

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

Petitions: 79-022-19-1-5-00275-20
79-022-19-1-5-00276-20
Petitioner: Roberta Schonemann
Respondent: Tippecanoe County Assessor
Parcels: 79-06-09-200-002.000-022
79-06-09-200-005.000-022
Assessment Year: 2019

The Indiana Board of Tax Review (“Board”) issues this determination, finding and concluding as follows:

PROCEDURAL HISTORY

1. Roberta Schonemann contested the 2019 assessments of her two parcels located in West Lafayette.¹ On February 7, 2020, the Tippecanoe County Property Tax Assessment Board of Appeals (“PTABOA”) issued final determinations valuing Parcel 79-06-09-200-002.000-022 at \$223,300 and valuing Parcel 79-06-09-200-005.000-022 at \$0.²
2. Schonemann filed Form 131 appeals with the Board and elected to proceed under our small claims procedures. On November 19, 2020, David Smith, our designated Administrative Law Judge (“ALJ”), held a telephonic hearing on Schonemann’s petitions. Neither he nor the Board inspected the properties.
3. Schonemann and Tippecanoe County Assessor Eric Grossman appeared pro se. They were both sworn as witnesses.

RECORD

4. Schonemann submitted the following exhibits:

Petitioner Ex. 1:	Property narrative
Petitioner Ex. 2:	Form 11, Assessment 2018-2019
Petitioner Ex. 3:	Form 11, Assessment 2019-2020
Petitioner Ex. 4:	Form 115, page 2 showing combined assessment

¹ Parcel 79-06-09-200-002.000-022 has an address of 4515 Erwin Road. Parcel 79-06-09-200-005.000-022 has an address of N 475 W.

² The PTABOA valued Parcel 79-06-09-200-002.000-022 as if both parcels had been combined into one parcel, and it zeroed out Parcel 79-06-09-200-005.000-022’s original \$52,200 assessment.

Petitioner Ex. 5: Assessment percent increases from 2018-2018/2019-2020
Petitioner Ex. 6: Subject land and improvement percent increase from 2018 to 2019

5. The Assessor submitted the following exhibits:

Respondent Ex. 1: Subject property narrative
Respondent Ex. 2A: Property Record Card (“PRC”) for parcel 79-06-09-200-002.000-022
Respondent Ex. 2B: PRC for parcel 79-06-09-200-005.000-022
Respondent Ex. 3: I.C. § 6-1.1-15-17.2
Respondent Ex. 4: StatCom Adjustment Model
Respondent Ex. 5: Sales comparison sheet
Respondent Ex. 6: E-mail from Area Plan Commission of Tippecanoe County

6. The official record for this matter also includes the following: (1) all pleadings, briefs, motions, and documents filed in this appeal; (2) all notices and orders issued by the Board or our ALJ; and (3) an audio recording of the hearing.

BURDEN OF PROOF

7. Generally, a taxpayer seeking review of an assessing official’s determination has the burden of proof. Indiana Code § 6-1.1-15-17.2 creates an exception to that general rule and assigns the burden of proof to the assessor in two circumstances—where the assessment under appeal represents an increase of more than 5% over the prior year’s assessment, or where it is above the level determined in a taxpayer’s successful appeal of the prior year’s assessment. I.C. § 6-1.1-15-17.2(b) and (d). If the assessor has the burden of proof and fails to meet it, the assessment reverts to the previous year’s level or to another amount shown by probative evidence. I.C. § 6-1.1-15-17.2(b). These provisions may not apply if the assessment at issue is based on substantial renovations or new improvements, zoning, or uses that were not considered in the prior year’s assessment. I.C. § 6-1.1-15-17.2(c).

8. Here, Parcel 79-06-09-200-002.000-022’s assessment increased from \$197,800 in 2018 to \$223,300—an increase of more than 5%, while Parcel 79-06-09-200-005.000-022’s assessment decreased from \$7,600 in 2018 to \$0 in 2019. However, based on Schonemann’s testimony, we find that she was using both parcels for a single residential purpose on the assessment date. We therefore conclude that they should be treated as a single economic unit for purposes of the 2019 assessment even though they were not formally combined under Indiana Code § 6-1.1-5-16(b). *See Cedar Lake Conf. Ass’n v. Lake County Prop. Tax Assessment Bd.*, 887 N.E.2d 205, 209 (Ind. Tax Ct. 2008) (stating that assigning separate parcels distinct parcel numbers does not alter the manner in which the properties are used).

