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

Petition: **16-006-12-1-5-00018**
Petitioner: **Carol D. Goodwin Revocable Trust**
Respondent: **Decatur County Assessor**
Parcel: **16-08-09-320-041.000-006**
Assessment Year: **2012**

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

Procedural History

1. The Carol D. Goodwin Revocable Trust, by its trustee, Carol D. Goodwin, initiated a 2012 assessment appeal with the Decatur County Assessor by filing a written request for review, on October 26, 2012.

2. The Decatur County Property Tax Assessment Board of Appeals (PTABOA) issued its determination on September 16, 2013, denying the Trust relief.

3. On October 30, 2013, Ms. Goodwin filed a Petition for Review of Assessment (Form 131) with the Board, electing to have the appeal heard under the Board's small claims procedures.

4. The Board issued a notice of hearing on October 1, 2014.

5. Administrative Law Judge (ALJ) Jennifer Bippus held the Board's administrative hearing on November 5, 2014. She did not inspect the property.

6. Carol D. Goodwin appeared on behalf of the Trust. Decatur County Assessor Dorene Greiwe appeared *pro se*. Maurice M. Goodwin and Jay Morris were witnesses. All of them were sworn.

Facts

7. The property under appeal is an unimproved lot located at 1499 Santee Drive in Greensburg.

8. The PTABOA determined the 2012 land assessment is $11,000.

9. On the Form 131 petition, the Trust requested a land assessment of $4,500.

Record

10. The official record for this matter contains the following:

a) The Form 131 petition with attachments,

b) A digital recording of the hearing,

c) Exhibits:

Petitioner Exhibit 1:	Plat map indicating the location of the subject property in vicinity to the properties located at 1422 Santee Drive, 1421 Santee Drive, and 1420 Santee Drive; and Multiple Listing Service (MLS) listings for all but the subject property,
Petitioner Exhibit 2:	Plat map indicating the location of the subject property in vicinity to the properties located at 1038 Santee Drive, 1037 Santee Drive, 1036 Santee Drive, 1035 Santee Drive, 1034 Santee Drive, 1033 Santee Drive, and 1032 Santee Drive; and MLS listings for all but the subject property,
Petitioner Exhibit 3:	Plat map indicting the location of the subject property in vicinity to the properties located at 1500 Santee Drive, 1498 Santee Drive, 1497 Santee Drive, 1496 Santee Drive, and 1495 Santee Drive; and the property record card for 1497 Santee Drive, [1]
Petitioner Exhibit 4:	Trended Vacant Residential Land Ratio Study for Fugit Township dated May 13, 2013.
Respondent Exhibit 1:	Summary of exhibits and testimony,
Respondent Exhibit 2:	Page two of the 2011 Real Property Assessment Manual,
Respondent Exhibit 3:	Page six of the 2011 Real Property Assessment Manual,
Respondent Exhibit 4:	Annual Time Adjustment established for the 2012 trending and land analysis,
Respondent Exhibit 5:	Map of the subject property neighborhood – highlighted in yellow,
Respondent Exhibit 6:	Page 12 and 13 of the 2011 Real Property Assessment Guidelines, Chapter 2,
Respondent Exhibit 7:	Sales Analysis performed for the 2012 base rates of neighborhood 1600612,
Respondent Exhibit 8:	Page one of the 2012 Decatur County Land Order for Fugit Township,
Respondent Exhibit 9:	Plat map indicating vicinity of subject property to adjoining properties, and property record cards for 1498 Santee

[1] It is not clear if the hand written numbers on the Petitioner's various plat maps are street addresses, lot numbers, or both.

Drive, 1497 Santee Drive, 1496 Santee Drive, 1495 Santee Drive, 1494 Santee Drive, and 1500 North Santee Drive,
Respondent Exhibit 10: Copy of 2011 subject property record card,
Respondent Exhibit 11: Copy of 2012 subject property record card.

Board Exhibit A: Form 131 petition with attachments,
Board Exhibit B: Hearing notice dated February 18, 2014,
Board Exhibit C: Hearing sign-in sheet.

d) These Findings and Conclusions.

Contentions

11. Summary of the Petitioner's case:

a) The subject property is assessed too high. In fact, three recent sales support this assertion. The parcel located at 1422 Santee Drive sold for $1,500 on May 21, 2014.[2] The parcels located at 1420 and 1421 Santee Drive each sold for $8,000 on October 27, 2014. Mr. Goodwin contends that "property values would have been lower in 2012 than in 2014." Thus, these sales prove that the subject property is assessed too high. *M. Goodwin argument; Pet'r Ex. 1.*

b) Three unimproved parcels located in close vicinity to the subject property have lower assessments. The property located at 1038 Santee Drive has a home located on it, but the land assessment is only $7,100. The property located at 1037 Santee Drive has a garage situated on it, but the land assessment is only $2,400. The unimproved lot at 1036 Santee Drive has a land assessment of $4,920. These properties are located across the street from the subject property. Further, all of the properties are classified as "view lots," the same classification as the subject property. *M. Goodwin testimony; Pet'r Ex. 2, 4.*

c) The Respondent's justification supporting the 2012 assessment is that the subject property is assessed in the same manner as similarly situated unimproved parcels. It is true, however, that the parcels located closest to the subject property have assessments ranging from $11,000 to $12,100. *M. Goodwin argument; Pet'r Ex. 3.*

