

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

Petition No.: 42-022-22-1-5-01091-22
Petitioner: D. Brad Oexmann
Respondent: Knox County Assessor
Parcel: 42-12-22-319-067.000-022
Assessment Years: 2022

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

Procedural History

1. D. Brad Oexmann appealed the 2022 assessment of his property located at 904 North 13th Street in Vincennes on June 14, 2022.
2. On November 4, 2022, the Knox County Property Tax Assessment Board of Appeals (“PTABOA”) issued a Form 115 valuing the property at \$10,500 for land and \$33,000 for improvements for a total of \$43,500.
3. The Petitioner timely appealed to the Board, electing to proceed under the small claims procedures.
4. On August 2, 2023, Dalene McMillen, the Board’s Administrative Law Judge (“ALJ”), held a telephonic hearing. Neither the Board nor the ALJ inspected the property.
5. D. Brad Oexmann and Robert Woodward, Knox County Assessor, both represented themselves and testified under oath.

Record

6. The official record for this matter is made up of the following:

a) Exhibits:

Petitioner Exhibit 1: Neighborhood structure assessment comparison.

Respondent Exhibit A: Taxpayers Notice to Initiate an Appeal – Form 130, Notice of Hearing on Petition – Real Property – Form 114, 2021 and 2022 subject property record cards and Notification of Final Assessment Determination – Form 115,

Respondent Exhibit B: Residential appraisal report of the subject property prepared by Kim Murray with an effective date of April 18, 2023.

- b) 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 one-story wood frame home built in 1895 located on 0.18 acres of land in Vincennes. *Resp't Ex. A.*
8. The Assessor engaged Kim Murray of Murray & Murray Inc., M & M Appraisers to appraise the market value of the subject property as of April 18, 2023. He certified that his appraisal complied with the Uniform Standards of Professional Appraisal Practice ("USPAP"). To arrive at his opinion of value, Murray developed the sales-comparison approach. He concluded to a value of \$39,000. *Woodward testimony; Resp't Ex. B.*

Contentions

9. Summary of the Petitioner's case:
- a) Oexmann presented purportedly comparable properties from the subject neighborhood and the Vincennes area that he alleged are similar in square footage. He pointed out that between 2021 and 2022 the assessment for the improvements of one of the comparables decreased by 29.54% while others increased between zero percent and 26.67%. He noted that the subject property's assessed value increased by 28.19%. Oexmann claimed this demonstrated the subject property's improvements were over assessed. *Oexmann testimony; Pet'r Ex. 1.*
- b) Oexmann also found 36 homes that sold between April 2010 to September 2022. He determined that 29 properties sold below their improvements assessments, while 7 properties sold at or above their improvements assessments. He pointed out that between 2020 and 2022, the assessment for the subject property's improvements increased approximately 100%. He claimed this was excessive based on the comparable sales. *Oexmann testimony; Pet'r Ex. 1.*
- c) Oexmann also argued that from 2018 to 2023 the property taxes have increased from \$561.90 to \$919.16 or an approximately 50% increase in five years. He argued that similar properties in the subject neighborhood have not experienced as high of an increase in their property taxes. *Oexmann testimony.*
- d) Finally, Oexmann contended the appraisal submitted by the Assessor is flawed because it was a "walk-by" with no interior inspection, therefore the appraiser is unaware of the interior condition of the home. *Oexmann testimony.*

10. Summary of the Respondent's case:
 - a) The Assessor noted that a field inspection of the subject property in 2021 resulted in the grade of the home being changed from E+1 to D and adding a bathroom. In addition, the PTABOA changed the full crawl space to 25% basement and 75% crawl space. As a result of these changes the assessed value increased in 2021. *Woodward testimony; Resp't Ex. A.*
 - b) The Assessor asked the Board to adopt the value from Murray's April 18, 2023, appraisal of \$39,000. *Woodward testimony; Resp't Ex. B.*

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 \$43,500 is lower than the previous year's assessment of \$43,800. Thus, the petitioner has the burden of proving the assessment is incorrect and what the correct assessment should be.

