

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

Petition: 84-002-18-1-5-00633-19
Petitioner: Ryne Everett
Respondent: Vigo County Assessor
Parcel: 84-06-27-305-001.000-002
Assessment Year: 2018

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

PROCEDURAL HISTORY

1. Ryne Everett contested the 2018 assessment of his property located at 1200 S. 7th Street in Terre Haute. On June 5, 2019, the Vigo County Property Tax Assessment Board of Appeals (“PTABOA”) issued its final determination valuing the property at \$88,900 (\$6,900 for land and \$82,000 for improvements).
2. Everett timely filed a Form 131 petition with the Board and elected to proceed under our small claims procedures. On June 25, 2020, David Smith, our designated Administrative Law Judge (“ALJ”), held a telephonic hearing on Everett’s petition. Neither he nor the Board inspected the property.
3. Everett appeared pro se. Michael West represented the Assessor. Both were sworn as witnesses.

RECORD

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

Petitioner Exhibit A:	Beacon listing for subject
Petitioner Exhibit B:	Sales Disclosure Form (“SDF”) for November 30, 2017 sale of subject
Petitioner Exhibit C:	Purchase Agreement for November 30, 2017 sale of subject
Petitioner Exhibit D:	Zillow listing for subject
Petitioner Exhibit E:	Adjusted comparables (Appraisal view)
Petitioner Exhibit F:	Adjusted comparables (Sum view)
Petitioner Exhibit G:	Beacon listing for 1239 S. 7 th Street
Petitioner Exhibit H:	Beacon listing for 401 S. 5 th Street

Petitioner Exhibit I: Beacon listing for 1635 S. 4th Street
Petitioner Exhibit J: SDF for January 20, 2017 sale of 1239 S. 7th Street
Petitioner Exhibit K: SDF for April 28, 2017 sale of 401 S. 5th Street
Petitioner Exhibit L: SDF for March 2, 2017 sale of 1635 S. 4th Street

Respondent Exhibit 1: 2017 and 2018 Property Record Cards for subject
Respondent Exhibit 2: 2016 and 2018 GIS images of subject
Respondent Exhibit 3: SDF for October 21, 2016 sale of subject
Respondent Exhibit 4: SDF for November 30, 2017 sale of subject
Respondent Exhibit 5: Uniform Standards of Professional Appraisal Practice (“USPAP”) compliance statement

5. The official record for this matter also includes the following: (1) all pleadings, briefs, motions, and documents filed in this appeal; (2) all notices and orders issued by the Board or our ALJ; and (3) an audio recording of the hearing.

OBJECTIONS

6. The Assessor objected to the admission of Petitioner Exhibits D, E, and F. He argued that Exhibit D is neither reliable nor accurate because it is not an appraisal. The Assessor also argued the source of the adjustments made in Exhibits E and F is unknown, and that the value estimates they contain are not USPAP-compliant. Our ALJ took the objections under advisement.
7. We overrule the objections. With respect to Exhibit D, Everett explained he was offering it to show the marketing time required to sell the property, not as an estimate of value. He also clarified that he made the adjustments shown in Exhibits E and F using the Department of Local Government Finance’s (“DLGF”) Real Property Assessment Guidelines (“Guidelines”) and cost schedules for December 1, 2017. Finally, there is no requirement that evidence must comply with USPAP to be admissible. Parties may offer *any evidence relevant to a property’s true tax value* in an appeal before us. 2011 REAL PROPERTY ASSESSMENT MANUAL at 3. To the extent the Assessor disagreed with the reliability or accuracy of the information contained within any of the exhibits, he was free to try and impeach or rebut it.

BURDEN OF PROOF

8. 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—where the assessment under appeal represents an increase of more than 5% over the prior year’s assessment, or where it is above the level determined in a taxpayer’s successful appeal of the prior year’s assessment. I.C. § 6-1.1-15-17.2(b) and (d).

9. Here, the assessment increased from \$87,300 in 2017 to \$88,900 in 2018—an increase of less than 5%. Everett conceded that he therefore bears the burden of proof.

SUMMARY OF CONTENTIONS

10. **Everett's case:**

- a. The subject property is over-assessed. Everett purchased it for \$25,000 on November 30, 2017, one month before the January 1, 2018 assessment date. The seller listed the property on May 4, 2017 for \$39,900. This demonstrates that the property had market exposure before the sale. The purchase price is clearly a more accurate estimation of the property's value. *Everett testimony; Pet'r Exs. A, B, C, D.*
- b. The subject property is a single-family residential dwelling. Everett identified three 2017 sales of nearby properties for a comparison study. He used the DLGF's Guidelines and cost schedule for December 1, 2017, to compare the attributes of the subject with the three comparables, and he made adjustments using the tables in the Guidelines. Based on his adjustments, Everett's sales comparison approach produced a proposed assessed value of \$13,103. Everett could not remember whether he had seen an adjustment table for multi-family versus single-family dwellings, but he did adjust for the difference in the number of dwelling units in Comparable 1. The only reason that he attempted the sales comparison approach was because the Harrison Township Assessor requested it. *Everett testimony; Pet'r Exs. E-L.*