12. Summary of the Respondent's case:

a) The subject property is correctly assessed. The assessment was established utilizing a mass appraisal system. The mass appraisal process values a group of properties as of a given date using common data, standardized methods, and statistical testing. Further, the rules and methodologies set forth by the Department of Local Government Finance (DLGF) were applied to the assessment. *Morris argument; Resp't Ex. 2, 3.*

[2] Mr. Goodwin also noted that 1422 Santee Drive sold for $2,500 in 2003.

b) Because few sales existed, the Respondent utilized all vacant land sales occurring between 2006 and 2010 to develop the 2012 assessments. Based on an analysis of properties that sold twice, the sale prices were time-adjusted to the assessment date by using a factor of 1% per year. *Morris testimony; Resp't Ex. 4, 7.*

c) The data collected necessitated dividing the subject property's area into three distinct neighborhoods. Properties on the water constitute one neighborhood. Another neighborhood is made up of properties off the water, but with a lake view. Finally, the last neighborhood consists of properties off water with no lake view. The subject property is in the second category, off the water but with a lake view. *Morris testimony; Resp't Ex. 5.*

d) To develop the land values, the Respondent added a factor of 30% to the values to account for landscaping, driveways, and water and sewer hook-ups. In addition, influence factors were applied for things such as excess frontage, unusual shape and size, and corner influence. Based on all of the analysis, the base rate equated to $210 per front foot in the subject property's neighborhood. Utilizing this base rate, the assessments are consistent throughout the neighborhood. *Morris testimony; Resp't Ex. 7, 8, 9.*

e) The subject property's base rate is now roughly half of what it was in previous years. In 2011, it was $409 per front foot. However, a 75% negative influence factor was applied to the subject property's 2011 assessment. It is unclear how the old base rate or the negative influence factor was computed. In any event, the net change in the two factors is responsible for the increase in the assessment from 2011 to 2012. *Morris testimony; Resp't Ex. 10, 11.*

f) Finally, the DLGF, relying on International Association of Assessing Officials (IAAO) standards, requires that assessments in a neighborhood fall within 90% and 110% of the median of the sale prices. The factors for the subject property's neighborhood are 95% for improved sales, and 105% for vacant land sales. Thus, the assessments are within the IAAO standards. *Morris testimony.*

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 recently 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 section 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 is effective March 25, 2014, and has application to all appeals pending before the Board.

16. Here, the Petitioner did not offer any evidence or argument that the burden should shift to the Respondent. Likewise, the Respondent did not offer any insight regarding the burden issue. Thus, at hearing, the ALJ made a preliminary determination that the burden shifting provisions of Ind. Code § 6-1.1-15-17.2 do not apply and the burden remains with the Petitioner.

17. However, during the hearing, the Respondent offered the subject property's 2011 and 2012 record cards into evidence. The property record cards indicate that the assessment increased from $7,600 in 2011 to $11,000 in 2012, a 44.7% increase. *Resp't Ex. 11, 12.* Further, the Respondent's witness, Mr. Morris, offered testimony as to the reasons behind that increase. *Morris testimony.*

18. Again the Petitioner did not argue that the burden should shift to the Respondent, but the Board cannot ignore the evidence before it. Nor can the Board ignore the Respondent's related testimony and explanation of those documents. Thus, based on those unique facts, the Board finds that the burden shifting provisions of Ind. Code § 6-1.1-15-17.2 apply, and the burden rests with the Respondent. To the extent that the Petitioner seeks an assessment below the 2011 assessment, the Petitioner bears the burden of proving that that lower value. *See* Ind. Code § 6-1.1-15-17.2(b).

Analysis

19. The Respondent failed to make a prima facie case that the 2012 assessment was correct.

    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 a similar user, from the property." 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. *Id*. Assessing officials primarily use the cost approach. 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. *Id*. A taxpayer is permitted to offer evidence relevant to market value-in-use to rebut an assessed 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 the evidence relates to the appealed 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. Ass'r,* 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). For 2012 assessments, the assessment and valuation date were March 1, 2012. *See* Ind. Code § 6-1.1-4-4.5(f).

c) Here, the majority of the Respondent's defense of the assessment centered on the methodology used to arrive at the value. The Respondent offered testimony from Mr. Morris indicating that he used mass appraisal techniques such as common data, standardized methods, and statistical testing to arrive at the assessed value. But as the Indiana Tax Court has explained, strictly applying the Guidelines does not prove the assessed value is correct in an assessment appeal. *See Eckerling v. Wayne Twp. Ass'r*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006) (holding that taxpayers failed to make a case by simply focusing on the assessor's methodology rather than offering market value-in-use evidence).

