

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

Petition No.: 43-026-20-1-5-00589-20
Petitioners: Paul & Kathryn Schoenle
Respondent: Kosciusko County Assessor
Parcel: 43-04-05-400-194.000-026
Assessment Year: 2020

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

Procedural History

1. The Petitioners appealed the 2020 assessment of their single-family home with a utility shed on 0.42 acres located at 741 East Northshore Drive in Syracuse, Indiana.
2. On October 7, 2020, the Kosciusko County Property Tax Assessment Board of Appeals (“PTABOA”) reduced the assessment to \$556,300 for land and \$277,700 for improvements for a total of \$834,000.
3. The Petitioners timely appealed to the Board, electing to proceed under the small claims procedures. On May 13, 2021, Dalene McMillen, the Board’s Administrative Law Judge (“ALJ”) held a telephonic hearing. Neither the Board nor the ALJ inspected the property.
4. Paul Schoenle appeared *pro se*.¹ PTABOA Coordinator / Kosciusko County Assessor’s Administrative Assistant Kim Carson appeared for the Respondent. John Beer testified as a witness for the Respondent. All were sworn.

Record

5. The parties submitted the following exhibits:

Petitioner Exhibit 1:	Zillow home listing for the subject property,
Petitioner Exhibit 2:	American Land Title Association closing statement for the subject property dated December 20, 2019,
Petitioner Exhibit 3:	Indiana Association of Realtors Inc. counteroffer for the subject property dated December 2, 2019,
Petitioner Exhibit 4:	Email correspondence between Paul & Kathryn Schoenle and Kim Carson,

¹ Kathryn Schoenle was also on the call but did not testify.

Petitioner Exhibit 5: Annual Adjustment of Assessed Values Fact Sheet prepared by Department of Local Government Finance dated September 2018.

Respondent Exhibit A: 2020 property record card for the subject property,
Respondent Exhibit B: LuxuryHomes.com property information with thirteen interior photographs of the subject property dated August 27, 2020,

Respondent Exhibit C: Local Market Update sheets for December 2017, December 2018 and November 2019 prepared by the Indiana Association of Realtors,

Respondent Exhibit D: Residential Appraisal Report of the subject property prepared by John P. Beer with an effective date of January 1, 2020,

Respondent Exhibit E: Multiple Listing History Sheet for the subject property.

- 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.

Contentions

6. Summary of the Petitioner's case:

- a) The Petitioners claimed the subject property is over-assessed. Mr. Schoenle testified that it was listed for auction with a minimum bid of \$700,000. The Petitioners made an offer of \$741,000, which was the only bid. The seller rejected the bid. It was then listed for sale, first at \$899,900 and then later at \$875,000. After some negotiation, the Petitioners entered into an agreement to purchase the property for \$805,000 on December 20, 2019. The sale was an arm's-length transaction between non-related parties. *Schoenle testimony; Pet'r Exs. 1-3.*
- b) Mr. Schoenle testified that the property suffers from some "significant defects." These included cracks in the seawall that allow lake water onto the property, a collapsing patio, a leaning retaining wall, rotting windows, a faulty irrigation system, and a rodent infestation in the boathouse and garage. *Schoenle testimony.*

7. Summary of the Respondent's case:

- a) The Respondent claimed the subject property's assessment is correct. In support of this, the Respondent offered a Uniform Standards of Professional Appraisal Practice ("USPAP") compliant appraisal prepared by certified residential appraiser John P. Beer. Mr. Beer valued the property utilizing the sales comparison approach. Based on his appraisal, he estimated the total value of the property to be \$840,000 as of January 1, 2020. The Respondent requested the current assessment be sustained at \$834,000. *Carson argument; Beer testimony; Resp't Ex. D.*

