

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

Petition No.: 36-009-18-1-4-01273-18
Petitioner: Marcie C. Aynes (Pardieck)
Respondent: Jackson County Assessor
Parcel No.: 36-66-19-201-003.000-009
Assessment Yr.: 2018

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

Procedural History

1. Marcie Aynes challenged the subject property’s 2018 assessment.¹ On October 24, 2018, the Jackson County Property Tax Assessment Board of Appeals rejected her claims and issued a determination valuing the property as follows:

Land	Improvements	Total
\$47,500	\$18,200	\$65,700

2. Aynes responded by filing a Form 131 petition with the Board, electing to proceed under our small claims rules. On September 18, 2019, our designated administrative law judge, Jeremy Owens (“ALJ”), held a hearing on Aynes’ petition. Neither he nor the Board inspected the property.
3. Ken Bradley Pardieck appeared for Aynes. Susan Bevers appeared as counsel for the Assessor. The following people testified under oath: Jackson County Assessor Katie Kaufman, Richard Borges II, and Pardieck.

Record

4. Aynes did not offer any exhibits. The Assessor offered the following exhibits:

Respondent Exhibit A:	Appraisal report from Richard Borges II
Respondent Exhibit B:	Property record card for the subject property
Respondent Exhibit C:	Form 115 determination

¹ The record is ambiguous as to who owns the property. According to the Form 115 determination and the property record card, MarPar Properties, LLC owns it. But the Form 131 petition lists “Marcie C. Aynes (Pardieck)” as the petitioner. Ken Bradley Pardieck, who alternately described himself as Aynes’ representative, MarPar’s representative, and the property’s owner, signed the petition. We find it likely that Aynes and Pardieck are members of the taxpayer, MarPar. For the sake of consistency, however, we will refer to the taxpayer as Aynes, because that is how our notices and orders have been styled to this point.

5. The record also includes the following: (1) all petitions, motions, or other documents filed in these appeals, (2) all orders and notices issued by the Board or our ALJ, and (3) an audio recording of the hearing.

Contentions

Aynes' Contentions:

6. The property's assessment increased by \$11,500 between 2017 and 2018. A used garage door was installed between those assessment dates, but that should not have triggered such a steep increase. The commercial building had no electricity or plumbing in 2018. The roof needed to be repaired, and a large fan and part of the ceiling were missing. *Pardieck Testimony.*

Assessor's Contentions:

7. The property is located inside Seymour's city limits. The building is an empty shell. The Assessor had previously assigned it a quality grade of E-1 and a condition rating of poor—the lowest possible ratings. In 2018, she increased the grade to D-1 and the condition rating to fair. She also added 84 square feet to the building's total area. The added portion may not have been new construction, but she had not accounted for it in previous assessments. *Kauffman testimony; Resp't Ex B.*
8. The Assessor hired Richard Borges II, an Indiana certified appraiser, to appraise the property's market value-in-use as of January 1, 2018. Borges did so and prepared a retrospective appraisal report in conformity with the Uniform Standards of Professional Appraisal Practice ("USPAP"). *Borges testimony; Resp't Ex A.*
9. Borges visited the property and interviewed Pardieck about the building's condition as of the valuation date. Borges described the building as a "cold shell" because of its lack of electricity, plumbing, and heating. In light of the building's age, he did not develop the cost approach. He likewise decided against developing the income approach, explaining that similar properties seldom transacted as investments based on their income potential. *Borges testimony; Resp't Ex A.*
10. That left the sales-comparison approach. Given the building's lack of amenities, Borges had some difficulty finding comparable sales. He settled on three sales, two from Seymour and one from Columbus. He adjusted the sale prices to account for various differences between those buildings and the subject buildings, such as differences in quality, configuration, and location. The adjusted sale prices ranged from \$18.90/sq. ft. to \$20.21/sq. ft. He reconciled them to \$20/sq. ft., which yielded a rounded value of \$56,700 for the subject property. *Borges testimony; Resp't Ex A.*

Burden of Proof

11. Generally, a taxpayer seeking review of an assessing official's determination has the burden of proof. Indiana Code § 6-1.1-15-17.2 creates an exception to that general rule and assigns the burden of proof to the assessor in two circumstances; (1) where the assessment under appeal represents an increase of more than 5% over the prior year's assessment, or (2) where it is above the level determined in the taxpayer's successful appeal of the prior year's assessment. I.C. § 6-1.1-15-17.2(b), (d). Even where those circumstances exist, the burden remains with the taxpayer if assessment that is the subject of the appeal was based on "substantial renovations or new improvements," zoning, or uses that were not considered in the prior year's assessment. I.C. § 6-1.1-15-17.2(c). If an assessor has the burden of proving the assessment is correct and fails to do so, it reverts to the previous year's level or to another amount shown by probative evidence. *See* I.C. § 6-1.1-15-17.2(b).
12. Although the assessment increased by more than 5% between 2017 and 2018, the Assessor argued that the burden should not shift because she changed the grade and condition ratings and added an 84-square-foot area that had not previously been assessed. The ALJ preliminarily ruled that Aynes had the burden.
13. Upon review, we disagree. Even if we assume that the 84-square-foot area the Assessor previously overlooked qualifies as a "new improvement" under Ind. Code § 6-1.1-15-17.2(c), the Assessor did not explain how adding that area affected the assessment. In any case, the question is moot. Determining who has the burden of proof largely matters only where neither side offers any probative evidence, or where each side's evidence is equally compelling. As discussed below, Borges' appraisal is both probative and un rebutted.

Discussion

14. The goal of Indiana's real property assessment system is to arrive at an assessment reflecting the property's "true tax value." 50 IAC 2.4-1-1(c); 2011 REAL PROPERTY ASSESSMENT MANUAL at 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). It is instead determined under the rules of the Department of Local Government Finance ("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." MANUAL at 2.
15. In an assessment appeal, a USPAP-compliant, market-value-in-use appraisal is often the best evidence of a property's true tax value. *Eckerling v. Wayne Twp. Ass'r*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006). Parties may also offer any other evidence that is relevant to a property's true tax value, such as actual construction costs, sales information for the property under appeal, and sales or assessment information for comparable properties. MANUAL at 3; *see also Eckerling*, 841 N.E. at 674; I.C. § 6-1.1-15-18 (allowing parties to

offer evidence of comparable properties' assessments in property tax appeals). Simply attacking the methodology used to compute an assessment or strictly applying the assessment guidelines normally does not suffice to make a case. See *Eckerling*, 841 N.E.2d at 678. In any case, a party must relate its evidence to the relevant valuation date. *Long v. Wayne Twp. Ass'r*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). Otherwise, the evidence lacks probative value. *Id.* The valuation date for the year under appeal was January 1, 2018.

16. The Assessor offered probative evidence to show the property's true tax value. Borges prepared a USPAP-compliant appraisal using a generally accepted methodology—the sales-comparison approach—to estimate the property's market value-in-use as of the relevant January 1, 2018 valuation date. He located comparable properties and adjusted their sale prices to account for relevant ways in which they differed from the subject property. Aynes did nothing to impeach Borges' valuation opinion. Nor did she offer any probative evidence of her own to show a different value. We therefore find that the assessment should be changed to \$56,700—the amount Borges estimated in his appraisal.

Final Determination

17. In accordance with the above findings of fact and conclusions of law, the assessment must be changed to \$56,700.

Issued: December 17, 2019

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>>.