

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

Petition No.: 15-010-22-1-5-00924-22
Petitioner: Gabrielle Snyder
Respondent: Dearborn County Assessor
Parcel: 15-02-33-200-025.002-010
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. Gabrielle Snyder contested the 2022 assessment of real property located at 9639 York Ridge Road in Guilford on May 16, 2022. The Dearborn County Property Tax Assessment Board of Appeals (“PTABOA”) issued a Form 115 determination valuing the property at \$34,600 for land and \$173,000 for improvements, for a total assessment of \$207,600.
2. Snyder appealed to the Board, electing to proceed under the small claims procedures. On April 13, 2023, Natasha Marie Ivancevich, the Board’s Administrative Law Judge (“ALJ”), held a telephonic hearing. Neither the Board nor the ALJ inspected the property.
3. Gabrielle Snyder appeared *pro se*. Andrew Baudendistel appeared as counsel on behalf of the Dearborn County Assessor. Snyder, Real Estate Appraiser Kenneth McIntosh, and Dearborn County Assessor Megan Acra all testified under oath.

Record

4. The official record for this matter is made up of the following:
 - a) Exhibits:

Petitioner Ex. 1:	Property Record Cards, Form 11, and Letter about Assessment History
Petitioner Ex. 2:	Evidence presented to PTABOA
Petitioner Ex. 3:	E-mails and Information about Subject Property
Petitioner Ex. 4:	Comparison of Assessment Increases
Petitioner Ex. 5:	List of Comparables with Beacon Information
Petitioner Ex. 6:	E-mails and information about Subject Property
Petitioner Ex. 7:	Pictures of Subject Property

Respondent Ex. 1:	Form 11
Respondent Ex. 2:	Property Record Card
Respondent Ex. 3:	Form 130
Respondent Ex. 4:	Form 114
Respondent Ex. 5:	Form 115
Respondent Ex. 6:	Ratio Study
Respondent Ex. 7:	McIntosh Appraisal

- b) 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.

Objections

5. The Assessor objected to a portion of Petitioner’s Ex. 2, specifically an IBTR determination, on the grounds that it was not signed. But this is the same version of the determination that is posted on the IBTR website. In addition, IBTR decisions are not required to be admitted into evidence in order for us to consider them. For these reasons, we overrule the objection and admit the exhibit.

6. The Assessor objected to portions of Petitioner’s Ex. 6, including notes from a builder, proposals, text messages, and e-mails, on the grounds that there were no witnesses to testify or be questioned about the documents. We take this as a hearsay objection. Our procedural rules allow us to admit hearsay, provided we do not base our determination solely on it. 52 IAC 4-6-9(d). For that reason, we overrule the objection and admit the exhibit, but note that we do not base our determination on it.

Findings of Fact

7. The subject property is a 1,582 square foot single family residence situated on 1.64 acres located in Guilford. *Resp’t Ex. 2; Snyder testimony.*

8. The Assessor engaged Kenneth McIntosh, a licensed real estate appraiser, to appraise the market value of the subject property. McIntosh certified the appraisal followed the Uniform Standards of Professional Appraisal Practice (“USPAP”). *McIntosh testimony; Resp’t. Ex. 7.*

9. To arrive at his opinion of value, McIntosh developed the sales-comparison approach. He selected three sales of comparable properties that sold between February and September of 2021 for prices ranging from \$220,000 to \$265,000. He adjusted the sales for factors such as room count, gross living area, HVAC, and garage. McIntosh concluded to a value for the subject property of \$242,000 as of January 1, 2022. *McIntosh testimony; Resp’t Ex. 7.*

Contentions

10. Summary of the Petitioner's case:
 - a) Snyder contended the comparable homes provided by the Assessor are not like the subject property because the subject has vinyl siding; is smaller, and does not have the amenities such as a fireplace. Snyder argued despite these differences, the assessed value of the subject property "increased much more than the others in the area." *Snyder testimony; Pet'r Exs. 1-7.*
 - b) Snyder also argued that the assessment was valuing her home as if it had a finished basement, while it does not. *Snyder testimony; Pet'r Exs. 1-7.*
 - c) Finally, Snyder testified about several deficiencies in the subject property, including flooding and mold issues. *Snyder testimony.*
11. Summary of the Respondent's case:
 - a) The Assessor argued that the current assessment was correct. In support of this, she pointed to the County's Ratio study, noting that sale prices in Dearborn County were increasing. The Assessor also offered the McIntosh appraisal, which valued the subject property significantly higher than the current assessment. The Assessor did not ask to increase the assessment. *Acra testimony; Resp't Exs. 2, 6, 7.*

Burden of Proof

13. 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." I.C. § 6-1.1-15-20(a) (effective March 21, 2022).
14. 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.*
15. 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).
16. Here, the current assessment of \$207,600 is an increase of more than 5% over the previous assessment of \$152,000. Thus, the Assessor has the burden of proof.

