

REPRESENTATIVES FOR PETITIONERS:

Richard H. Barnett, *pro se*
Gay M. Barnett, *pro se*

REPRESENTATIVE FOR RESPONDENT:

Brian Cusimano, Attorney

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

Richard H. & Gay M. Barnett,	)	Petition No.:	79-026-12-1-5-00001A
)		
Petitioners,	)	Parcel No.:	79-07-18-129-007.000-026
)		
v.	)	County:	Tippecanoe
)		
Tippecanoe County Assessor,	)	Township:	Wabash
)		
Respondent.	)	Assessment Year:	2012

Appeal from the Final Determination of the
Tippecanoe County Property Tax Assessment Board of Appeals

April 17, 2015

FINAL DETERMINATION

The Indiana Board of Tax Review (“Board”) having reviewed the facts and evidence, and having considered the issues, now finds and concludes the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Introduction

1. Because the subject property’s assessment increased by more than 5% between 2011 and 2012, the Assessor had the burden of proving the 2012 assessment was correct. He met

that burden by offering an appraisal prepared in conformity with the Uniform Standards of Professional Appraisal Practice (“USPAP”). While far from perfect, that appraisal is still generally reliable and is more persuasive than the Barnetts’ own non-USPAP-compliant analysis, in which they attempted to apply the appraiser’s sales-comparison analysis to different sales data.

Procedural History

2. The Barnetts appealed their 2012 assessment to the Tippecanoe County Property Tax Assessment Board of Appeals (“PTABOA”). On July 12, 2013, the PTABOA issued its determination lowering the assessment, although not by as much as the Barnetts had requested. The Barnetts then timely filed a Form 131 petition with the Board.
3. On October 21, 2014, the Board’s administrative law judge, Dalene McMillen, held a hearing on the Barnetts’ petition. Neither she nor the Board inspected the property.
4. The following people testified under oath: Richard Barnett, Gay Barnett, and Jesse Wallenfang, the Assessor’s sales data & appeals manager.
5. The Barnetts offered the following exhibits:
 - Petitioners Exhibit 1: “Discrepancies in Appraisal Comparables vs. 900 Garden Street,”
 - Petitioners Exhibit 2: “Inaccuracies in Appraisal,”
 - Petitioners Exhibit 3: “Similarities in Petitioner Appraisal Comparables vs. 900 Garden Street,”
 - Petitioners Exhibit 4: Sales-comparison grid with photographs of comparable properties,
 - Petitioners Exhibit 5: Map showing locations of comparable properties,
 - Petitioners Exhibit 6: Greater Lafayette Commerce overview of real estate trends in Tippecanoe County, Trend of Asking Price in 47906,
 - Petitioners Exhibit 7: Assessor’s evidence from the PTABOA hearing.
6. The Assessor offered the following exhibits:
 - Respondent Exhibit A: Restricted appraisal report prepared by Deborah Green, Rangeline Appraisal Company, dated June 16, 2014,

- Respondent Exhibit B: 2012 property record card (“PRC”) and exterior photograph of the subject property,
- Respondent Exhibit C: Exterior photograph of 801 Elm Drive, West Lafayette,
- Respondent Exhibit D: PRC for 1830 Locust Lane, West Lafayette,
- Respondent Exhibit E: PRC for 1929 Indian Trail Drive, West Lafayette.

7. The following additional items are part of the record:

- Board Exhibit A: Form 131 petition,
- Board Exhibit B: Hearing notice,
- Board Exhibit C: Hearing sign-in sheet.

8. The PTABOA determined the following values:

Land: \$40,000 Improvements: \$135,100 Total: \$175,100

9. The Barnetts requested the following assessment:

Land: \$40,000 Improvements: \$82,000 Total: \$122,000

Burden of Proof

10. Generally, a taxpayer must prove that its assessment is incorrect and what the correct assessment should be. Indiana Code § 6-1.1-15-17.2 creates an exception to that general rule and assigns the burden of proof to the assessor under certain circumstances, including where the assessment under appeal represents an increase of more than 5% over the previous year’s assessment for the same property. Ind. Code § 6-1.1-15-17.2(a) and (b). If the assessor fails to meet his burden of proving the assessment is correct, it must be reduced to the previous year’s level or to another amount established by probative evidence. *See* I.C. § 6-1.1-15-17.2(b).

