

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

Petition No.: 71-011-22-1-5-00488-23
Petitioners: Victoria K. & Ryan E. Patrick
Respondent: St. Joseph County Assessor
Parcel: 71-04-10-353-007.000-011
Assessment Year: 2022

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

Procedural History

1. The Patricks appealed the 2022 assessment of their property located at 50878 Canyon Ridge Drive in Granger on May 12, 2022.
2. On June 5, 2023, the St. Joseph County Property Tax Assessment Board of Appeals (“PTABOA”) sustained the assessment at \$100,900 for land and \$347,700 for improvements for a total assessment of \$448,600.
3. The Patricks timely appealed to the Board, electing to proceed under the small claims procedures.
4. On December 6, 2023, Dalene McMillen, the Board’s Administrative Law Judge (“ALJ”) held a telephonic hearing. Neither the Board nor the ALJ inspected the property.
5. Ryan Patrick, owner, appeared *pro se*. Frank Agostino appeared as the Assessor’s attorney. Shannon Schalk, Personal Property Director for the Assessor, Michael Castellon, St. Joseph County Assessor, and Ryan Patrick all testified under oath.

Record

6. The parties submitted the following exhibits:

Petitioner Exhibit 1: Department of Local Government Finance “*Annual Adjustment of Assessed Values Fact Sheet*,”
Petitioner Exhibit 2: Subject property record card,
Petitioner Exhibit 3: Property record card for 15305 Liongate Drive,

- Petitioner Exhibit 4: Property record card for 50800 Country Knolls Drive,
 Petitioner Exhibit 5: Property record card for 50738 Glen Meadow Lane,
 Petitioner Exhibit 6: Property record card for 50631 Birkdale Court,
 Petitioner Exhibit 7: Property record card for 50622 Canyon Lane,
 Petitioner Exhibit 8: Property record card for 50616 Canyon Lane,
 Petitioner Exhibit 9: Property record card for 15700 Sunrise Trail,
 Petitioner Exhibit 10: Property record card for 50736 Canyon Lane,
 Petitioner Exhibit 11: Property record card for 50571 Wagon Wheel Way,
 Petitioner Exhibit 12: Property record card for 50680 Canyon Lane,
 Petitioner Exhibit 13: Property record card for 50947 Safari Drive,
 Petitioner Exhibit 14: Property record card for 15833 Amston Court,
 Petitioner Exhibit 15: Property record card for 50922 Canyon Ridge Drive,
 Petitioner Exhibit 16: Property record card for 15911 Saint Andrews Court,
 Petitioner Exhibit 17: Property record card for 50796 Canyon Ridge Drive,
 Petitioner Exhibit 18: Property record card for 15901 Saint Andrews Court,
 Petitioner Exhibit 19: Property record card for 15916 Saint Andrews Court,
 Petitioner Exhibit 20: Property record card for 50861 Lincolnshire Trail,
 Petitioner Exhibit 21: Property record card for 50934 Lincolnshire Trail,
 Petitioner Exhibit 22: Joint Report by Taxpayer / Assessor to the County Board
 of Appeals of a Preliminary Informal Meeting – Form
 134,
 Petitioner Exhibit 23: Notification of Final Assessment Determination – Form
 115 and Special Message to Property Owner – Treasurer
 Form TS-1A.
- Respondent Exhibit 1: Petition for Review of Assessment Before the Indiana
 Board of Tax Review – Form 131,
 Respondent Exhibit 2: Notification of Final Assessment Determination – Form
 115,
 Respondent Exhibit 3: Joint Report by Taxpayer / Assessor to the County
 Board of Appeals of a Preliminary Informal Meeting –
 Form 134,
 Respondent Exhibit 4: Taxpayer’s Notice to Initiate an Appeal – Form 130,
 Respondent Exhibit 5: Assessor’s evaluation of Petitioners’ comparable
 properties,
 Respondent Exhibit 6: Market regression analysis direct cost valuation,
 Respondent Exhibit 7: Market regression analysis sales comparison valuation,
 Respondent Exhibit 8: Subject property record card,
 Respondent Exhibit 9: Subject property valuation history and memo list.

- a) 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.

Objection

7. The Patricks objected to some of Castellon's testimony regarding the qualifications of Gavin Fisher, an employee of a vendor used by the Assessor, because Fisher was not available to be questioned. We find this objection goes more to the weight of the evidence rather than its admissibility. Thus, we overrule the objection and admit the testimony.

Findings of Fact

8. The subject property is a two-story, 3,164 sq. ft. frame home built in 1982 with an attached 550 sq. ft. garage on a 110 ft. by 152 ft. lot. *Pet'r Ex. 2; Resp't Ex. 8.*
9. The Patricks purchased the subject property on July 8, 2021, for \$450,000. Ryan Patrick explained that this was an unusual purchase because the subject property was never listed on the open market. Because the Patricks wanted to live in the specific neighborhood of the subject property, they sent inquiry letters to all the homes that met their criteria. These letters led to their eventual purchase of the subject property. Ryan Patrick testified that it was his belief that they had to overpay for the subject property in order to entice the previous owners to sell. *Patrick testimony; Castellon testimony; Pet'r Ex. 2; Resp't Ex. 8.*

Contentions

10. Summary of the Respondent's case:
 - a) The Assessor submitted a sales-comparison regression analysis created through software developed by Equi-Val Tax Solutions, LLC. Gavin Fisher, a certified general appraiser, developed the software. The analysis provides six comparables adjusted for construction type, age, size, basement finish and square footage. After adjustments, the sale prices ranged from \$394,578 to \$494,083, with a suggested value of \$437,161 for the subject property. *Castellon testimony; Resp't Ex. 7.*
 - b) In addition, the Assessor also submitted a cost analysis that was prepared using the Equi-Val software. This analysis valued the property at \$436,200. *Castellon testimony; Resp't Ex. 6.*

