

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

Petition No.: 06-006-15-1-5-00331-15
Petitioner: American Homes 4 Rent Properties Six, LLC
Respondent: Boone County Assessor
Parcel No.: 06-08-25-000-003.047-006 (019-49920-73)
Assessment Year: 2015

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

Procedural History

1. Petitioner initiated an appeal with the Boone County Property Tax Assessment Board of Appeals (“PTABOA”) by filing a Form 130 dated August 5, 2015. On December 16, 2015, the PTABOA issued its Notification of Final Assessment Determination. Petitioner then timely filed a Form 131 petition on December 28, 2015.
2. Petitioner elected to have its appeal heard under the Board’s small claims procedures. Respondent did not elect to have the appeal removed from those procedures.
3. On July 28, 2016, the Board’s administrative law judge (“ALJ”), Dalene McMillen, held a hearing. Neither the Board nor the ALJ inspected the property.
4. Jeremy Miller, certified tax representative from Appeal Taxes-NOW, was sworn as a witness for Petitioner. Dan Spiker, vendor for the county, Peggy Lewis, former PTABOA member, and Lisa Garoffolo, Boone County Assessor, were sworn as witnesses for Respondent.¹

Facts

5. The property under appeal is a single-family rental home located at 4240 Field Master Drive in Zionsville.
6. The PTABOA determined the following values for 2015:

Land: \$66,800 Improvements: \$271,100 Total: \$337,900.

¹ Ms. Garoffolo and Ms. Lewis did not testify.

7. At the hearing, Petitioner requested a 2015 total assessment of \$293,750.

Record

8. The official record for this matter is made up of the following:

a. A digital recording of the hearing

b. Exhibits:

- | | |
|------------------------|------------------------------------------------------------------------------------------------------------------------------------------------|
| Petitioner Exhibit 1: | Memorandum from Department of Local Government Finance (“DLGF”), dated November 20, 2003 |
| Petitioner Exhibit 2: | Boone County Gross Rent Multiplier (“GRM”) Questionnaire |
| Petitioner Exhibit 3: | 2011 Real Property Assessment Manual definitions of Market Value, Market Value-in-Use, and Value-in-Use |
| Petitioner Exhibit 4: | 50 IAC 21-5-3 “Stratification” and Ind. Code § 6-1.1-4-39 “Assessment of rental property and mobile home; low income rental housing exclusion” |
| Petitioner Exhibit 5: | Power of Attorney between American Homes 4 Rent and Appeal Taxes-NOW |
| Petitioner Exhibit 6: | Residential lease agreement for subject property |
| Petitioner Exhibit 7: | Petitioner’s GRM calculation |
| Respondent Exhibit 1: | Boone County Appeal Worksheet |
| Respondent Exhibit 2: | Taxpayer’s Notice to Initiate an Appeal – Form 130 |
| Respondent Exhibit 3: | 2015 subject property record card (“PRC”) |
| Respondent Exhibit 4: | Six photographs of the subject property |
| Respondent Exhibit 5: | Assessor’s comparative market analysis |
| Respondent Exhibit 6: | Notification of Final Assessment Determination – Form 115 |
| Respondent Exhibit 7: | Petition for Review of Assessment – Form 131 |
| Respondent Exhibit 8: | Board’s Notice of Hearing on Petition |
| Respondent Exhibit 9: | Multiple listing sheet (“MLS”) for 912 Cardinal Drive in Zionsville |
| Respondent Exhibit 10: | Assessor’s analysis of Petitioner’s GRM calculation |
| Respondent Exhibit 11: | International Association of Assessing Officers (“IAAO”) standard on the development of GRM |
| Board Exhibit A: | Form 131 petition |
| Board Exhibit B: | Hearing notice |
| Board Exhibit C: | Hearing sign-in sheet |

c. These Findings and Conclusions.

Burden of Proof

9. Generally, a taxpayer seeking review of an assessing official's determination has the burden of proving that his property's assessment is wrong and what the correct assessment should be. *See Meridian Towers East & West v. Washington Twp. Assessor*, 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). A burden-shifting statute creates two exceptions to that rule.
10. 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 appeals taken to the Indiana board of tax review or to the Indiana tax court." Ind. Code § 6-1.1-15-17.2(b).
11. 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," except where the property was valued using the income capitalization approach in the appeal. Under subsection (d), "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).
12. These provisions may not apply if there was a change in improvements, zoning, or use. Ind. Code § 6-1.1-15-17.2(c).
13. The assessed value of the property increased from \$329,900 in 2014 to \$337,900 in 2015. The parties agreed that is an increase of only 2.4%. Accordingly, Petitioner has the burden of proof in this appeal.

