

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

Petition: 52-012-19-1-5-00865-19
Petitioners: H. Richard & Suzanne M. Hawkins
Respondent: Miami County Assessor
Parcel: 52-07-13-100-006.000-012
Assessment Year: 2019

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

Procedural History

1. The Petitioners initiated their 2019 assessment appeal with the Miami County Assessor on June 10, 2019.
2. On August 29, 2019, the Miami County Property Tax Assessment Board of Appeals (PTABOA) issued its determination lowering the assessment, but not to the level the Petitioners requested.
3. The Petitioners timely filed a Petition for Review of Assessment (Form 131) with the Board, electing the Board's small claims procedures.
4. On December 17, 2019, Administrative Law Judge (ALJ) Joseph Stanford held the Board's administrative hearing. Neither the Board nor the ALJ inspected the property.
5. H. Richard Hawkins and County Assessor Karen LeMaster appeared *pro se*. Brian Thomas was a witness for the Respondent. All of them were sworn.¹

Facts

6. The property under appeal is a duplex-style rental home located at 3365 West 200 North in Peru. One of the two units is owner-occupied.
7. The PTABOA determined the 2019 total assessment was \$150,200 (land \$19,400 and improvements \$130,800).
8. The Petitioners did not request a specific total assessment but argued the total assessment "should not be in excess of \$120,000."

¹ Suzanne Hawkins was present but was not sworn and did not testify.

Record

9. The official record for this matter is made up of the following:

a) A digital recording of the hearing.

b) Exhibits:

- Petitioners Exhibit A0: Photographs of the subject property,
Petitioners Exhibit A1: Form 131,
Petitioners Exhibit A2: Exhibit cover sheet,
Petitioners Exhibit A3: Summary of historical changes to the assessment,
Petitioners Exhibit A4: Table indicating changes to the assessment,
Petitioners Exhibit A5: 2018 Notice of Assessment of Land and Structures/Improvements (Form 11) and subject property record card,
Petitioners Exhibit A6: 2019 Form 11 and subject property record card,
Petitioners Exhibit A7: First page of Taxpayers Notice to Initiate an Appeal (Form 130) filed June 10, 2019,
Petitioners Exhibit A8: First page of a second Form 130 for the subject property,²
Petitioners Exhibit A9: First four pages of an appraisal report for the subject property dated March 5, 2013,
Petitioners Exhibit A10: First four pages of an appraisal report for the subject property dated July 11, 2019,
Petitioners Exhibit A11: PTABOA hearing notice; second page of Notification of Final Assessment Determination (Form 115); aerial photograph of the subject property,
Petitioners Exhibit A12: First page of Form 115 and the property record card for the subject property,
Petitioners Exhibit B1: Form 131 for 3367 West 200 North,
Petitioners Exhibit B2: 2018 Form 11 and property record card for 3367 West 200 North,
Petitioners Exhibit B3: 2019 Form 11 and property record card for 3367 West 200 North,
Petitioners Exhibit B4: First page of Form 130 for 3367 West 200 North filed June 10, 2019,
Petitioners Exhibit B5: First page of a second Form 130 for 3367 West 200 North,³
Petitioners Exhibit B6: First and third pages of Form 115 and the property record card for 3367 West 200 North,
Petitioners Exhibit C1: Petitioners' conclusion.
Respondent Exhibit 1: Subject property record card,
Respondent Exhibit 2: Aerial photograph of the subject property,

² It is unclear if this Form 130 was filed.

³ It is unclear if this Form 130 was filed.

