

REPRESENTATIVE FOR THE PETITIONERS:

Brian & Rebecca Schroeder, *pro se*

REPRESENTATIVE FOR THE RESPONDENT:

Dan Spiker, Consultant, Government Utility Technology Service

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

RMS Realty Investments LLC,)	Petition No.: 06-015-21-1-4-00852-21
Brian & Rebecca Schroeder, ¹)	
)	Parcel No.: 015-32480-00
Petitioners,)	
)	County: Boone
v.)	
)	Assessment Year: 2021
Boone County Assessor,)	
)	
Respondent.)	

October 17, 2022

FINAL DETERMINATION

The Indiana Board of Tax Review (“Board”) having reviewed the facts and evidence, and having considered the issues, now finds and concludes the following:

INTRODUCTION

1. The Schroeders appealed the 2021 assessment of an industrial property in Boone County. Because they failed to provide reliable evidence proving the market value-in-use of the subject property as of the assessment date, we order no change to the assessment.

¹ It appears that the subject property is owned by RMS Realty Investments LLC, which in turn is owned by Brian & Rebecca Schroeder. Because the Schroeders filed this appeal under their own names, we use their names for the purposes of this determination.

PROCEDURAL HISTORY

2. The Petitioners appealed the 2021 assessment of an industrial office/warehouse located at 417 Rowsdell Road in Lebanon, IN with the Boone County Assessor. On October 21, 2021, the Boone County Property Tax Assessment Board of Appeals (“PTABOA”) sustained the assessment at \$180,000 for land and \$542,500 for improvements for a total of \$722,500. The Petitioners timely appealed to the Board.
3. On July 21, 2022, Dalene McMillen, the Board’s Administrative Law Judge (“ALJ”), held a telephonic hearing. Neither the Board nor the ALJ inspected the property.
4. Brian and Rebecca Schroeder, owners, and Dan Spiker, consultant with Government Utility Technology Service, testified under oath.
5. The Petitioners offered the following exhibits:
 - Petitioner Exhibit 4A – F: Valbridge Property Advisors appraisal, pages 1, 4, 5, 32, 59 and iii,
 - Petitioner Exhibit 5A – I: Property record cards for the subject property and other parcels,
 - Petitioner Exhibit 6A: Cost segregation study,
 - Petitioner Exhibit 8A: Six photographs of the subject property from Valbridge Property Advisors,
 - Petitioner Exhibit 9A – E: Photographs of Respondent’s comparable properties,
 - Petitioner Exhibit 10A: Valbridge Property Advisors “Boone County Submarket,” page 55,
 - Petitioner Exhibit 15: Petitioners’ summary of appeal.²
6. The Respondent offered the following exhibits:
 - Respondent Exhibit 3: Valbridge Property Advisors partial appraisal report, four pages,
 - Respondent Exhibit 4-1: Description and photograph of the subject property,
 - Respondent Exhibit 4-2: Two photographs of the subject property,
 - Respondent Exhibit 4-3: Information and photograph of Agrozen Labs,

² The Petitioners submitted Exhibits 1, 2, 3 and 7A, but did not offer them into the record. The Petitioners did not submit Exhibits 11, 12, 13 or 14.

Respondent Exhibit 4-4: Aerial map of the subject area,
Respondent Exhibit 4-5: MIBOR multiple listing sheet for the subject property,
Respondent Exhibit 4-6: CoStar sale summary sheet for the subject property,
Respondent Exhibit 4-7: Sale comparable sheet,
Respondent Exhibit 4-8: 2020 IncomeWorks Evaluation Report for the subject property.³

7. 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

8. The subject property is a warehouse-type industrial building with some office space. The Schroeders purchased the subject property in an arm's length transaction on November 30, 2020, for \$750,000. After the purchase, the building was remodeled at a cost of approximately \$20,000 for Agrozen Labs and Life Sciences. Agrozen uses the building for several hemp-related uses including testing, sales, and a learning center. Before the purchase, the Schroeders obtained an appraisal for financing purposes. That appraisal estimated the value of the subject property to be \$760,000 as of September 18, 2020.⁴ *Spiker testimony; B. Schroeder testimony; Pet'r Exs 4, 5; Resp't Exs. 4-1, 4-2, 4-3, 4-5 & 4-6.*

PETITIONERS' CONTENTIONS

9. The Schroeders argued that the subject property is over-assessed. They noted that from 2020 to 2021 the assessment on the improvements increased from \$104,500 to \$542,500. The Petitioners argue the assessed value of the structure is excessive. *B. Schroeder testimony; Pet'r Exs. 5A & 15.*

³ The Respondent submitted Exhibits 1, 2, 5, 6, 7 and 8, but did not offer them into the record.

⁴ Only excerpts from the Appraisal Report were submitted into evidence.

10. The Schroeders also presented comparison properties that were located near to the subject that they believed were similar. They found those properties had assessments ranging from \$14.00/sq. ft. to \$54.00/sq. ft. with an average of \$35.00/sq. ft., while the subject property is assessed at \$79.00/sq. ft. The Schroeders requested their assessment be reduced to \$35.00/sq. ft. *B. Schroeder testimony; Pet'r Exs. 5A-5G & 15.*
11. In addition, the Schroeders submitted a "cost segregation study" on the subject building. This study stated that the depreciated cost value of the building was \$270,000, with a current replacement cost value of \$784,353.71. They also testified that they obtained quotes from two builders who estimated the cost to build a new 9,000 square foot building with interior finish at \$655,000 and \$697,000 respectively. *B. Schroeder testimony; Pet'r Exs. 6A & 15.*
12. The Schroeders also argued that the comparison properties the Assessor submitted to the PTABOA were not comparable to the subject property. In addition, they also claimed the Assessor's income calculations were flawed because the rental rate used was too high. *B. & R. Schroeder testimony; Pet'r Exs. 8A & 9A-9E, 10A.*
13. Turning to the appraisal, the Schroeders argued that it was not reliable because it was done for financing and it used comparable sales from more desirable locations than the subject property. *B. Schroeder testimony; Pet'r Ex. 4A-4F.*
14. Finally, the Schroeders argued that the Assessor was inconsistent in changing the subject property's assessment after its sale but not other properties. In support of this, they pointed to two specific properties that sold for significantly more than their assessments but did not subsequently have their assessments raised. *B. & R. Schroeder testimony; Pet'r Exs. 5A, 5H, 5I & 15.*