- b) The subject property is located on Northshore Drive on Syracuse Lake. Beer noted the properties on Northshore have the highest land values on the lake. It has .43 acres and 76 feet of effective lake frontage. The 2002 square foot two-story home was built in 1990 but due to remodeling has an effective age of 1999. It is in average condition with four bedrooms, three full bathrooms and one half-bathroom. The basement is 1,149 square feet with 1,089 square feet being finished. It also has an 800 square foot attached garage. The exterior features consist of two wood decks, two concrete patios, enclosed frame porch and canopy roof extension. Finally, it has a 220 square foot utility shed. *Beer testimony; Resp't Ex. D.*
- c) Beer selected five lakefront properties from Syracuse lake that sold in 2019 for his sales-comparison approach. He adjusted the comparables for site size, quality of construction, number of bathrooms, gross living area, basement area and basement finish, garage size and extra detached garage. Beer based his site/land value adjustments on the assessed value difference between the subject property and each of the comparable properties. In addition, he based his quality of construction adjustments on the cost difference of the comparable property's living areas at their current grade compared to the subject property's grade. *Resp't Ex. D.*
- d) The five sales included the following:
- **Sale 1.** This property is a one and a half story home with 3,313 square feet on 0.38 acres that was constructed in 1995. It has 69 feet of effective lake frontage. The house is on a slab. It has four bedrooms, two full bathrooms and a 594 square foot attached garage. The quality of construction is slightly inferior to the subject property. It sold on May 13, 2019, for \$680,000. After adjustments, the indicated value is \$664,560.
 - **Sale 2.** This property is a two-story home with 2,961 square feet on 0.31 acres that was constructed in 2005. It has 58 feet of effective lake frontage. The house is on a crawl space. It has four bedrooms, two and a half bathrooms and a 696 square foot attached garage. The quality of construction is superior to the subject. It sold on November 8, 2019, for \$735,000. After adjustments, the indicated value is \$803,240.
 - **Sale 3.** This property is a two-story home with 2,795 square feet on 0.30 acres that was constructed in 1998. It has 53 feet of effective lake frontage. The house is on a crawl space. It has four bedrooms, two and a half bathrooms and a 756 square foot attached garage. It also has a 1,008 square foot detached garage. The quality of construction is superior to the subject. It sold on October 24, 2019, for \$768,625. After adjustments, the indicated value is \$1,043,585.
 - **Sale 4.** This property is a two-story home with 3,674 square feet on 0.23 acres that was constructed in 2000. It has 71 feet of effective lake frontage. The house is on a crawl space. It has four bedrooms, three full bathrooms and 1,000 square foot attached garage. The quality of construction is equal to the subject property.

It sold on April 22, 2019, for \$835,000. After adjustments, the indicated value is \$835,910.

- **Sale 5.** This property is a one and a half story home with 3,669 square feet on 0.25 acre that was constructed in 1997. It has 50 feet of effective lake frontage. The house is on a 2,679 square foot basement with 1,857 square feet finished area. It has five bedrooms, four full bathrooms and a 480 square foot attached garage. The quality of construction is superior to the subject. It sold on September 25, 2019, for \$1,100,000. After adjustments, the indicated value is \$955,120.

Beer testimony; Resp't Exs. A & D.

- e) After adjustments, the sale prices ranged from \$664,560 to \$1,043,585. The average sale price was \$860,483 and the median price was \$835,910. He reconciled his opinion of value based on the sales comparison approach at \$840,000. *Beer testimony; Resp't Ex. D.*
- f) The Assessor also introduced evidence to show that median home prices increased from 2017 to 2019 in Kosciusko County. The Indiana Association of Realtors Local Market Update shows that in December 2017 the median sale price increased 7.9%, in December 2018 it increased 8.1% and in November 2019 it increased 4.8%. *Beer testimony; Resp't Ex. C.*
- g) Kim Carson testified that the seller stated he made significant improvements to the subject property prior to the sale including a \$300,000 remodel, purchasing additional land from a neighbor for \$150,000 and a landscaping project that cost \$100,000. She also noted that the seller claimed he had received one offer at \$875,000 but the sale did not go through. *Carson testimony.*
- h) Finally, the Respondent contends the county is not allowed to assess a property using a person's purchase price, because it would be considered "sales chasing." *Carson testimony.*

Burden of Proof

- 8. Generally, the taxpayer has the burden to prove that an assessment is incorrect and what the correct assessment should be. *See Meridian Towers East & West v. Washington Twp. Ass'r*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998). The burden-shifting statute creates two exceptions to that rule.
- 9. First, Ind. Code § 6-1.1-15-17.2 "applies to any review or appeal of an assessment under this chapter if the assessment that is the subject of the review or appeal is an increase of more than five percent (5%) over the assessment for the same property for the prior tax year." Ind. Code § 6-1.1-15-17.2(a). "Under this section, the county assessor or

township assessor making the assessment has the burden of proving that the assessment is correct in any review or appeal under this chapter and in any appeal taken to the Indiana Board of Tax Review or to the Indiana tax court.” Ind. Code § 6-1.1-15-17.2(b).