11. **The Assessor's case:**

- a. Everett has not proven that a reduction in the assessed value is warranted. The assessed value derived by the Assessor using the cost approach and the Guidelines is correct. Everett is using the Guidelines to make adjustments by averaging values from the tables, which is not appropriate when doing a sales comparison approach. Everett is requesting an assessed value that is half of his purchase price. He has failed to submit evidence to support that value or any reduction. *West testimony.*

ANALYSIS

12. Everett established a prima facie case supporting a reduction to the 2018 assessment. The Assessor failed to impeach Everett's evidence and failed to offer any probative valuation of his own to rebut Everett's prima facie case. The Board reached this decision for the following reasons:
- a. 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 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.

- b. All three standard appraisal approaches—the cost, sales-comparison, and income approaches—are “appropriate for determining true tax value.” MANUAL at 2. In an assessment appeal, parties may offer any evidence relevant to a property’s true tax value, including appraisals prepared in accordance with generally recognized appraisal principles. *Id.* at 3; *see also Eckerling v. Wayne Twp. Ass’r*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006) (reiterating that a market value-in-use appraisal that complies with USPAP is the most effective method for rebutting the presumption that an assessment is correct). Regardless of the appraisal method used, 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 this appeal is January 1, 2018. Ind. Code § 6-1.1-2-1.5(a).
- c. As discussed above, Everett has the burden of proving that the 2018 assessment is incorrect and what the correct assessment should be. He offered evidence regarding his 2017 purchase of the property and a sales comparison approach.
- d. The purchase price of a property can be the best evidence of its value. *Hubler Realty Co. v. Hendricks Co. Ass’r*, 938 N.E.2d 311, 315 (Ind. Tax Ct. 2010). In this case, Everett submitted evidence showing that he purchased the property for \$25,000 on November 30, 2017—approximately one month before the relevant valuation date. He also demonstrated that the subject property was on the market for more than six months before he purchased it. The Purchase Agreement and SDF further confirm that this was a valid arm’s-length transaction. The Assessor did not dispute any of these facts or otherwise attempt to impeach the evidence regarding Everett’s purchase. We therefore conclude the \$25,000 purchase price is probative evidence of the property’s market value-in-use as of January 1, 2018.
- e. Everett also submitted a sales comparison approach relying on the sales of three purportedly comparable properties. Based on his analysis, he proposed an assessed value of \$13,103. To effectively use a sales comparison approach, parties must show the properties are sufficiently comparable to the property under appeal. To establish that properties are comparable, the proponent 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. Similarly, the proponent must explain how any differences between the properties affect their relative market values-in-use. *Id.*
- f. Here, Everett’s evidentiary presentation was insufficient to demonstrate that any of the properties are truly comparable to the subject. Again, a proponent needs to give specific reasons explaining why they believe 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 the two properties. *Id.* at 470. While the properties Everett relied on may share similarities to the subject based on their location or property classification, he failed to discuss their characteristics in sufficient detail.

- g. Everett similarly failed to demonstrate that his adjustments comply with generally recognized appraisal principles. He relied on cost tables contained within the DLGF's Guidelines to calculate his adjustments. But he failed to explain how such wholesale borrowing of information intended for use in the mass-appraisal context complies with generally recognized appraisal principles when valuing an individual parcel. Thus, Everett's sales comparison approach is not probative valuation evidence. *See Grabbe v. Duff*, 1 N.E.3d 226, 231 (Ind. Tax Ct. 2013) (stating that the probative value of an opinion depends on whether the proponent of that opinion has shown that he adhered to generally recognized appraisal principles in formulating the opinion).
- h. Everett made a prima facie case that the 2018 assessment should be \$25,000. The burden therefore shifts to the Assessor to rebut Everett's valuation evidence. Here, however, the Assessor failed to offer any probative market-based evidence to support the current assessment. Instead, he merely argued that the assessed value he derived using the cost approach and the Guidelines is correct. But simply highlighting the methodology employed in the mass-appraisal context is insufficient when attempting to support the assessment of an individual parcel on appeal. To successfully make a case, parties must use market-based evidence to "demonstrate that their suggested value accurately reflects the property's true market value-in-use." *Eckerling*, 841 N.E.2d at 678.
- i. Because the Assessor did not offer any probative valuation evidence, he failed to rebut Everett's prima facie case. Accordingly, Everett is entitled to have his 2018 assessment reduced to \$25,000.

FINAL DETERMINATION

In accordance with the above findings of fact and conclusions of law, we order the 2018 assessment reduced to \$25,000.

ISSUED: July 29, 2020

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>>.