

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

Petition No.: 79-004-12-1-5-00001
Petitioners: Suzanne Lee & Glenn Parker
Respondent: Tippecanoe County Assessor
Parcel No.: 79-07-28-101-006.000-004
Assessment Year: 2012

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

Procedural History

1. The Parkers appealed their 2012 assessment to the Tippecanoe County Property Tax Assessment Board of Appeals (“PTABOA”), which mailed notice of its determination on July 12, 2013.
2. The Parkers then timely filed a Form 131 petition with the Board. They elected to have their appeal heard under the Board’s small claims procedures.
3. On August 22, 2014, the Board held a hearing through its designated administrative law judge, Dalene McMillen (“ALJ”). Neither the Board nor the ALJ inspected the property.
4. Glenn Parker and Jesse Wallenfang, sales data & appeals manager for the Tippecanoe County assessor’s office, were sworn as witnesses.

Facts

5. The property under appeal is a single-family home located at 207 South 9th Street in Lafayette.
6. The PTABOA determined the following values:

Land: \$25,000	Improvements: \$175,000	Total: \$200,000.
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7. The Parkers requested the following assessment:

Land: \$25,000	Improvements: \$152,600	Total: \$177,600.
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Record

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

a. A digital recording of the hearing,

b. Exhibits:

Petitioners Exhibit 1: Petition to the Indiana Board of Tax Review for Review of Assessment – Form 131,

Petitioners Exhibit 2: Grounds for 2012 Appeal,

Petitioners Exhibit 3: Analysis, description, data and copies of photographs for comparable properties,

Petitioners Exhibit 4: Printout from www.tripadvisor.com regarding the “Historic Loeb House Inn,”

Petitioners Exhibit 5: Joint Report by Taxpayer/Assessor – Form 134-I,

Petitioners Exhibit 6: Notification of Final Assessment Determination – Form 115-I PT,

Respondent Exhibit 1: Assessor’s burden of proof analysis,

Respondent Exhibit 2: Restricted use residential appraisal report prepared by Deborah Green, dated March 3, 2014,

Respondent Exhibit 3: Assessor’s response to Petitioners’ grounds for appeal,

Respondent Exhibit 4: Spreadsheet with Assessor’s comparable sales data,

Board Exhibit A: Form 131 petition,

Board Exhibit B: Hearing notice,

Board Exhibit C: Hearing sign-in sheet,

c. These Findings and Conclusions.

Burden of Proof

9. Generally, a taxpayer seeking review of an assessing official’s determination must prove that the assessment is wrong and what the correct assessment should be. Indiana Code § 6-1.1-15-17.2 creates an exception to that general rule and assigns the burden of proof to the assessor under certain circumstances, including where the assessment under appeal represents an increase of more than 5% over the previous year’s assessment for the same property. Ind. Code § 6-1.1-15-17.2(a) and (b). If the assessor fails to meet her burden of proving that the assessment is correct, the assessment must be reduced to the previous year’s level or to another amount established by probative evidence. *See* I.C. § 6-1.1-15-17.2(b).

10. The assessment increased more than 5% between years, going from \$177,600 in 2011 to \$200,000 in 2012. The parties therefore agreed that the Assessor has the burden of proof.

Summary of the Parties' Contentions

11. The Assessor's case:

- a. The Parkers were upset that the Assessor relied on different comparable properties at the PTABOA hearing than she had relied on in informal attempts to resolve the appeal. Because of that controversy, the Assessor hired Deborah Green, an Indiana Licensed Residential Appraiser, to conduct an independent appraisal. Ms. Green certified that she prepared her appraisal in conformance with the Uniform Standards of Appraisal Practices ("USPAP"). She estimated the property's value to be \$205,000 as of March 1, 2012. *Wallenfang testimony; Resp't Ex. 2.*
- b. Ms. Green reached her opinion by analyzing sales of comparable properties. She used four properties that sold between November 27, 2011, and March 23, 2012, for prices ranging from \$188,000 to \$210,000. She adjusted each sale price to account for differences between the comparable property and the Parkers' property in terms of location, lot size, bathroom count, gross living area, basement size, basement finish, garage size, and the presence of porches, fireplaces, and sheds. *Wallenfang testimony; Resp't Ex. 2.*
- c. Ms. Green's value conclusion is only slightly higher than the assessment for the Parkers' property. Given how small the difference is, the Assessor does not request that the Board raise the assessment.
- d. The Assessor's witness and representative, Jesse Wallenfang, also offered a spreadsheet comparing the Parkers' property to five properties from surrounding neighborhoods in terms of age, size, quality grade, condition, number of bathrooms, basement size, and the presence or absence of a garage. The properties sold between April 5, 2010, and February 28, 2012, for prices ranging from \$54.22/sq. ft. to \$88.75/sq. ft., with a median of \$71.53/sq. ft. The Parkers' property, by contrast, was assessed at only \$56.66/sq. ft. *Wallenfang testimony; Resp't Ex. 4.*

