

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

Petition No.: 30-009-16-1-5-01404-17
Petitioner: American Homes 4 Rent Properties One, LLC
Respondent: Hancock County Assessor
Parcel No.: 30-07-29-202-021.000-009
Assessment Year: 2016

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

Procedural History

1. The Petitioner initiated its 2016 appeal with the Hancock County Assessor on June 14, 2016.
2. On August 17, 2017, the Hancock County Property Tax Assessment Board of Appeals (PTABOA) issued its determination lowering the assessment but not to the level requested by the Petitioner.
3. The Petitioner timely filed a Petition for Review of Assessment (Form 131) with the Board, and elected the Board's small claims procedures.
4. The Board issued a notice of hearing on October 19, 2017.
5. Administrative Law Judge (ALJ) Patti Kindler held the Board's administrative hearing on December 18, 2017. She did not inspect the property.
6. Certified tax representative Jeremy Miller appeared for the Petitioner and was sworn as a witness. Attorney Brian Cusimano appeared for the Respondent.¹ County Assessor Mary Noe was sworn as a witness for the Respondent.

Facts

7. The property under appeal is a single-family rental property located at 1729 Copeland Farms Drive in Greenfield.
8. The PTABOA determined the 2016 total assessment is \$123,600 (land \$25,800 and improvements \$97,800).

¹ Attorney Marilyn Meighen also appeared on behalf of the Respondent but did not participate in the hearing.

9. At the hearing, the Petitioner’s representative requested a total assessment of \$121,770 or \$102,090 by stating he would “accept either value.”

Record

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

- a) Form 131 with attachments,
- b) A digital recording of the hearing,
- c) Exhibits:

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| Petitioner Exhibit 1: | Memorandum from the Department of Local Government Finance (DLGF) entitled “Gross Rent Multiplier (GRM) Income Approach to Value on Single-family and Small Multi-family Properties,” dated November 20, 2003, |
| Petitioner Exhibit 2: | Memorandum from the DLGF entitled “Appeals,” dated August 24, 2007, |
| Petitioner Exhibit 3: | 2011 Real Property Assessment Manual pages 2 and 3, |
| Petitioner Exhibit 4: | Sales disclosure form for the subject property dated February 26, 2013, |
| Petitioner Exhibit 5: | GRM analysis and calculation for 1/1/2012 to 1/1/2016, |
| Petitioner Exhibit 6: | GRM analysis and calculation for 1/1/2015 to 1/1/2016. |
| Respondent Exhibit A: | Respondent’s burden analysis, |
| Respondent Exhibit B: | Subject property record card, |
| Respondent Exhibit C: | PTABOA worksheet, |
| Respondent Exhibit D: | Petitioner’s GRM analysis including Assessor’s handwritten data, |
| Respondent Exhibit E1: | Paired sales analysis summary sheet, |
| Respondent Exhibit E2: | Paired sales analysis, |
| Respondent Exhibit E3: | Sales disclosure forms for the following properties: 1764 Kingen Drive, 1018 Montgomery Court, and 1090 West Muskegon Drive, |
| Respondent Exhibit F: | Sales disclosure form for the subject property dated February 26, 2013. |
| Board Exhibit A: | Form 131 with attachments, including Power of Attorney for Mr. Miller, |
| Board Exhibit B: | Hearing notice dated October 19, 2017, |
| Board Exhibit C: | Hearing sign-in sheet, |
| Board Exhibit D: | Notice of Appearance for Ms. Meighen and Mr. Cusimano. |

- d) These Findings and Conclusions.

Contentions

11. Summary of the Petitioner's case:

- a) The property's assessment is too high. When the property was initially assessed, the Assessor erroneously considered it a "homesteaded property" rather than a rental property. The sales disclosure form clearly states the subject property is utilized as a rental property. *Miller argument; Pet'r Ex. 1, 2, 3, 4.*
- b) In support of his position, Mr. Miller presented two GRM analyses. The first analysis focused on nine single-family rental properties including the subject property. Mr. Miller admitted he utilized sales "outside the window" in selecting properties that sold from 2013 to 2015. But, Mr. Miller selected these properties to develop a GRM within the "specific area" of the subject property. Mr. Miller obtained sale prices and rental income data from his company's files, the Brokers Listing Cooperative (BLC), and Zillow.com. He divided the sale prices of the nine properties by their rental incomes to arrive at an average GRM of 99. He then multiplied the subject property's monthly rent of \$1,230 by the GRM of 99 for an estimated market value-in-use of \$121,770.² *Miller testimony; Pet'r Ex. 5.*
- c) In his second analysis, Mr. Miller broadened his search to find comparable properties that sold within the relevant time frame. Ultimately, he located six properties that sold in 2015. All of the properties were located within a mile of the subject property. Again, Mr. Miller obtained sales and rental information from his company files, the BLC, and Zillow.com. Using the same methodology as above, he developed a GRM of 83. This analysis yielded a value of \$102,090 for the subject property. *Miller testimony; Pet'r Ex. 6.*

