

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

Petition No.: 06-002-15-1-5-00321-15
Petitioner: American Homes 4 Rent Properties Three, LLC
Respondent: Boone County Assessor
Parcel No.: 06-10-26-000-008.052-002 (015-07270-55)
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.

Facts

5. The property under appeal is a single-family rental home located at 2105 Sweet Cherry Meadows in Lebanon.
6. The PTABOA determined the following values:

Land: \$29,700 Improvements: \$122,400 Total: \$152,100.
7. At the hearing, Petitioner requested a 2015 total assessment of \$87,281.

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 Indiana 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:	Assessor’s Notice of Preliminary Hearing on Appeal
Respondent Exhibit 5:	Joint Report by Taxpayer / Assessor to PTABOA on Preliminary Informal Meeting – Form 134
Respondent Exhibit 6:	Assessor’s comparative market analysis
Respondent Exhibit 6A:	PTABOA Notice of Hearing on Petition – Form 114
Respondent Exhibit 7:	Notification of Final Assessment Determination – Form 115
Respondent Exhibit 8:	Petition for Review of Assessment – Form 131
Respondent Exhibit 9:	Board’s Notice of Hearing on Petition
Respondent Exhibit 10:	Assessor’s analysis of Petitioner’s GRM calculation
Respondent Exhibit 11:	International Association of Assessing Officers (“IAAO”) Standard on Verification and Adjustment of Sales - 2010
Respondent Exhibit 12:	Assessor’s neighborhood sales comparable analysis
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 increased from \$142,200 to \$152,100 between 2014 and 2015. The parties agreed the assessment increased by more than 5%. Respondent therefore has the burden of proving that the 2015 assessment is correct. To the extent that Petitioner seeks an assessment below the previous year's level, however, it bears the burden of proving that lower value.

Summary of the Contentions

14. Respondent's case:
 - a. Respondent contends the subject property is a single-family rental home located in the Hickory Meadows subdivision. Hickory Meadows is a homogenous neighborhood with homes constructed from the late 1990s through the mid 2000s. The homes are similar in construction type, grade, and size. Respondent assessed the subject property using the sales comparison approach. *Spiker testimony*.

- b. Respondent offered a comparative market analysis and a neighborhood sales analysis. For the comparative market analysis, Respondent submitted sales of two homes from the subject neighborhood. The purportedly comparable properties are similar in size, age, and number of bathrooms. The properties sold on March 21, 2014, and April 30, 2014, at sale prices of \$71 per square foot and \$73 per square foot respectively. The average sale price was \$72 per square foot, which translates to a value of approximately \$166,800 for the subject property. Respondent contends this supports the 2015 value of \$152,100. *Spiker testimony; Resp't Ex. 5.*
- c. For the neighborhood sales analysis, Respondent offered eleven properties that sold in Hickory Meadows between March 21, 2014, and January 16, 2015. The sale prices ranged from \$120,000 to \$146,000, for an average of \$85.33 per square foot. Respondent contends the property located at 2130 Cherry Park is the most similar to the subject property for purposes of the neighborhood sales analysis. It is slightly smaller and it sold for \$145,000 which, Respondent contends, supports the accuracy of the assessed value. *Spiker testimony; Resp't Ex. 12.*
- d. Petitioner attempted to apply the GRM method in arriving at a proposed value. Respondent criticized Petitioner's GRM calculation and argues that MLS listings are not a reliable source for rental data. She claims Petitioner did not provide any reliable documentation that showed that any of the comparable properties were being rented as of the assessment date. *Spiker testimony.*
- e. 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. Respondent contends properties used to determine a GRM should be similar in size, age, and grade. She argues that Petitioner used properties not physically similar and that most of them are located in different neighborhoods. Specifically,
- 1612 Austin Street was built in 2004, has a C+ grade, and consists of 1,216 square feet. This property is located in the same subdivision as the subject and Respondent believes it is the most comparable for purposes of the GRM analysis. It sold for \$118,900 and rents for \$1,125 per month. The GRM is 106.
 - 822 West Green Street is located in Southwest Lebanon. It was built in 1954, has a D grade, and consists of 925 square feet. It sold for \$64,250 and rents for \$925 per month. The GRM is 69.
 - 116 West Chicago Street is located in Northeast Lebanon. It was built in 1900, has a D+ grade, and consists of 1,505 square feet. It sold at a sheriff's sale for \$25,900 and rents for \$1,100 per month. The GRM is 24.

- 1323 Citation Circle East was built in 1994, has a D+ grade, and consists of 1,246 square feet. The property sold twice. It was first sold at a bank sale for \$55,100 and then sold again for \$94,000. It rents for \$1,025 per month. The GRM with regard to the first sale is 54 and the GRM with regard to the second sale is 92.
- 1610 Gibson Drive is located in the Northfield neighborhood. It was built in 1953, has a D grade, and consists of 825 square feet. It sold “as-is” for \$57,000 and rents for \$925 per month. The GRM is 62.
- 721 East Walnut Street is located in Southeast Lebanon. It was built in 1953, has a D grade, and consists of 825 square feet. It sold for \$46,000 and rents for \$750 per month. The GRM is 61.