Summary of the Contentions

14. Petitioner's case:
 - a. The property is a single-family rental home. Petitioner contends that, according to Indiana Code § 6-1.1-4-39 and a 2003 DLGF memorandum, the preferred method for valuing single-family and small multi-family residential rental properties is the GRM method. *Miller testimony; Pet'r Ex. 1, 3, & 4.*

- b. Petitioner presented eight purportedly comparable rental properties from the Zionsville area that sold in 2014. Petitioner contends it obtained its sale prices and rental income data for each purportedly comparable property from the county's sales disclosure forms and MLS listings. The GRM was determined by dividing the sale price of each property by its monthly gross rent. Petitioner determined an average GRM of 125. *Miller testimony; Pet'r Ex. 1, 4 & 7.*
- c. Next, Petitioner applied the GRM of 125 to the subject property's actual monthly rent of \$2,350, which resulted in a market value-in-use of \$293,750 for 2015. *Miller testimony; Pet'r Ex. 6 & 7.*

15. Respondent's case:

- a. Respondent assessed the subject property using the sales comparison approach and, in doing so, offered a comparative market analysis. Respondent used the sales of six homes from the subject property's Brittany Chase neighborhood. The comparable properties are similar in size, age, number of baths, and other attributes used to determine that properties are comparable. The properties sold between April 15, 2014, and March 6, 2015. The sale prices ranged from \$101 per square foot to \$126 per square foot, with an average of \$115 per square foot. That translates to a value of approximately \$369,840 for the subject property which, Respondent contends, supports its value of \$337,900. *Spiker testimony; Resp't Ex. 5.*
- b. Respondent criticized Petitioner's GRM calculation. Respondent argues that MLS listings are not a reliable source for rental data and claims that the MLS listing for the comparable property at 912 Cardinal Drive does not indicate it is a rental property or show a lease amount. In addition, Respondent contends Petitioner did not provide any reliable documentation showing any of the comparable properties were being rented as of the assessment date. *Spiker testimony; Resp't Ex. 9.*
- c. Respondent claims that while the DLGF memorandum states that the GRM method is the preferred method for valuing single-family rental properties, it does not mandate its use. When it is used, however, Respondent contends that comparable properties used to determine the multiplier should be similar in age, size and grade. Respondent claims Petitioner's GRM calculation uses properties ranging in date built from 1911 to 2008, grade factors ranging from D++ to B-, and sizes ranging from 1,020 square feet to 2,294 square feet. Those purportedly comparable properties are located in the Zionsville Village area. The subject property, on the other hand, is a 3,216 square foot home with a C++ grade factor and was constructed in 2003. It is located in the Brittany Chase neighborhood. Respondent argues Petitioner's GRM should be given little weight because the purportedly comparable properties are not similar with regard to physical

attributes, nor are they located in the same neighborhood as the subject property. *Spiker testimony; Resp't Ex. 10; Pet'r Ex. 1.*

Analysis

16. Petitioner failed to provide sufficient evidence to establish a prima facie case for reducing the 2015 assessment. The Board reached this decision for the following reasons:
- a. Real property is assessed based on its “true tax value”, which means “the 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 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.4-1-2); *see also* Ind. Code § 6-1.1-31-6(c). The cost approach, the sales comparison approach, and the income approach are three generally accepted techniques used to calculate market value-in-use. MANUAL at 2. Assessing officials primarily use the cost approach. MANUAL at 3. The cost approach estimates the value of the land as if vacant and then adds the depreciated cost new of the improvements to arrive at a total estimate of value. MANUAL at 2. Any evidence relevant to the true tax value of the property as of the assessment date may be presented to rebut the presumption of correctness of the assessment, including an appraisal prepared in accordance with generally recognized appraisal standards. MANUAL at 3.
 - b. Regardless of the method used to prove true tax value, a party must explain how its evidence relates to the subject property’s market value-in-use as of 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. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). The valuation date was March 1, 2015. Ind. Code § 6-1.1-4-4.5(f).
 - c. In an attempt to prove the 2015 assessment was incorrect, Petitioner introduced a GRM analysis using eight purportedly comparable rental properties. In Indiana, the GRM method is the preferred method of valuing real property that has one to four residential rental units. *See* Ind. Code § 6-1.1-4-39(b). The GRM method develops an income multiplier by identifying market data for sales of comparable income-producing properties and calculates the ratio of the sale price to the gross income at the time of the sale. An opinion of value can then be calculated by multiplying the GRM by the annual income base for the subject property.
 - d. The GRM method eliminates the complex value adjustments required by the sales comparison approach by assuming differences between the properties are reflected in their respective rental rates. However, in order to derive and apply a reliable GRM for valuation purposes, the properties analyzed must still be comparable to the subject property and to one another in terms of physical, geographic, and investment characteristics. To establish that properties are comparable, a party must identify the characteristics of the subject property and

explain how those characteristics compare to the characteristics of the purportedly comparable properties. *Long*, 821 N.E.2d at 471. Specific reasons must be provided as to why a proponent believes a property is comparable. Conclusory statements that a property is “similar” or “comparable” to another property do not constitute probative evidence of the comparability of two properties. *Id.* At 470. Petitioner did not attempt to account for any relevant differences among the properties. Thus, Petitioner failed to establish comparability.

- e. Petitioner also failed to offer any supporting evidence, such as the actual sales disclosure forms, to verify that the sale prices reflected the market value. Without this verification, it is possible that the sale prices may have included the value of personal property or financing, and the sales may not have been open-market, arm’s-length transactions. There is also no evidence of whether the income data included income from sources other than rent. Thus, the Board cannot conclude that the suggested multiplier is based on valid market data.
- f. Consequently, Petitioner failed to make a prima facie case for reducing the 2015 assessment. Where a petitioner has not supported its claim with probative evidence, the respondent’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).

Conclusion

- 17. Petitioner failed to make a prima facie case for reducing the 2015 assessment and the Board finds for Respondent.

Final Determination

In accordance with the above findings of fact and conclusions of law, the Board determines that the 2015 assessed value should not be changed.

ISSUED: October 26, 2016

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>>.