11. The parties agree that the assessment increased by more than 5% between 2011 and 2012, going from \$148,100 to \$175,100. The Assessor therefore has the burden of proof.

Summary of Parties' Contentions

A. The Assessor's Contentions

12. The property is a single-family ranch-style home in West Lafayette. It is located near Purdue University's campus, although it is not in a student rental area. The Assessor assigned a C+2 quality grade to the home. It was built in 1956, but it has been well maintained. The Barnetts renovated the home in approximately 2002. *Wallenfang testimony; Resp't Exs A-B.*
13. The Assessor hired Deborah Green of Rangeline Appraisal Company to appraise the property. Ms. Green prepared an appraisal report, which she certified conformed to the USPAP, and in which she used the sales-comparison approach to value the property at \$180,000 as of March 1, 2012. *Wallenfang testimony; Resp't Ex. A.*
14. Ms. Green used the following four West Lafayette properties in her analysis: 116 Pawnee Drive, 124 Seneca Lane, 112 Creighton Road, and 112 Blackhawk Lane. Each property has a one-story home and is located less than one mile from the subject property. The homes are similar to the subject home in age, style, and construction quality. *Wallenfang testimony; Resp't Ex. A.*
15. The properties sold between August 2, 2010, and December 16, 2011, for prices ranging from \$170,000 to \$189,000. Ms. Green adjusted the sale prices to reflect various ways in which the comparable properties differed from the subject property, including differences in gross living area, bathroom count, basement size and finish, porches, decks, garages, and the presence or absence of skylights and/or central vacuums. The adjusted prices ranged from \$170,900 to \$193,700. She gave nearly equal weight to the first three sales and used the fourth for support. *Wallenfang testimony; Resp't Ex. A.*
16. Mr. Wallenfang addressed several of the criticisms the Barnetts levied against Ms. Green's appraisal:

- Although Ms. Green treated the subject home as having 32 more square feet of living area than its property record card currently reflects, she likely used the Assessor's old records. After the Barnetts appealed their assessment, the Assessor's staff visited the property and re-measured the home. The Assessor then corrected the data for the 2013 assessment year. According to Mr. Wallenfang, the difference would not have significantly affected Ms. Green's value conclusion.
- The Barnetts correctly point out that Ms. Green's sketch of the home shows a 205.8-foot wall. But that was a typographical error stemming from superimposing the garage and kitchen wall measurements on each other. The error did not affect any of her calculations.
- While, as the Barnetts again point out, Ms. Green's report lacks references to 124 Seneca Lane having a deck or 112 Blackhawk Lane having a balcony, appraisers do not always include all additional features in their appraisal reports.
- The Barnetts claim that Ms. Green used significantly smaller basement sizes for 116 Pawnee Drive and 124 Seneca Lane than what is shown on their property records. Appraisers, however, use various sources, such as multiple listing sheets and property record cards, to verify measurements for their comparable properties. Sometimes they need to reconcile differences in the data from those sources. They also use their judgment in deciding whether those differences affect value.
- The Barnetts also claim that Ms. Green failed to disclose that 112 Creighton Road re-sold for a lower price two years after the sale she used in her appraisal. The Assessor's records show that the 2010 sale reflects the original contract price and that the 2012 price is what the parties wrote on their sales

disclosure form when they completed their contract. Because the 2010 contract price was recorded at the time of purchase, it is the price of record.

- Finally, the Barnetts take issue with the fact that the subject land was assessed using a negative influence factor while three of Ms. Green's comparable properties had positive influence factors. But the Barnetts are comparing apples to oranges. Negative influence factors are a tool used in mass appraisal. Ms. Green, by contrast, performed an individual fee appraisal.

