his requested assessment. *Rios argument.*

Analysis

11. Generally, an assessment determined by an assessing official is presumed to be correct. 2021 REAL PROPERTY ASSESSMENT MANUAL at 3. A 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. 2021).
12. 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 3. 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 DLGF's rules. 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 2.¹

13. 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 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). 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). The valuation date for a 2017 assessment was January 1, 2017. *See I.C. § 6-1.1-2-1.5(a)*.
14. Nowacki essentially asks us to reduce his assessment on grounds that a delinquent land-value survey and land order resulted in an assessment that does not comply with the Manual. But Nowacki did not offer any evidence to support his bare allegations about the land-value survey and land order. Even if we were to assume that his allegations are true, Nowacki did not explain why it would relieve him of the need to offer market-based evidence to support his request for a reduced assessment. The Tax Court has repeatedly explained that a taxpayer cannot make a prima facie case merely by pointing to an assessor’s incorrect application of assessment regulations but must instead offer market-based evidence to show that the assessment does not reflect its property’s market value-in-use. *Piotrowski*, 177 N.E.3d at 132.
15. Nowacki offered no probative market-based evidence to support a lower assessment. To the extent he relies on his purchase price, or at least argues that we should not ignore it, we give that evidence no weight. Nowacki bought the property in 2009, eight years before the January 1, 2017 valuation date, and he offered no evidence to relate his purchase price to that date.
16. He also referenced a “blue-ribbon” panel’s reports and the three over-assessed properties that he discovered through his freedom of information requests. To the extent those references amount to a request for an equalization adjustment based on a lack of uniformity in assessments, Nowacki failed to make an actionable claim. He did not submit the panel’s report or the data from his freedom of information requests. Even if we were to rely solely on his references without seeing the underlying data, however, Nowacki fell woefully short of what would be needed to show that his property was assessed above the common level of assessment for properties in Calumet Township or Lake County.
17. Finally, Nowacki’s claim that his assessment fluctuated in previous years does nothing to prove that his 2017 assessment is incorrect. As the Tax Court has explained, “each tax

¹ The 2011 Real Property Assessment Manual, which applied to assessments determined in 2017 and 2018, used the same definition. 2011 REAL PROPERTY ASSESSMENT MANUAL at 2.

year—and each appeal process—stands alone.” *Fisher v. Carroll Cnty. 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).²

Conclusion

18. Nowacki failed to offer any market-based evidence to show that his assessment should be reduced. We therefore find for the Assessor and order no change.

Date: 2/13/2023



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>.

² Nowacki did not make a cogent argument or cite to relevant authority regarding his claim that Gary residents’ civil rights were being violated. We will not make his case for him.