- c) Based on these analyses, as well as the Petitioner's 2021 purchase price of \$450,000, the Assessor determined that the subject property's 2022 assessment of \$448,600 was correct. *Castellon testimony; Resp't Exs. 6 & 7.*
- d) Schalk testified that the Patricks' comparable properties are flawed because only 2 of the 19 comparable properties are sufficiently similar to the subject property. In addition, she noted that value cannot be determined using just two sales. *Schalk testimony; Resp't Ex. 5.*

11. Summary of the Petitioners' case:

- a) Ryan Patrick presented 19 purportedly comparable properties located near the subject property. He chose the comparables based on number of bedrooms and bathrooms, size, neighborhood, and similar exterior to the subject property. He found 12 of the properties sold from \$265,000 to \$405,000 between June 2021 through June 2022, of which 9 sold for more than their assessments and 3 sold below their assessments. He also presented an additional seven comparables, six of which were assessed at less than the subject property. *Patrick testimony; Pet'r Exs. 3-21.*
- b) The Patricks argued the subject's purchase price was not reliable evidence because it was not offered for sale on the open market. *Patrick testimony.*

Burden of Proof

- 12. 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).
- 13. 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.*
- 14. 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).
- 15. Here, the current assessment of \$448,600 was an increase of more than 5% over the previous assessment of \$366,200. Thus, the Assessor has the burden of proof.

Analysis

16. The Assessor has the burden of proof and the totality of the evidence is insufficient to support any value. Thus, the assessment will revert to the prior year's value.
- 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).
 - 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) The Petitioners purchased the subject property on July 8, 2021, for \$450,000. The purchase price can be the best evidence of a property value. *Hubler Realty Co. v. Hendricks Co. Assessor*, 938 N.E.2d 311, 315 (Ind. Tax Ct. 2010). Although this appears to be an arms-length sale between a willing buyer and seller, the evidence shows that it was never exposed to the market. As discussed above, we are trying to determine the subject property's *market-value-in-use*, not its value to this particular taxpayer. Where market forces have been prevented from operating, such as where a property has not been sufficiently exposed to potential buyers, the sale price is less

useful. Under these circumstances, we do not find the sale price to be reliable evidence of the value of the subject property.

- e) The Assessor also presented a sales-comparison regression analysis prepared using the Equi-Val software. While a regression analysis can be a useful tool, it must be used appropriately. Here, the Assessor provided almost no evidence about how the program was developed, how the adjustment factors were chosen, or how the amounts of the adjustments were determined. Without such evidence supporting the reliability of the method, the results are nothing more than conclusory.
- f) The same is true for the Assessor's cost analysis. The Assessor provided the barebones conclusions of costs for the subject property, without any detail whatsoever regarding how the costs were developed. This lack of support renders the evidence devoid of any probative value.
- g) We now turn to the Patricks' evidence. They offered some assessment and sales information about purportedly comparable properties. But conclusory statements that a property is "similar" or "comparable" to another property do not constitute probative evidence of the comparability of the properties. *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 470-71 (Ind. Tax Ct. 2005). In addition, a party seeking to use sales or assessment comparables must identify the characteristics of the subject property, explain how those characteristics compare to the characteristics of the purportedly comparable properties, and explain how any differences affect the relative market values-in-use of the properties. *Id.* at 471. The Patricks did not identify the differences between the purportedly comparable properties and the subject, nor did they explain how the relevant differences affected their respective values. Without such analysis, this evidence is insufficient to support any value.
- h) Finally, we recognize that the Patricks may also have been concerned with the uniformity and equality of their assessment compared to the other purportedly comparable properties they presented. As the Tax Court has explained, "[o]ne way to measure uniformity and equality in property assessment is through an assessment ratio study." *Thorsness v. Porter Cty. Ass'r*, 3 N.E.3d 49, 51 (Ind. Tax Ct. 2014). Such a study "compare[s] the assessed values of properties within an assessing jurisdiction with objectively verifiable data, such as sales prices or market value-in-use appraisals." *Id.* at 51 (citation omitted). Where a ratio study shows an actionable lack of uniformity, a taxpayer may be entitled to an equalization adjustment bringing its assessment to the common level shown by the study. *Id.*
- i) In *Thorsness*, the taxpayer offered evidence showing that while his property was assessed at 99.9% of its sale price, six other properties from his subdivision were assessed at an average of 79.5% of their recent sale prices. *Thorsness*, 3 N.E.3d at 50. At the administrative level, we rejected the taxpayer's claim on grounds that it neither

conformed to professionally accepted standards, nor was based on a statistically reliable sample of properties. *Id.* Although the Tax Court recognized that the taxpayer's evidence was relevant, it affirmed our conclusion that the evidence failed to show that his assessment exceeded the common level of assessment for the township. *Id.* at 54. In this case, the Patricks did not attempt to perform a ratio study. And while they offered some market-based evidence in the form of sale prices, they did not offer any reliable market-based evidence for the value of the subject property as discussed above. For these reasons, we find they have failed to make a case for an equalization adjustment.

- j) Because the subject property's assessment increased by more than 5% over the prior year's assessment, and none of the exceptions apply, the current assessment is not presumed correct according to I.C. § 6-1.1-15-20. In addition, the totality of the evidence is insufficient to support any value. Thus, the prior year's assessment is presumed correct.

Final Determination

17. Because the burden of proof has shifted and the totality of the evidence is insufficient to support any value, the prior year's assessment is presumed correct. Thus, we order the assessment reduced to the prior year's value of \$366,200.

ISSUED: March 1, 2024



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>>.