

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

**Petition:** 45-004-17-1-5-00283-19  
**Petitioner:** James Nowacki  
**Respondent:** Lake County Assessor  
**Parcel:** 45-08-08-132-006.000-004  
**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 property located at 2326 West 10<sup>th</sup> Avenue in Gary. The Lake County Property Tax Assessment Board of Appeals issued a Form 115 determination valuing the vacant platted lot at \$2,100.
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 property.
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 contends that the subject property was assessed higher than its market value. In support, he points to the 2020 assessment, which was reduced to \$1,000. Nowacki alternately called the 2020 assessment “too low,” “probably fair,” and “accurate.” In any

event, Nowacki disagrees that the property's value decreased 60% between 2019 and 2020. He believes the drop in 2020 was the result of over-assessment in previous years. *Nowacki argument and testimony; Pet'r Ex. C.*

7. Nowacki also testified that the property record card ("PRC") inaccurately indicates that the previous owner bought the property in 1900 and that Nowacki bought it in 1987. According to Nowacki, he did not buy the property until 2006 or 2007. *Nowacki argument and testimony; Pet'rs Exs. B-C.*

## **B. The Assessor's Contentions**

8. The Assessor argues that Nowacki did not provide any evidence to support his requested assessment of \$1,200. Therefore, no change should be made. *Metz argument.*
9. In any case, the Assessor's witness, Robert Metz, testified that the assessment did not actually drop 60% in one year, as Nowacki alleged. According to Metz, the 2020 reduction resulted from the first cyclical reassessment since 2015. Thus, the 60% decrease covered five years. *Metz testimony.*

### **Analysis**

10. 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.
11. Nowacki does not argue that the burden should shift. And the assessment did not change between 2016 and 2017. *Nowacki argument; Metz testimony; Pet'r Ex. B.* Nowacki therefore had the burden of proof.
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); 2011 REAL PROPERTY ASSESSMENT MANUAL at 3.<sup>1</sup> 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.
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

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<sup>1</sup> 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).

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, 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).

14. Nowacki argues that the subject property's 2017 assessment should be reduced to \$1,200. But he failed to offer 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 a lower assessment, taxpayers must offer 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.
15. We give no weight to the fact that the property's assessment dropped to \$1,000 in 2020. As the Tax Court has explained, each tax 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). We similarly give no weight to any errors on the PRC concerning the dates on which ownership of the property transferred. Nowacki did not explain how such errors affected the property's valuation.
16. Because Nowacki did not offer any probative market-based evidence to show the property's market value-in-use for 2017, he failed to make a prima facie case for lowering the assessment.

### **Conclusion**

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

Date: 2/7/2022

Jonathan R. Clud  
Chairman, Indiana Board of Tax Review

Betsy J. Brand  
Commissioner, Indiana Board of Tax Review

Timothy Schultz  
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>>.