

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

Petition: 45-004-17-1-5-00282-19
Petitioner: James Nowacki
Respondent: Lake County Assessor
Parcel: 45-08-08-262-001.000-004
Assessment Year: 2017

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

Procedural History

1. James Nowacki contested the 2017 assessment of his parcel located at 1969 West 13th Avenue in Gary. The Lake County Property Tax Assessment Board of Appeals issued a Form 115 determination valuing the vacant platted lot at \$3,100.
2. Nowacki then filed a Form 131 petition with the Board and elected to proceed under our small claims procedures. On December 6, 2021, our designated administrative law judge, Joseph Stanford (“ALJ”), held a hearing on Nowacki’s petition. Neither he nor the Board inspected the parcel.
3. Nowacki represented himself. Lake County Hearing Officer Robert Metz appeared for the Assessor. Both testified under oath.

Record

4. The official record for this matter includes the following:
 - Petitioner Exhibit A: Two GIS maps,
 - Petitioner Exhibit B: Property record card (2014-2017),
 - Petitioner Exhibit C: Property record card (2016-2020).
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.

Contentions

A. Nowacki’s Contentions

6. Nowacki argues that the subject parcel is assessed higher than its market value. While it is a buildable lot and is more desirable than many other lots Nowacki owns and has

appealed, Nowacki claims that it is still worth only \$1,800. *Nowacki argument and testimony.*

7. Nowacki contends that there are errors on the property record card (“PRC”). Specifically, the PRC inaccurately indicates that the previous owner originally bought the parcel in 1900 and that Nowacki bought it in 1982 for \$0. Nowacki testified that he most likely bought the parcel for a nominal amount at a commissioner’s sale sometime between 2006 and 2010. According to Nowacki, when there are a “preponderance of tax sales” at a location, the “State’s handbook” requires assessors to use those sale prices to value properties. *Nowacki argument and testimony; Pet’r Ex. B-C.*

B. The Assessor’s Contentions

8. The Assessor contends that Nowacki did not provide any evidence to support his requested assessment of \$1,800. Therefore, no change should be made. *Metz argument.*

Analysis

9. Generally, a taxpayer seeking review of an assessing official’s determination has the burden of proof. Various statutes, including Ind. Code § 6-1.1-15-17.2, create exceptions to that general rule and assign the burden of proof to the assessor under specified circumstances, such as where a property’s assessment has increased more than 5% over the previous year.
10. Nowacki did not argue that the burden should shift. And the assessment did not change between 2016 and 2017. *Metz testimony; Pet’r Ex. B.* Nowacki therefore had the burden of proof.
11. 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); 2011 REAL PROPERTY ASSESSMENT MANUAL at 3.¹ 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.
12. 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

¹ The Department of Local Government Finance has adopted a new assessment manual and guidelines that apply to assessments for 2021 forward. 52 IAC 2.4-1-2 (filed Nov. 20, 2020) (incorporating 2021 Real Property Assessment Manual and Real Property Assessment Guidelines for 2021 by reference).

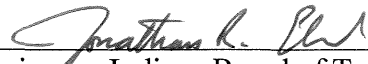
property under appeal, sales or assessment information for comparable properties, and any other information compiled according to generally accepted appraisal principles. *See Eckerling v. Wayne Twp. Ass'r*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006); *see also*, I.C. § 6-1.1-15-18 (allowing parties to offer evidence of comparable properties' assessments to determine an appealed property's market value-in-use). 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). For 2017 assessments, the valuation date was January 1, 2017. *See* I.C. § 6-1.1-2-1.5(a).

13. Nowacki contends that the subject parcel's 2017 assessment should be reduced to \$1,800, but he failed to present any probative market-based evidence to support that value. Statements that are unsupported by probative evidence are conclusory and of no value to us in making our determination. *Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1118 (Ind. Tax Ct. 1998). To successfully make a case for lowering an assessment, taxpayers must use market-based evidence to "demonstrate that their suggested value accurately reflects the property's true market value-in-use." *Eckerling* 841 N.E.2d at 674, 678. Nowacki's testimony about the "nominal" amount he paid for the parcel somewhere between 2006 and 2010 was too vague to be of any use. And even if we were to accept his conclusory assertion that tax sales constituted the only market for properties in the subject parcel's area, he bought the parcel at least seven years before the relevant January 1, 2017 valuation date. Yet he offered no evidence to relate the "nominal" sale price to the parcel's value as of that valuation date.
14. We similarly give no weight to any errors on the PRC concerning the dates on which ownership of the parcel transferred. Nowacki did not explain how such errors affected the parcel's valuation.
15. Because Nowacki offered no probative market-based evidence to demonstrate the subject parcel's correct market value-in-use for 2017, he failed to make a prima facie case for lowering its assessment.

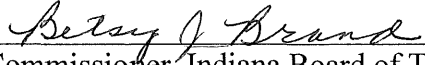
Conclusion

16. Nowacki failed to offer probative market-based evidence to show that his parcel was assessed for more than its market value-in-use. We therefore find for the Assessor and order no change.

Date: 2/7/2022



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>.