12. Summary of the Respondent's case:

- a) The subject property is assessed correctly. The Petitioner attacked the methodology used by the Assessor to determine the property's assessment. After the Petitioner filed an appeal, the PTABOA valued the property using the GRM method based on rental income data provided by the Petitioner's representative for several rental properties under appeal. *Cusimano argument; Noe testimony; Resp't Ex. B, C, D.*
- b) The PTABOA relied on four sales of rental properties in the subject property's neighborhood to develop a GRM. To trend the sales to the proper valuation date, the PTABOA developed, and relied on, a paired sales analysis. According to this analysis, neighborhood values and rental rates were trending upward. Based on the four sales and the Petitioner's rental income data, the PTABOA determined the appropriate GRM was 102. *Noe testimony; Resp't Ex. C, D, E.*

² According to Petitioner's Exhibit 5, the average GRM equated to 98. But in his calculation, Mr. Miller utilized a GRM of 99. *Pet'r Ex. 5.*

- c) The Petitioner's analysis is flawed. Noticeable differences exist among the purportedly comparable properties Mr. Miller utilized, illustrating a lack of comparability. But still, Mr. Miller failed to make any adjustments to account for the differences. Mr. Miller's analyses amount to unadjusted "raw data." *Cusimano argument (referencing Pet'r Ex. 5, 6)*.

Burden of Proof

13. Generally, the taxpayer has the burden to prove that an assessment is incorrect and what the correct assessment should be. *See Meridian Towers East & West v. Washington Twp. Ass'r*, 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). The burden-shifting statute as amended by P.L. 97-2014 creates two exceptions to that rule.
14. 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).
15. 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." Under those circumstances, "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). This change was effective March 25, 2014, and has application to all appeals pending before the Board.
16. Here, the total assessed value increased from \$121,100 in 2015 to \$123,600 in 2016, an increase of 2.1%. The Respondent's representative argued the burden should remain with the Petitioner. The Petitioner's representative did not dispute this fact or offer any argument the burden should shift to the Respondent. Accordingly, the burden shifting provisions of Ind. Code § 6-1.1-15-17.2 do not apply and the burden remains with the Petitioner.

Analysis

17. The Petitioner failed to make a prima facie for reducing the assessment.
- a) Real property is assessed based on its market value-in-use. Ind. Code § 6-1.1-31-6(c); 2011 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.4-1-2). The cost approach, the sales comparison approach, and the income approach are three generally accepted techniques to calculate market value-in-use. Assessing officials primarily use the cost approach but other evidence is permitted to prove an accurate valuation. Such evidence may include actual construction costs, sales information regarding the subject or comparable properties, appraisals, and any other information compiled in accordance with generally accepted appraisal principles.
 - b) Regardless of the method used, a party must explain how its evidence relates to 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). For a 2016 assessment, the valuation date was January 1, 2016. Ind. Code § 6-1.1-2-1.5.
 - c) In an effort to prove the 2016 assessment was incorrect, the Petitioner introduced two GRM analyses. Indiana law provides that the GRM method is the *preferred* method of valuing real property that has one (1) to four (4) rental units. *See* Ind. Code § 6-1.1-4-39(b) (emphasis added). But the burden still remains with the Petitioner to prove what the correct assessment should be.
 - 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, 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 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.
 - e) Here, Mr. Miller failed to adequately compare his purportedly comparable properties with the subject property. Based on his selection of purportedly comparable properties, located in subject property’s neighborhood of Copeland Farms, the Board may be able to assume the properties are similarly situated. Beyond that, the Petitioner’s evidence fails to provide any analysis of the comparability of the properties. For example, the properties vary significantly in size, but Mr. Miller failed to make any adjustments to account for the differences. Further, Mr. Mr. Miller relied on sales over two years removed from the relevant valuation date

without trending the data or explaining how it was relevant. Mr. Miller's comparison falls short of the level of comparison required by *Long*.

- f) Additionally, the Board finds little evidence Mr. Miller's sources for data are reliable. He failed to offer any supporting evidence, such as the actual sales disclosure forms, to verify the sales he utilized reflected the market value. Without any verification, it is possible that the sale prices may not have been arm's-length transactions or market sales. There is also no evidence of whether the income data included income from sources other than rent.
- g) Consequently, the Petitioner failed to make a prima facie case for reducing the assessment. Where the 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

18. The Board finds for the Respondent.

Final Determination

In accordance with these findings and conclusions, the 2016 assessment will not be changed.

ISSUED: April 18, 2018

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>>.