Wallenfang testimony.

17. Mr. Wallenfang also criticized the Barnetts' own sales-comparison analysis:

- One of their purportedly comparable properties—810 Elm Drive—sold for only \$132,500, which is a very low price for the part town at issue in this appeal. Normally, a low sale price indicates that a property was used as a rental or that maintenance has been deferred. A photograph of the property shows that the home has some deferred maintenance. The Barnetts' other two comparable properties actually support the subject property's assessment. They sold for \$73.34/sq. ft. and \$85.04/sq. ft., respectively, while the subject property was assessed for \$85/sq. ft.
- One of the Barnetts' comparable homes has a quality grade of C-1 and another has a grade of C. By contrast, the grade of C+2 shows their home was built using slightly higher-quality materials.
- One of the Barnetts' comparable properties—1929 Indian Trail Drive—has a tri-level home, rather than a ranch, like the subject property. Under assessing standards, the two properties are not comparable to each other.

Wallenfang testimony; Resp't Exs. B-F.

B. The Barnetts' Contentions

18. At the PTABOA hearing, the Assessor relied on different properties than the ones Ms. Green used in her appraisal. Those properties sold for an average price of \$117/sq. ft., which the Assessor claimed supported the assessment. *R. Barnett testimony; Pet'rs Ex. 7.*
19. The Barnetts criticized several aspects of Ms. Green's appraisal:
- Ms. Green reported the subject home as having 2,087 square feet of living area when, according to its property record card, it only has 2,052 square feet. Her sketch of the floor plan shows one wall as measuring 205.8 feet. If that were true, it would extend to the neighbor's property.
 - Ms. Green also used inaccurate data for her comparable properties. She reported 116 Pawnee Drive and 124 Seneca Lane as having basements of 400 and 600 square feet, respectively. But the property record cards for those homes reflect basements of 864 and 1,730 square feet. The Seneca Lane property also has a deck Ms. Green did not report. And 112 Blackhawk Lane has a balcony.
 - Three of the properties are on dead end streets, two of which back up to a nature park in a very desirable neighborhood. The fourth is located on a wooded lot. The subject property, by contrast, is surrounded by houses and is located in a neighborhood where 20% of the properties are rentals. In addition, three of the sites for Ms. Green's comparables are assigned 25% positive influence factors while the subject site has a 20% negative influence factor.
 - Two of the properties sold twice in a short period—116 Pawnee Drive sold for \$145,000 in 2008 and for \$174,000 in 2011, while 112 Creighton Road sold for \$170,000 in 2010 and \$155,383 in 2012. In fact, the 2010 sale Ms. Green used for 112 Creighton Road was outside the prescribed period for establishing 2012

assessments. The Barnetts, however, acknowledged they did not know the terms or conditions for any of the sales.

R. Barnett testimony; G. Barnett testimony; Pet'rs Exs. 1-2, 5; Resp't Ex. A. According to the Barnetts, those discrepancies and errors make Ms. Green's appraisal unreliable.

20. As an alternative, the Barnetts offered sales data for four properties they believe are more relevant than the ones Ms. Green used: 801 Elm Drive, 1830 Locust Avenue, 2204 Huron Road, and 1929 Indian Trail Drive. Both 801 Elm Drive and 1830 Locust Avenue are located in the same neighborhood as the subject property, while the other two are located in similar neighborhoods. The Barnetts believe that the influence factors applied to the land assessments show how similar the locations are. Two of the properties have negative 10% influence factors, one has a negative 32% factor, and the fourth has no influence factor at all. The homes are all between 53 and 59 years old, while the subject home is 56 years old. *R. Barnett testimony; Pet'rs Exs. 3-5.*
21. The properties sold between May 12, 2011, and December 29, 2011 for prices ranging from \$119,900 to \$149,900. The Barnetts adjusted those sale prices using what they believe were the same per-unit adjustments Ms. Green used in her appraisal. The adjusted sale prices range from \$129,900 to \$158,000, or an average of \$139,435. *R. Barnett testimony; Pet'rs Exs. 3-5.*
22. The Barnetts believe that the sale of 801 Elm Drive should be given the most weight because, in their view, it is virtually identical to the subject property. They are located around the corner from each other, the homes were built within three years of each other, and they are the same style, with limestone on the front. Although the Elm Drive home has 340 more square feet of living area than the subject home, it has a smaller garage. The Elm Drive property sold for an adjusted price of \$135,100. *R. Barnett testimony; Pet'rs Ex. 4.*