d) Further, the Respondent's reliance on the sales-to-assessment ratio study (and the market adjustment factor derived from it) is misplaced. While the DLGF approved the ratio study, the Respondent failed to offer any authority for using a ratio study to prove an individual property's market value-in-use. In fact, the IAAO's Standard on Ratio Studies, which 50 IAC 27-1-4 incorporates by reference, prohibits using ratio studies for that purpose:

> Assessors, appeal boards, taxpayers, and taxing authorities can use ratio studies to evaluate the fairness of funding distributions, the merits of class action claims, or the degree of discrimination. . . **However, ratio study statistics cannot be used to judge the level of appraisal of an *individual* parcel.**

INTERNATIONAL ASSOCIATION OF ASSESSING OFFICIALS STANDARD ON RATIO STUDIES VERSION 17.03 Part 2.3 (Approved by IAAO Executive Board 07/21/2007) (bold added, italics in original).

e) The Respondent did offer some market-based evidence. Specifically, as part of her "sales analysis," the Respondent offered lists of sales that occurred in the same area as the subject property. According to Mr. Morris, those sales were used in calculating the subject property's base rate. The Board infers that the Respondent is attempting to prove the property's value by using the sales-comparison approach.

f) In order to use a sales comparison approach as evidence in an assessment appeal, however, the party must first show that the properties being examined are comparable to each other. Conclusory statements that a property is "similar" or "comparable" to another property are not probative evidence. *Long*, 821 N.E.2d at 470-471. Instead, one must identify the characteristics of the property under appeal and explain how those characteristics compare to the characteristics of the purportedly comparable properties. Similarly, one must explain how any differences between the properties affect their relative market value-in-use. *Id*.

g) Here, other than indicating whether the properties are on or off the water and have a view of the lake, the Respondent did little to compare the properties. And despite the fact that the sale prices of the unimproved lots in the analysis ranged from $3,000 to $30,000, the Respondent failed to offer any market-based adjustments for differences between the properties. Accordingly, the Respondent's sales analysis has little probative value.

h) The Respondent also offered an assessment comparison, arguing that the subject property is assessed uniformly with other properties in the neighborhood. Indeed, Ind. Code § 6.1-1-15-18(c)(2) allows a party to submit comparable property assessments to prove value. But other assessments do not automatically show the market value-in-use of the property under appeal. Just as when using the sales-comparison approach, the party relying on those assessments must use generally accepted appraisal methods to show that the other properties are comparable, and explain how any relevant differences affect the properties' value. *See* Ind. Code § 6.1-1-15-18(c)(2); *Indianapolis Racquet Club, Inc. v. Marion Co. Ass'r*, 15 N.E.3d 150 (Ind. Tax Ct. 2014); *see also Long supra* at 471 (finding sales data lacked probative value where the taxpayers did not explain how purportedly comparable properties compared to their property or how relevant differences affected value). The Respondent failed to show how the properties she presented were comparable to the subject property, nor did she explain how any differences affected the properties values. Thus, the Respondent's assessment comparison fell short of meeting those requirements set forth by *Long*.

i) Consequently, the Respondent failed to make a prima facie case that the 2012 assessment is correct. The 2012 assessment must be returned to its prior year's assessment of $7,600.

j) The Petitioners, however, requested a total value of $4,500, which is lower than the total 2011 assessment. The Board now turns to the Petitioner's evidence.

k) In an attempt to prove a lower value, the Petitioner offered assessment and sales data for nearby improved and unimproved parcels. The Petitioner's approach is similar to the Respondent's, however it is not quite as detailed. Like the Respondent, the Petitioner failed to indicate if generally accepted appraisal principles were applied to its analysis. The Petitioner also failed to offer sufficient evidence that the properties

presented are comparable to the subject property. Further, they failed to provide any analysis as to how relevant differences affect their values. *See Long*, 821 N.E.2d 466, 470, 471. Thus, the Petitioner failed to provide sufficient probative evidence to reduce the subject property's 2012 assessment below its 2011 value.

l) Because the Respondent failed to offer enough probative evidence to show the market value-in-use, she failed to make a prima facie case that the 2012 assessment is correct. Therefore, the Petitioner is entitled to have that assessment returned to its 2011 level of $7,600. The Petitioner sought an assessment lower than the previous year's assessment, however they failed to provide sufficient probative evidence to support lowering the assessment any further. Thus, the 2012 assessment must be reduced to $7,600.

Conclusion

20. The Respondent had the burden of proving the 2012 assessment was correct. She failed to make a prima facie case, thus the assessment must be reduced to the previous year's amount. The Petitioner sought an assessment lower than the 2011 value, but likewise failed to make a prima facie case. Thus, the Board orders that the subject property's 2012 assessment be reduced to the 2011 amount of $7,600.

Final Determination

In accordance with these findings and conclusions of law, the 2012 assessment must be changed to $7,600.

ISSUED: May 1, 2015

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Chairman, Indiana Board of Tax Review

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Commissioner, Indiana Board of Tax Review

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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>.