9. The two parcels' combined assessment increased from \$205,400 in 2018 to \$223,300 in 2019—an increase of more than 5%. Schonemann argued that the Assessor should therefore have the burden of proof. The Assessor did not dispute that the increase was more than 5%. However, he argued that the burden shifting provision is inapplicable because the PTABOA's merger of the two parcels for assessment purposes constituted a change of use under I.C. § 6-1.1-15-17.2(c)(3). According to the Assessor, combining the two parcels gives the unimproved parcel better residential land value which constitutes a change in use, and that Schonemann should therefore retain the burden of proof. Our ALJ preliminarily ruled that the Assessor has the burden based on the assessment increase.
10. The evidence before us does not demonstrate that there was a change of use. The PTABOA's decision to treat the two parcels as a single parcel for assessment purposes at a meeting held in February 2020 has no bearing on how Schonemann was using her parcels on January 1, 2019. We therefore adopt our ALJ's ruling assigning the burden of proof to the Assessor.

SUMMARY OF CONTENTIONS

11. **The Assessor's case:**

- a. The Assessor performed a sales comparison approach using six comparable properties. He adjusted them for physical differences using a model developed by Statistics in the Community (StatCom) at Purdue University. However, the Assessor acknowledged that he did not adhere to generally recognized appraisal principles and that his sales comparison approach does not satisfy his burden of proof—he just used it to check the reasonableness of the PTABOA's valuation. *Grossman testimony; Resp. Exs. 1, 4, 5.*
- b. The Assessor does not have any valuation evidence that supports the PTABOA's determination, and he is not defending it. He was willing to revert the assessment informally, and he fully expects the Board to revert the assessment. However, based on a statement he acquired from John Burns, a Planner with the Area Plan Commission of Tippecanoe County, the Assessor thinks that the vacant parcel could be used as a residential homesite. Valuing the vacant parcel accordingly would push its value above its 2018 assessment of \$7,600. Including it with the other parcel as one homesite would prevent that from happening and mitigate its value, so he feels that combining the lots for tax purposes is appropriate. His goal is therefore to have the Board uphold the combination of the parcels—not to defend the assessment. *Grossman testimony; Resp. Exs. 2A, 2B, 6.*

12. **Schonemann's case:**

- a. The increases in Schonemann's assessed values are excessive. She has lived on the property for 45 years. Much of the unimproved lot is in a flood zone, and the terrain is not appropriate for residential development. The initial assessment increased the value of the unimproved lot by 587% and the improved lot by 33%. The total increase in land assessment for the two lots based on the PTABOA's numbers is 33%, which is not reasonable for one year. The statement from the Area Plan Commission lacks certainty as to what part and how much of the property can actually be developed for residential use. *Schonemann testimony; Pet'r Exs. 1-6.*

ANALYSIS

13. The Assessor failed to make a prima facie case supporting the 2019 assessments. The Board reached this decision for the following reasons:

- a. The goal of Indiana's real property assessment system is to arrive at an assessment reflecting the property's true tax value. 50 IAC 2.4-1-1(c); 2011 REAL PROPERTY ASSESSMENT MANUAL at 3. "True tax value" does not mean "fair market value" or "the value of the property to the user." I.C. § 6-1.1-31-6(c), (e). It is instead determined under the rules of the DLGF. I.C. § 6-1.1-31-5(a); I.C. § 6-1.1-31-6(f). The DLGF defines "true tax value" as "market value in use," which it in turn defines as "[t]he 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." MANUAL at 2.
- b. All three standard appraisal approaches—the cost, sales-comparison, and income approaches—are "appropriate for determining true tax value." MANUAL at 2. In an assessment appeal, parties may offer any evidence relevant to a property's true tax value, including appraisals prepared in accordance with generally recognized appraisal principles. *Id.* at 3; *see also Eckerling v. Wayne Twp. Ass'r*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006) (reiterating that a market value-in-use appraisal that complies with USPAP is the most effective method for rebutting the presumption that an assessment is correct). Regardless of the appraisal method used, a party must relate its evidence to the relevant valuation date. *Long v. Wayne Twp. Ass'r*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). Otherwise, the evidence lacks probative value. *Id.* The valuation date for this appeal is January 1, 2019. Ind. Code § 6-1.1-2-1.5(a).
- c. As discussed above, the Assessor has the burden of proving that the 2019 assessment is correct. However, he admitted he was not defending the assessment and that he had not offered any probative valuation evidence that could satisfy the burden of proof. Accordingly, we conclude that Schonemann is entitled to have her assessments reverted to their 2018 values. Because she did not seek a lower value, that ends our analysis.

FINAL DETERMINATION

In accordance with the above findings of fact and conclusions of law, we order the 2019 assessments reverted to the combined assessed value from 2018 of \$205,400.

ISSUED: February 12, 2021

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>>.