

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

Petition: 45-003-17-1-5-00013-21
Petitioner: Surplus Management Systems LLC
Respondent: Lake County Assessor
Parcel: 45-07-13-483-016.000-003
Assessment Year: 2017

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

Procedural History

1. Surplus Management Systems LLC contested the 2017 assessment of its property. The Lake County Property Tax Assessment Board of Appeals (“PTABOA”) issued a Form 115 determination valuing the property at \$1,900.
2. Surplus Management then filed a Form 131 petition with the Board and elected to proceed under our small claims procedures. On October 13, 2022, our designated administrative law judge, Joseph Stanford (“ALJ”), held a telephonic hearing on Surplus Management’s petition. Neither he nor the Board inspected the property.
3. Surplus Management’s manager, Andy Young, appeared for Surplus Management. The Lake County Assessor’s hearing officer, Jessica Rios, appeared for the Assessor. Both testified under oath.

Record

4. The official record for this matter includes:¹ (1) all petitions and other documents filed in this appeal, (2) all notices and orders issued by the Board or the ALJ, (3) an audio recording of the hearing, and (4) the audio recordings of hearings on related appeals involving the same parties and addressing properties located at 4837 West 28th Place and 4798 West 29th Avenue.²

Findings of Fact

5. The subject property is a vacant lot located at approximately 4724 West 29th Avenue in Gary.

¹ The Assessor emailed an exhibit to the Board several days before the hearing, but she did not offer that exhibit as evidence.

² The hearings on those appeals (Pet. Nos. 45-003-17-1-5-00011-21 and 45-003-17-1-5-00012-21) took place earlier the same day. The ALJ agreed to Surplus Management’s request to incorporate all the testimony and argument from those hearings.

Contentions

A. Surplus Management's Contentions

6. Surplus Management does not contest the property's assessed value, but instead contends that the Assessor used an inappropriate method to determine the assessment. The Assessor used the front-foot method, while Surplus Management contends that she should have assessed the property using the acreage method. *Young testimony and argument.*
7. The Assessor's methodology led to inaccurate and inconsistent assessments. Nearly identical parcels from the same tract of land as the subject property were assessed at different values. Those inconsistencies were largely cured in 2017. *Id.*
8. Surplus Management acknowledged that it sold the larger tract of land that included the subject property in 2022 after development had begun on a nearby casino. Because nobody could have foreseen that development in 2017, however, Surplus Management argues that the sale was irrelevant to the subject property's value for that year.

B. The Assessor's Contentions

9. Surplus Management offered no evidence that the assessment is incorrect, and Young appears to now agree with the assessment. Therefore, the assessment should not be changed. *Rios testimony and argument.*

Analysis

10. Generally, an assessment determined by an assessing official is presumed to be correct. 2011 REAL PROPERTY ASSESSMENT MANUAL at 3. A petitioner has the burden of proving the assessment is incorrect and what the correct assessment should be. *Piotrowski v. Shelby Cty. Ass'r*, 177 N.E.3d 127, 131-32 (Ind. Tax Ct. 2022).
11. Surplus Management failed to meet its burden. The goal of Indiana's real property assessment system is to arrive at an assessment reflecting a property's true tax value. 50 IAC 2.4-1-1(c); 2011 REAL PROPERTY ASSESSMENT MANUAL at 2.³ 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). Instead, it is 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." 2011 MANUAL at 2.
12. Evidence in an assessment appeal should be consistent with that standard. For example, a market-value-in-use appraisal prepared in accordance with the Uniform Standards of Professional Appraisal Practice often will be probative. *See id.*; *see also, Kooshtard*

³ The 2011 version of the Real Property Assessment Manual applied to the assessment at issue.

Property VI, LLC v. White River Twp. Ass'r, 836 N.E.2d 501, 506 n.6 (Ind. Tax Ct. 2005). A party may also offer actual construction costs, sales information for the property under appeal, sales or assessment information for comparable properties, and any other information compiled according to generally accepted appraisal principles. *See Eckerling v. Wayne Twp. Ass'r*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006). Simply attacking the methodology used to determine an assessment, however, does not suffice; instead, a party must offer market-based evidence to show that the property's assessed value does not reflect its market value-in-use. *Piotrowski*, 177 N.E.3d at 132; 50 IAC 2.4-1-1(c). Regardless of the method used, a party must explain how its evidence relates to the relevant valuation date. *Long v. Wayne Twp. Ass'r*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). For 2017 assessments, the valuation date was January 1, 2017. *See* I.C. § 6-1.1-2-1.5(a).

13. Surplus Management does not dispute the property's assessed value, but instead disagrees with the Assessor's methodology in determining the assessment. As explained above, simply attacking the methodology used to determine an assessment does not suffice to make a prima facie case for changing the assessment. And while Surplus Management apparently believes that there was an historic lack of uniformity in assessments of parcels from the larger tract of land that included the subject property, it acknowledged that the problem was largely cured for the assessment year under appeal. Thus, Surplus Management failed to make a prima facie case for changing the subject property's assessment.

Conclusion

14. Surplus Management failed to make a prima facie case for changing the subject property's assessment. We therefore find for the Assessor and order no change.

Date: 1/11/2023



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>>.