12. The Parkers' case:

- a. The Assessor's office made errors throughout the Parkers' appeal. For example, in the Form 134-I, the Assessor indicated that the property was assessed at \$67/sq. ft when it was actually assessed at \$56.66/sq. ft. On that form, the Assessor also identified two sales as supporting the assessment. Neither of those properties, however, is comparable to the Parkers' property. One, the "Historic Loeb House Inn" has a brick house with six bedrooms and six bathrooms that is used as a bed and breakfast. The other, located at 414 South 7th Street, has a 3,230-square-foot brick house built in 2007. By contrast, the Parkers' wood-framed home was built in 1897. *Parker testimony; Pet'rs Exs. 2-4.*

- b. According to the Parkers, they were further prejudiced when the Assessor relied on a different set of comparable properties at the PTABOA hearing without first giving them a chance to analyze those properties. The Parkers later determined that three of the properties were located in Highland Park, which is nicer than their neighborhood. *Parker testimony.*
- c. The Parkers pointed to four sales from their neighborhood that Mr. Parker believes are more relevant than the sales used by the Assessor. Like the Parkers' home, those four homes are frame construction. They are also similar in terms of size and age. They sold for prices ranging from \$32/sq. ft. to \$88/sq. ft., with a median of \$49/sq. ft. The two properties located closest to the Parkers' home sold for an average of \$34/sq. ft. *Parker testimony; Pet'rs Exs. 2-3.*
- d. The Assessor, however, is proposing an assessment of \$56.66/sq. ft., or 67% more than the sale prices for comparable properties located in the Parkers' neighborhood. In doing so, she fails to recognize distinctive features in the neighborhood that depresses property values for single-family homes, such as the presence of the apartment complex and other multi-family rental properties. *Parker testimony.*
- e. Finally, the Parkers argue that the Board should give Ms. Green's appraisal little weight. She used four comparable properties from two neighborhoods that are superior to the Parkers' neighborhood. Those neighborhoods do not have apartments or multi-family homes. Unlike the Parkers' property, Ms. Green's comparable properties are not located on busy streets. *Parker testimony and argument.*

Analysis

- 13. The Assessor met her burden of proving that the property's assessed value was correct for 2012. The Board reached this decision for the following reasons:
 - a. Indiana assesses real property based on its true tax value, which the 2011 Real Property Assessment Manual defines as "the 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." 2011 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.4-1-2). A party's evidence in a tax appeal must be consistent with that standard. For example, a market value-in-use appraisal prepared according to USPAP often will be probative. *See id.; see also, Kooshtard Property VI, LLC v. White River Township Assessor*, 836 N.E.2d 501, 506 n.6 (Ind. Tax Ct. 2005). A party may also offer actual construction costs, sale or assessment information for the property under appeal or comparable properties, and any other information compiled according to generally recognized appraisal practices. *See id; 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).

- b. The Assessor offered Ms. Green’s USPAP-compliant appraisal in which she valued the property at \$205,000 using a generally recognized appraisal methodology—the sales-comparison approach. That appraisal suffices to make a prima facie case that the property was worth at least \$200,000 as of March 1, 2012.
- c. The Parkers did little to impeach or rebut Ms. Green’s appraisal. Mr. Parker testified that Ms. Green’s comparable properties were in better neighborhoods and on less busy streets than the Parkers’ property. Ms. Green, however, recognized as much and adjusted the sale prices for her comparable properties accordingly.
- d. Mr. Parker also pointed to four properties that he felt were more comparable to the Parkers’ property than were the properties Ms. Green used in her appraisal. Although he compared the four properties to the Parkers’ property along a few lines, such as age, size, construction, and location, he did not address other relevant characteristics. And he did not even attempt to explain how relevant differences affected the relative values. *See Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005) (finding sales data lacked probative value where the taxpayers did not explain how purportedly comparable properties compared to their property or how relevant differences affected value).
- e. The Parkers spent most of the hearing re-hashing what happened during informal settlement negotiations with the Assessor and at the PTABOA hearing. Unfortunately, they misunderstand the nature of the Board’s proceedings. Once a taxpayer has properly invoked the Board’s jurisdiction, its proceedings are *de novo*. *See Ind. Code § 6-1.1-15-4 (m)* (“A party participating in the hearing required under subsection (a) is entitled to introduce evidence that is otherwise proper and admissible without regard to whether that evidence has previously been introduced at a hearing before the county board.”) Thus, the probative value, or lack thereof, of evidence offered below is irrelevant at this stage in the appeal process. The Parkers instead needed to deal with the evidence the Assessor offered at the Board’s hearing, most importantly, Ms. Green’s appraisal. As explained above, however, they did not significantly rebut or impeach that appraisal.

Conclusion

- 14. The Assessor, who had the burden of proving that the property’s 2012 assessment was correct, met that burden by offering a USPAP-compliant appraisal from a certified appraiser. The Parkers did little to impeach or rebut that appraisal. The Board therefore finds for the Assessor and orders no change to the assessment.

Final Determination

In accordance with the above findings of fact and conclusions of law, the Indiana Board of Tax Review determines that the assessment should not be changed.

ISSUED: April 10, 2015

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>>.