Analysis

17. The Assessor made a prima facie case supporting the assessment.
- 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) In this case, the Assessor had the burden of proof. To meet this burden, she offered a USPAP compliant appraisal prepared by a licensed appraiser, Kenneth McIntosh. He valued the subject property at \$242,000 as of January 1, 2022. Snyder did not significantly impeach the appraisal, and we find it to be a credible estimate of value.
 - e) We now examine whether Snyder provided reliable evidence supporting a different value. Snyder testified to several deficiencies in the subject property, including flooding and mold issues. But she did nothing to quantify the effect those deficiencies had on the value of the subject property. Further, Snyder alleged there were errors in the assessment including that it was treating the subject property as having a finished basement. But she did not adequately support these claims. Moreover, it is insufficient to simply attack the methodology used to develop the

assessment. Instead, as discussed above, 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).

- f) Snyder did offer some evidence in the form of comparable assessments. But a party offering sales or assessment data must use generally accepted appraisal or assessment practices to show the purportedly comparable properties are comparable to the property under appeal. *Long v. Wayne Twp. Ass’r*, 821 N.E.2d 466, 470-71 (In. Tax Ct. 2005). 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. *Id.* They must similarly explain how relevant differences affect values. *Id.* Opinions that are unsupported by probative evidence are conclusory and of no value to the Board in making its determination. *Whitley Products, Inc. v. State Bd. of Tax Comm’rs*, 704 N.E.2d 1113, 1118 (Ind. Tax Ct. 1998). Here, Snyder did not offer the type of analysis contemplated by *Long*. While she did identify some differences between the comparable properties and the subject property, she did not offer any evidence or analysis demonstrating how those differences affected the properties’ overall market values-in use. Without such analysis, this evidence is insufficient to support any reduction in value.
- g) Finally, Snyder argued the assessed value of the subject property “increased much more than the others in the area.” We take this as a challenge to the uniformity and equality of the assessment. 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)).
- h) When a ratio study shows a given property is assessed above the common level of assessment, the property’s owner may be entitled to an equalization adjustment. See *Dep’t of Local Gov’t Fin. v. Commonwealth Edison Co.*, 820 N.E.2d 1222, 1227 (Ind. 2005) (holding the taxpayer was entitled to seek an adjustment on grounds its property taxes were higher than they would have been if other property in Lake County had been properly assessed). The equalization process adjusts the property assessments so “they bear the same relationship of assessed value to market value as other properties within that jurisdiction.” *Thorsness v. Porter County Assessor*, 3 N.E.3d 49, 52 (Ind. Tax Ct. 2014) (citing *GTE N. Inc. v. State Bd. of Tax Comm’rs*,


634 N.E.2D 882, 886 (Ind. Tax Ct. 1994)). Article 10, Section 1(a) of Indiana's Constitution, however, does not guarantee "absolute and precise exactitude as to the uniformity and equality of each individual assessment." *State Bd. of Tax Comm'rs v. Town of St. John*, 702 N.E.2d 1034, 1040 (Ind. 1998).

- i) As discussed above, one of the requirements for a reliable ratio study is a comparison between the assessments used and objectively verifiable market data such as sale prices or appraisals. Snyder did not provide that data. In addition, she failed to show the properties presented were a statistically reliable sample of the properties in the neighborhood. Simply comparing a few factors is not a recognized approach for applying an equalization adjustment. For this reason, Snyder failed to make a prima facie case showing a lack of uniformity and equality in the assessment.
- j) Thus, we find Snyder has failed to make a case for any reduction in the assessment. The Assessor met her burden of proof by providing reliable evidence of value in the form of the McIntosh appraisal. As discussed above, McIntosh valued the subject property at more than the current assessment. But the Assessor did not ask to raise the assessment, so we decline to do so.

Final Determination

- 18. In accordance with the above findings and conclusions, the Board orders no change to the 2022 assessment.

ISSUED: 10/4/2023



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>>.