Analysis

15. The Petitioner failed to make a prima facie case for reducing the assessment. The Assessor conceded to a 2022 value of \$39,000.
 - a) The Indiana Board of Tax Review 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) Here, Oexmann offered some assessment information about purportedly comparable properties. But a party offering sales or assessment data must use generally accepted appraisal or assessment practices to show that the purportedly comparable properties are comparable to the property under appeal. *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 470-71 (Ind. Tax Ct. 2005). Conclusory statements that properties are "similar" or "comparable" do not suffice; instead, parties must explain how the properties compare to each other in terms of characteristics that affect market value-in-use. *Long*, 821 N.E.2d at 471. They must similarly explain how relevant differences affect values. *Id.* Opinions that are unsupported by probative evidence are conclusory and of no value to the Board in making its determination. *Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1118 (Ind. Tax Ct. 1998).
- e) Oexmann did not offer the type of analysis contemplated by *Long*. While he identified the assessments and sale prices of comparable properties, he offered little or no evidence on the characteristics that affect the properties' overall market value-in-use. And he did not even attempt to explain how any relevant differences affected the properties' values. Without such analysis, this evidence is insufficient to support any reduction in value. Moreover, Oexmann focused almost exclusively on the increase in the subject property's assessed value over time. But 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). Absent the application of the burden-shifting provision, which as discussed above is not triggered in this case, the subject property's change in assessment over time is of little relevance. Rather, the focus is what the value should be as of the relevant assessment date, in this case January 1, 2022. Because Oexmann failed to provide any reliable evidence of the value of the subject property as of that date, he has failed to make a case for any reduction in the assessment.

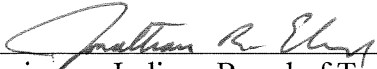
- f) We also note that it appears Oexmann may have been arguing that he was not receiving a uniform and equal assessment as compared to the other properties he presented. We interpret this as a challenge to the uniformity and equality of the assessment as mandated by I.C. § 6-1.1-2-2 and Article 10 of the Indiana Constitution. As the Tax Court has explained, “when a taxpayer challenges the uniformity and equality of his or her assessment one approach that he or she may adopt involves the presentation of assessment ratio studies, which compare the assessed values of properties within an assessing jurisdiction with objectively verifiable data, such as sales prices or market value-in-use appraisals.” *Westfield Golf Practice Center v. Washington Twp. Assessor*, 859 N.E.2d 396, 399 n .3 (Ind. Tax Ct. 2007) (emphasis in original). Such studies, however, should be prepared according to professionally acceptable standards. *Kemp v. State Bd. of Tax Comm'rs*, 726 N.E.2d 395, 404 (Ind. Tax Ct. 2000). They should also be based on a statistically reliable sample of properties that actually sold. *Bishop v. State Bd. of Tax Comm'rs*, 743 N.E.2d 810, 813 (Ind. Tax Ct. 2001) (citing *Southern Bell Tel. and Tel. Co. v. Markham*, 632 So.2d 272, 276 (Fla. Dist. Co. App. 1994)). But Oexmann did not demonstrate that he provided a statistically reliable sample of properties. And while he did have market data for the comparables (their sale prices) he had no such market data for the subject property as of the assessment date. For these reasons, he failed to make a prima facie case showing a lack of uniformity and equality in the assessment.
- g) Finally, Oexmann argued that his property taxes have increased 50% in five years and that he has overpaid taxes compared to similar properties in the neighborhood. The Board has limited jurisdiction to hear disputes regarding property taxes. *See Whetzel v. Dep't of Local Gov't Fin.*, 761 N.E.2d 904 (Ind. Tax Ct. 2002) (holding that the Board's predecessor agency “was a creation of the Legislature and therefore only had those powers conferred by statute”); *see also Morris v. Hamilton Cty. Assessor*, 175 N.E.3d 875 (Ind. Tax Ct. 2021). The Board has authority to hear challenges to the actions of assessing officials in regard to the assessed valuation of tangible property, property tax deductions, property tax exemptions, and property tax credits. I.C. § 6-1.5-4-1. To the extent Oexmann is asking for relief beyond these categories, we lack the authority to address his claims.
- h) The Assessor offered market-based evidence in the form of the Murray appraisal, but Murray valued the property over 15 months after the relevant valuation date. For that reason, it is not reliable evidence of value for the 2022 assessment year. Nevertheless, because the Assessor conceded that the subject property was not worth

more than the value from the Murray appraisal, we order the assessment reduced to that amount.

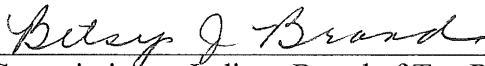
Final Determination

16. In accordance with the above findings and conclusions, we order the assessment be reduced to \$39,000.

ISSUED: OCTOBER 30, 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>>