10. Second, Ind. Code § 6-1.1-15-17.2(d) “applies to real property for which the gross assessed value of the real property was reduced by the assessing official or reviewing authority in an appeal conducted under IC 6-1.1-15.” Under those circumstances, “if the gross assessed value of real property for an assessment date that follows the latest assessment date that was the subject of an appeal described in this subsection is increased above the gross assessed value of the real property for the latest assessment date covered by the appeal, regardless of the amount of the increase, the county assessor or township assessor (if any) making the assessment has the burden of proving that the assessment is correct.” Ind. Code § 6-1.1-15-17.2(d).
11. Here, the parties agree the assessed value of the subject property did not increase by more than 5% from 2019 to 2020. The property record card shows the assessment decreased from \$910,400 in 2019 to \$834,000 in 2020. The Petitioners did not offer any argument that the burden should shift to the Respondent. Accordingly, the burden shifting provisions of Ind. Code § 6-1.1-15-17.2 does not apply and the burden remains with the Petitioners.

Analysis

12. The Petitioners provided sufficient evidence to establish the 2020 assessment should be reduced. The Board reached this decision for the following reasons:
 - a) Real property is assessed based on its market value-in-use. Ind. Code § 6-1.1-31-6(c); 2011 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.4-1-2). 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.
 - b) 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 (In. Tax Ct. 2005). For the 2020 assessment, the valuation date was January 1, 2020. *See* Ind. Code § 6-1.1-2-1.5.
 - c) The Petitioners relied on the December 20, 2019, sale of the subject property for \$805,000. The evidence shows the subject property was exposed to the open market and sold in an arm's-length transaction that was effectively contemporaneous with the

assessment date. For these reasons we find it to be reliable evidence of the subject property's value as of January 1, 2020.

- d) We now turn to the Respondent's evidence. She offered a USPAP-compliant appraisal prepared by John Beer. Based on the sales-comparison approach, he estimated the total value to be \$840,000 as of January 1, 2020. An appraisal performed in conformance with generally recognized appraisal principles is *often enough* to establish a prima facie case. *Meridian Towers*, 805 N.E.2d at 479 (emphasis added).
- e) While we find the appraisal generally probative, we note that Beer based his site size and quality of construction adjustments on the cost schedules from the guidelines rather than independently verified market data. In addition, he failed to show that using cost schedules from the guidelines, which are developed for mass appraisal, was a generally accepted technique for appraising an individual property. We find this detracts from the reliability of his opinion.

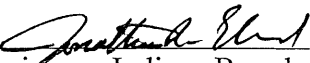
Conclusion

- 13. Both the sale of the subject property and Beer's appraisal have probative value. Given our concern with Beer's decision to rely on the cost schedules from the guidelines to develop his adjustments, we find the sale of the subject property for \$805,000 to be the most reliable evidence of value.²

Final Determination

In accordance with the above findings and conclusions, we find for the Petitioners and order the 2020 assessment reduced to \$805,000.

ISSUED: OCTOBER 12, 2021



Chairman, Indiana Board of Tax Review



Commissioner, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

²We note that the Respondent argued that she is prohibited from assessing a property using the purchase price because it would be sales chasing. "Sales chasing" or "selective reappraisal" is the "practice of selectively changing values for properties that have been sold, while leaving other values alone." *Big Foot Stores, LLC v. Franklin Twp. Ass'n*, 818 N.E.2d 623 (Ind. Tax Ct. 2009) (citing *Co. of Douglas v. Nebraska Tax Equalization and Rev. Comm'n*, 635 N.W.2d 413, 419 (Neb. 2001)). While selectively re-assessing a single property based on a sale is prohibited, it is not prohibited to use a sale as evidence to establish a value in an appeal. *Hubler Realty Co. v. Hendricks Co. Ass'n*, 938 N.E.2d 311, 315 (Ind. Tax Ct. 2010)

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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>.