23. Since buying the subject property in 2001, the Barnetts added a room, new windows, new siding, and a new roof. They also remodeled two bathrooms, gutted the kitchen, and put in new cabinets. According to Zillow.com, the home at 801 Elm Drive was extensively remodeled. Although websites showed that some of the Barnetts' other comparable properties had been remodeled with stainless steel appliances and hardwood floors, the Barnetts do not know the extent of the remodeling. *G. Barnett testimony; Pet'rs Ex. 4.*
24. According to the Lafayette Commerce, the average home asking price was \$150,000 in 2012. Home prices were trending downward in 2012 and did not recover until 2013. *R. Barnett testimony; Pet'rs Ex. 6.*

Analysis

25. Indiana assesses real property based on its true tax value, which the 2011 Real Property Assessment Manual defines as “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). A party's evidence in a tax appeal must be consistent with that standard. *See id.* For example, a market value-in-use appraisal prepared according to USPAP often will be probative. *Kooshtard Property VI, LLC v. White River Township Assessor*, 836 N.E.2d 501, 506 n.6 (Ind. Tax Ct. 2005). A party may also offer actual construction costs, sale or assessment information for the subject or comparable properties, and any other information compiled according to generally acceptable appraisal principles. *See id.; see also* I.C. § 6-1.1-15-18 (allowing parties to offer evidence of comparable properties' assessments to determine an appealed property's market value-in-use).
26. The Assessor offered an appraisal of the subject property prepared by Ms. Green, a licensed appraiser, in which she estimated the market value at \$180,000 as of March 1, 2012. Ms. Green certified that she prepared her appraisal in conformity with USPAP. She used the sales-comparison approach—a generally accepted appraisal methodology.

27. The Barnetts sought to impeach Ms. Green's appraisal by pointing to what they described as various factual errors and other discrepancies in her report. Some of those errors, such as her use of a slightly smaller living area and her transposition of two wall lengths in her sketch, affected her valuation opinion only slightly, if at all.
28. The Barnetts' claim that Ms. Green erred in reporting basement sizes for two of her comparable properties, if correct, might have had a greater effect on her valuation conclusion. But the record does little to establish that Ms. Green used erroneous data. At most, the Barnetts testified they took their information from the property record cards for the two comparable properties, although they did not offer those cards as evidence. Mr. Wallenfang persuasively explained that appraisers use sources other than property record cards, such as multiple listing services, in preparing appraisals, and that they sometimes must reconcile conflicts between the data from those different sources.
29. Nonetheless, Ms. Green's appraisal report is silent on where she got her data or whether there were conflicts between sources. And she did not testify to address that issue. Under those circumstances, the discrepancy between the data reported on the property record cards and what Ms. Green used in her appraisal detracts somewhat from her reliability.
30. The same is true for Ms. Green's use of the August 2010 sale of 112 Creighton Road for \$170,000 while omitting any reference to what the Barnetts claim was a 2012 sale of the same property for \$155,383. By itself, the Barnetts' reference to the later sale does little; they knew nothing about the transaction and did not even give the specific date. Ms. Green therefore could have omitted it for a variety of reasons, including that it occurred after the relevant valuation date. Mr. Wallenfang, however, offered more information about both transactions, explaining that the 2010 sale used by Ms. Green was the original contract price and that the 2012 transaction simply represented the completion of the contract.