RESPONDENT'S CONTENTIONS

15. Dan Spiker, the consultant for the Assessor, testified that the subject property was reassessed because of the remodeling and change in use that occurred after the sale. Using an income model, the Assessor arrived at an estimate of \$722,500 for the subject property. Spiker testified that he thought the appraisal report and sale price both demonstrate that the assessment was not too high. He also noted that an appraisal done for financing values the property the same way as any other type of appraisal report. *Spiker testimony; Resp't Ex. 3.*
16. Spiker also argued that the Schroeder's comparable assessment analysis was flawed because it failed to show how the comparable properties compare to the subject property. He noted that the comparables vary in land size, age, use and structure size, and thus are assessed and trended differently. *Spiker testimony; Pet'r Exs. 5A-5I & 15.*

ANALYSIS

17. Generally, an assessment determined by an assessing official is presumed to be correct. 2021 REAL PROPERTY ASSESSMENT MANUAL at 3. The petitioner has the burden of proving the assessment is incorrect and what the correct assessment should be. *Piotrowski v. Shelby County Assessor*, 177 N.E.3d 127, 131-32 (Ind. Tax Ct. 2022).
18. Real property is assessed based on its market value-in-use. Indiana Code § 6-1.1-31-6(c); 2021 REAL PROPERTY ASSESSMENT MANUAL at 2. The cost approach, the sales comparison approach, and the income approach are three generally accepted techniques to calculate market value-in-use. Assessing officials primarily use the cost approach, but other evidence is permitted to prove an accurate valuation. Such evidence may include actual construction costs, sales information regarding the subject property or comparable properties, appraisals, and any other information compiled in accordance with generally accepted appraisal principles.

19. Regardless of the method used, a party must explain how the evidence relates to the relevant valuation date. *O'Donnell v. Dep't of Local Gov't Fin.*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006); *see also Long v. Wayne Twp. Ass'r*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). For the 2021 assessment, the valuation date was January 1, 2021. *See* I.C. § 6-1.1-2-1.5.
20. Here, as the party challenging the PTABOA decision, the Schroeders had the burden of proof. To make a case, a taxpayer must show the current assessment does not accurately reflect the subject property's market value-in-use. *Id.*; *see also P/A Builders 7 Developers, LLC v. Jennings Co. Ass'r*, 842 N.E.2d 899, 900 (Ind. Tax Ct. 2006) (explaining that the focus is not on the methodology used by the assessor but instead on determining what the correct value is). The Tax Court has recently reaffirmed this principal, holding that a taxpayer must present "objectively verifiable, market-based evidence to show that the property's assessed value does not reflect its market value-in-use." *Piotrowski BK #5643, LLC v. Shelby Cnty Ass'r*, 177 N.E.3d 127 (Ind. Tax Ct. 2021).
21. The Schroeders made several criticisms of the comparison properties the Assessor presented to the PTABOA, as well as the income approach the Assessor used to make the original assessment. But it is insufficient to simply attack the methodology used to develop the assessment. Instead, parties must use market-based evidence to "demonstrate that the suggested value accurately reflects the property's true market value-in-use." *Eckerling v. Wayne Twp. Ass'r*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006).
22. The Schroeders did provide some such evidence. First, they presented the assessment of other purportedly comparable properties. But a party offering sales or assessment data must use generally accepted appraisal or assessment practices to show that the properties from which the data is drawn are comparable to the property under appeal. *See Long*, 821 N.E.2d at 470-71. 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.* While the comparables the Schroeders presented were located near the subject property, proximity does not guarantee that a property is comparable. They provided no reliable analysis of the relative differences between the properties and the subject, or how those differences affected value. Without such analysis, we cannot rely on this evidence. *Id.*

23. The Schroeders also presented a “cost segregation study” that estimated the value of the improvements at \$270,000. But they did not present any information on how the study was developed, what the expertise was of the person or persons who prepared it, or what research they did. Without such information, the study is conclusory at best. Moreover, the Schroeders own purchase of the subject property for \$750,000 indicates a much higher value for the property as a whole.

24. The Schroeders also took issue with the fact that the subject property was reassessed after a sale, while other properties were not. We first note that the Assessor claimed that the subject property was reassessed because of its renovations and change in use rather than its sale. In any case, we take 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 the


Schroeders pointed to only two properties that had sold but not been reassessed. We do not find this to be a sufficient showing under these standards.

25. Thus, the Schroeders have failed to make a case for any reduction in the assessment. Because they have not supported their claim with probative evidence, the Assessor's duty to support the assessment with substantial evidence is not triggered. *Lacy Diversified Indus. v. Dep't of Local Gov't Fin.*, 799 N.E.2d 1215, 1221-1222 (Ind. Tax Ct. 2003).

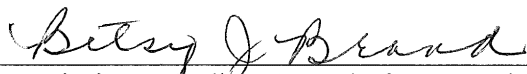
SUMMARY OF FINAL DETERMINATION

26. We order no change to the subject property's assessment.

The Final Determination of the above captioned matter is issued by the Indiana Board of Tax Review on the date written above.



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>.