Spiker testimony; Resp’t Ex. 10; Pet’r Ex. 1.

- f. Respondent argues that once the sales that are not comparable to the subject property are removed from Petitioner’s GRM calculation, only 1612 Austin Drive, that has a GRM of 106, would remain. Applying that GRM of 106 to the subject property’s monthly rent of \$1,395 results in a value of \$147,900. Respondent contends that this supports the assessed value of \$152,100. *Spiker testimony; Resp’t Ex. 10.*
- g. As discussed, Respondent contends there are two properties that are the most comparable to the subject property. The first property is 2130 Cherry Park that is included in Respondent’s neighborhood sales analysis and sold for \$145,000. The second property is 1612 Austin Drive that is included in Petitioner’s GRM analysis. It has a GRM of 106 that, when applied to the subject’s monthly rent, results in a value of \$147,900. Petitioner requested the subject property’s value be reduced to approximately \$87,281. Respondent argues, however, that these two similar properties do not support Petitioner’s request. *Spiker testimony; Resp’t Ex. 10 & 12.*

15. Petitioner’s case:

- a. Petitioner contends that, according to Ind. 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 use of the GRM. Petitioner further contends that Respondent maintains a GRM questionnaire that states that the GRM method should be used to value one to six unit rental properties where no sales are available. This, Petitioner argues, demonstrates that the parties are in agreement that a GRM should be used to value these types of properties. *Miller testimony; Pet’r Exs. 1-4.*

- b. Petitioner presented six comparable rental properties from a geographic area similar to the subject property's area that sold in 2014 and 2015. Petitioner contends that it obtained its sale prices and rental income data for each comparable property from the county's sales disclosure forms and MLS listings. The GRMs for each purportedly comparable property were determined by dividing the sale price of each property by its monthly gross rent. As a result, Petitioner determined an average GRM of 63. *Miller testimony; Pet'r Ex. 1, 4, & 7.*
- c. Petitioner claims that differences in the comparable rental properties, such as, size, age, condition, and location are reflected in each individual rental property's sale price and monthly rent. Thus, Petitioner argues, no further analysis is needed to establish that the rental properties are comparable to the subject property. *Miller testimony.*
- d. Next, Petitioner applied the GRM of 63 to the subject property's actual monthly rent of \$1,395, which resulted in a market value-in-use of \$87,281 for 2015.¹ *Miller testimony; Pet'r Ex. 6 & 7.*

Analysis

16. Respondent failed to make a prima facie case to support the 2015 assessment. Petitioner did not make a prima facie case for a further reduction. 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.

¹ Multiplying the monthly rent of \$1,395 by a GRM of 63 actually results in a value of \$87,885.

Tax Ct. 2005). The valuation date was March 1, 2015. Ind. Code § 6-1.1-4-4.5(f).

- c. In Indiana, the GRM method is the preferred method of valuing real property that has one (1) to four (4) residential rental units. *See* Ind. Code § 6-1.1-4-39(b). The GRM method develops an income multiplier by looking to 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. As discussed, Respondent had the burden of proving that the subject property's assessment of \$152,100 was correct. Respondent did not present a GRM analysis and offered no explanation for declining to do so. While the Board finds this troubling, we now turn to the two analyses that Respondent undertook in the alternative.
- e. Respondent offered a comparative market analysis, which included two purportedly comparable properties, and a neighborhood sales analysis, which included 11 purportedly comparable properties. The analyses were based on an average price per square foot. Respondent, however, did not attempt to account for any relevant differences among the properties. Consequently, Respondent's analyses fall short of what is required for comparative sales data to carry probative weight. *See Long v. Wayne Township Assessor*, 821 N.E.2d 466, 471 (holding that taxpayers' comparative sales data lacked probative value where they failed to compare relevant characteristics or explain how relevant differences affected value). Furthermore, rather than providing sufficient evidence to support the assessment, Respondent spent the majority of its time describing purported flaws in Petitioner's case.
- f. Thus, Respondent failed to establish a prima facie case that the 2015 assessed value was correct. Because he failed to meet the burden of proof, the 2015 assessment must be reduced to the previous year's level of \$142,200. That, however, does not end the Board's inquiry because Petitioner requested an assessed value of \$87,281. As mentioned above, Petitioner has the burden of proving it is entitled to that additional reduction. The Board therefore turns to Petitioner's evidence.
- g. In an attempt to prove the value for 2015, Petitioner introduced a GRM analysis using six comparable rental properties. 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. As was discussed with regard to Respondent's case, 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 and failed to establish that the properties were sufficiently comparable.

- h. Petitioner also failed to offer any supporting evidence, such as the 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.
- i. Because Petitioner failed to sufficiently support the selected comparable properties and the GRM value, Petitioner failed to make a case for reducing the 2015 assessment.

Conclusion

- 17. Respondent had the burden of proving the 2015 assessment was correct. Respondent failed to make a prima facie case. Petitioner failed to make a prima facie case for an amount lower than the 2014 value. Consequently, the Board orders that the 2015 assessed value be reduced to the 2014 amount of \$142,200.

Final Determination

In accordance with the above findings of fact and conclusions of law, the Board determines that the assessed value must 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>>.