31. Although Mr. Wallenfang's testimony was not very clear, he may have meant that the 2010 transaction was a land contract in which the seller financed the sale and that the 2012 transaction was not a separate sale, but instead simply reflected the date the buyer made the last contract payment to the seller and title passed. Indeed, Ms. Green reported the sale as involving something other than conventional financing. She nonetheless decided to use that sale without adjusting its price to account for non-market financing, and she did not explain that decision in her report. On the other hand, the adjusted sale prices for her other three comparable sales (\$181,000, \$193,700, and \$174,400) still appear to support her valuation conclusion.
32. The Board gives no weight to the Barnetts' other criticisms of Ms. Green's appraisal. Without more, the mere fact Ms. Green omitted mentioning that one of her comparable properties sold for less money three years before the sale she used in her appraisal means nothing. Similarly, the Barnetts largely offered only broad assertions that Ms. Green's sales were from more-desirable neighborhoods.
33. And the Board agrees with Mr. Wallenfang that the Barnetts' reliance on differences between the influence factors applied to the land assessments is like comparing apples to oranges. Influence factors are closely tied to the mass-appraisal process where assessors use per-unit rates (such as dollars-per-front-foot or per-acre) for an assessment neighborhood's base lot to value properties throughout the neighborhood. Individual lots within the neighborhood may have peculiar conditions that are not reflected in the base lot. Assessors use influence factors to account for how those conditions affect the individual values. 2011 REAL PROPERTY ASSESSMENT GUIDELINES, ch. 2 at 43.
34. Ms. Green, however, prepared an individual appraisal using the sales-comparison approach rather than mass-appraisal methodology. And she used properties outside the subject property's assessment neighborhood. Thus, without more information, such as how the base lots in each neighborhood compare to each other and what specific condition each influence factor addresses, pointing to differences in influence factor

levels says little about the relative superiority or inferiority of the properties, much less about the relative desirability of their locations.

35. When taken together, the unexplained discrepancies between Ms. Green's data for her comparable properties and the data from their property record cards, as well as her unexplained decision to use the 2010 sale of 112 Creighton Road without adjusting the price to account for its unconventional financing, detract somewhat from her appraisal's reliability. Nonetheless, her appraisal is still sufficiently reliable to be probative. Indeed, to the extent Ms. Green's errors affected her valuation opinion, they likely did so only marginally. Given the fact she valued the property at almost \$5,000 more than its assessment, her appraisal supports that assessment.
36. The Barnetts, however, did not merely seek to impeach Ms. Green's appraisal; they also offered their own comparative sales data and analysis. On its face, the Barnetts' analysis tracks the analysis from Ms. Green's appraisal. They at least purport to have applied the same per-unit adjustments she used, albeit to different sales data. But a probative valuation opinion is not merely a mathematical calculation; it includes the exercise of significant judgment. One cannot, as the Barnetts have done, simply plug new data into an appraisal to reach a different valuation conclusion without the risk of seriously distorting the appraiser's underlying analysis.
37. Similarly, the Barnetts did nothing to investigate the terms or conditions of the sales they used in their analysis. And they did little to support several of their underlying judgments. Unlike the Barnetts, Ms. Green certified that she complied with USPAP. The Board therefore infers Ms. Green largely followed generally recognized appraisal practices in gathering and analyzing data. Without more, the Board cannot draw the same inference for the Barnetts' analysis. Thus, despite its flaws, the Board finds Ms. Green's appraisal more persuasive than the Barnetts' analysis.

SUMMARY OF FINAL DETERMINATION

38. The Assessor, who had the burden of proving the assessment under appeal was correct, met that burden by offering Ms. Green’s USPAP-compliant appraisal. Although the Barnetts identified some problems with that appraisal, those problems did not substantially detract from its reliability. And the appraisal is more persuasive than the Barnetts’ competing analysis of comparative sales data. The Board therefore finds in favor of the Assessor and orders no change to the assessment.

The Final Determination of the above captioned matter is issued by the Indiana Board of Tax Review on the date written above.

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>>.