

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

Petition: 48-003-17-1-5-00737-18
Petitioner: Judalon J. Harris
Respondent: Madison County Assessor
Parcel: 48-11-15-201-022.000-003
Assessment Year: 2017

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

PROCEDURAL HISTORY

1. Judalon J. Harris contested the 2017 assessment of her property located at 1211 Morningside Drive in Anderson. The Madison County Property Tax Assessment Board of Appeals (“PTABOA”) issued a determination valuing the residential property as follows:

Land: \$17,900 Improvements: \$79,300 Total: \$97,200

2. Harris timely filed a Form 131 petition with the Board. On October 31, 2018, Joseph Stanford, our designated administrative law judge (“ALJ”) held a hearing on the petition under our small claims procedures.¹ Neither he nor the Board inspected Harris’s property.
3. Harris appeared pro se. The Assessor appeared by attorney Brian Cusimano. Harris, her son Isaac Harris, and Larry Perry, a coordinator for Nexus Group were sworn as witnesses.²

RECORD

4. The official record contains the following:
 - a) Exhibits:

Respondent Exhibit A: Property record card for Harris’s property
Respondent Exhibit B: Photograph of the front of Harris’s property.

¹ Harris was uncertain whether she had actually elected our small claims procedures when completing her Form 131 petition. Our ALJ ultimately conducted the hearing using our small claims procedures, to which neither party objected.

² Attorney Ayn K. Engle was present, but she did not participate in the hearing.

- b) The record also includes (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.

BURDEN OF PROOF

5. 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).
6. This assessment remained unchanged from 2016 to 2017. Therefore, Harris bears the burden of proof.

SUMMARY OF CONTENTIONS

7. Harris's case:
- a) The assessment is too high. Harris purchased the property for \$85,000 in December 2012. But she believes its correct value is closer to \$75,000 to \$77,000. Harris described her home as very attractive on the outside and alright on the inside, but she does not believe it is even worth the \$85,000 she paid for it. Shortly after buying the property, Harris searched for it on Zillow.com and discovered that it was valued at \$77,000 on that website. *J. Harris testimony.*
- b) An inspection performed when she bought the property failed to identify several problems with the house. The problems include:
- the large picture window is rotting and needs to be replaced;
 - the outside of the home contains two structural cracks—one in the front of the house and one in the three-season room;
 - the gas grill does not work;
 - there is structural damage to the chimney and it does not work;
 - the kitchen is completely outdated;
 - there is a wobbly toilet in her half-bath;
 - the master bathroom needs updating;
 - the ventilation system needs to be replaced;
 - the attic is drafty and the pull-down stairs to reach it are not working;
 - the concrete front step is damaged;
 - the home is not connected to the city, and the septic system has caused problems in the past;
 - the electric box is not up to code;
 - Isaac's window does not stay open;

- the water had to be shut off because the water heater was leaking and the rusty pipe burst;
- there are holes under the house where little critters can get in; and
- there is black mold all over the outdoor concrete.

J. Harris and I. Harris testimony.

- c) Harris has many pictures showing the home’s defects, but due to circumstances beyond her control, she was unable to bring them to the hearing. Harris estimated that it would require \$30,000 to \$40,000 in repairs for the value of the property to equal the current assessment. *J. Harris testimony.*

8. The Assessor’s case:

- a) This assessment is correct. The subject is an all-brick home with a C-1 grade that reflects the quality of its materials and architecture. And it has an average condition rating, which Perry thinks is accurate. After considering the building’s features and condition, the mass appraisal system was used to determine and trend its value. *Perry testimony; Resp’t Exs. A, B.*
- b) Harris purchased the property for \$85,000 in 2012. Its current assessment of \$97,200 reflects about 14% appreciation over the original purchase price, or roughly 2.5% per year. The annual increase is generally consistent with what has happened in the market between 2012 and 2017. *Perry testimony; Resp’t Ex. A.*
- c) The record lacks any documentation explaining how the problems with the home affect its value. *Cusimano argument.*

ANALYSIS

9. 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.
10. 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 the

Uniform Standards of Professional Appraisal Practice 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.* For 2017, the valuation date was January 1, 2017. Ind. Code § 6-1.1-2-1.5(a).

11. As explained above, Harris has the burden of proof. She presented testimony regarding numerous problems with her house, but she failed to offer any probative market-based evidence to support her requested valuation. While the issues with her home likely have a negative effect on its value, statements that are unsupported by probative evidence are conclusory and of no value to the Board in making its determination. *Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1118 (Ind. Tax Ct. 1998).
12. To the extent Harris was asserting that the \$85,000 purchase price shows a more correct value, we disagree. 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). However, Harris purchased the property more than four years prior to the relevant valuation date, and she failed to relate the purchase price to that date.
13. Similarly, the \$77,000 value reported by Zillow.com is not probative evidence of a more accurate assessed value for this property. Estimates posted on websites relying on unidentified data sources and employing unknown methodologies are simply not credible. Furthermore, Harris testified that she viewed the website shortly after buying the property, and she failed to relate Zillow.com's estimate to the relevant valuation date.
14. Because Harris offered no probative market-based evidence to demonstrate her property's correct market value-in use, she failed to make a prima facie case for reducing its 2017 assessment. Where a Petitioner has not supported her 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).

FINAL DETERMINATION

15. In accordance with the above findings of fact and conclusions of law, we find for the Assessor and order no change to this 2017 assessment.

ISSUED: April 2, 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 of 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>>.