- Respondent Exhibit 3: Summary of contentions and a photograph of the subject property,
- Respondent Exhibit 4: Summary of the approach used to value the subject property,
- Respondent Exhibit 5: Multiple Listing Service (MLS) sheet for 502 and 508 West Canal in Peru,
- Respondent Exhibit 6: MLS sheet for 4197 South 00 East West in Kokomo,
- Respondent Exhibit 7: MLS sheet for 303 North Justus in Oxford,
- Respondent Exhibit 8: MLS sheet for 223 South Liberty Drive in Bremen,
- Respondent Exhibit 9: Questions regarding the Petitioners' July 11, 2019, appraisal,
- Respondent Exhibit 10: First four pages of Petitioners' appraisal dated July 11, 2019,
- Respondent Exhibit 11: Property record card and MLS sheet for 165 North Cass Street in Peru,
- Respondent Exhibit 12: Sales disclosure form and MLS sheet for 1804 and 1808 South Goyer Road in Kokomo; sales disclosure for 1324 South Waugh Street in Kokomo,
- Respondent Exhibit 13: Aerial photograph of 1320, 1326, and 1342 South Waugh Street in Kokomo.

- c) The record also includes the following: (1) all pleadings and documents filed in this appeal; (2) all orders and notices issued by the Board or ALJ; and (3) these findings and conclusions.

Contentions

- 10. Summary of the Petitioners' case:
 - a) The subject property's assessment is incorrect. In 2019 the Assessor changed the grade from D to C and in turn decreased depreciation from 38% to 30%. As a result, the assessment increased from \$131,800 to \$170,300. The PTABOA ultimately reduced the assessment to \$150,200. Based on two separate Housing and Urban Development (HUD) appraisals, the property "should not be assessed in excess of \$120,000." *Hawkins argument; Pet'r Ex. A.3, A.5, A.6, A9, A10, A12, C1.*
 - b) The first appraisal's valuation date is March 5, 2013. The appraiser developed the sales-comparison, income, and cost approaches to value, but relied mostly on the sales-comparison approach. The appraiser estimated the property's value at \$120,000.⁴ *Hawkins testimony; Pet'r Ex. A9.*
 - c) The second appraisal's valuation date is July 11, 2019. Again, the appraiser developed the sales-comparison, income, and cost approaches to value, but relied

⁴ The Petitioners only offered the first four pages of the seven-page appraisal. The appraiser's name, signature, certifications, and a statement as to whether the appraiser complied with the Uniform Standards of Professional Appraisal Practice (USPAP) are not part of the record.

mostly on the sales-comparison approach to estimate the property's value at \$103,000.⁵ *Hawkins testimony; Pet'r Ex. A10.*

- d) The Petitioners had an offer of \$90,000 for the property, but the "reverse mortgage company declined that offer because it required at least \$103,000." *Hawkins testimony.*

11. Summary of the Respondent's case:

- a) The current assessment is correct. The 2019 assessment increased because the grade was changed from D to C as part of the cyclical reassessment. During the informal appeal process, the Respondent realized she had not applied a negative influence factor that is part of the protocol for rental properties. Because that evidence was offered at the PTABOA hearing, the PTABOA lowered the assessment to the current level. *Thomas testimony; Resp't Ex. 1, 3.*
- b) During the appeal process, the Respondent requested lease and income information. In response, Mr. Hawkins stated that "identical units across the driveway rented for \$550 per month." Mr. Hawkins also offered an income figure of \$520 per month for the adjoining unit of the subject property. The adjoining unit of the subject property is 992 square feet and has two bedrooms and one bathroom. The owner-occupied unit is 1,640 square feet and has two bedrooms and two bathrooms. *Thomas testimony; Resp't Ex. 3, 4.*
- c) In support of the current assessment, the Respondent presented an income valuation of the subject property prepared by Mr. Thomas. Mr. Thomas developed a gross rent multiplier (GRM) and estimated the property's value at \$162,962. *Thomas testimony; Resp't Ex. 4.*
- d) In developing his analysis, Mr. Thomas identified four properties that, in his opinion, are as comparable as possible. The first property is located in a rural area of Miami County. This home has three bedrooms and two bathrooms and sold on March 8, 2016, for \$157,000. The gross rental income for this property was \$15,600, resulting in a GRM of 10.1. *Thomas testimony; Resp't Ex. 4, 5.*
- e) The second property is located in Howard County. This home has two bedrooms and one bathroom and sold for \$101,500 on June 18, 2018. The gross rental income was \$13,200, resulting in a GRM of 7.7. *Thomas testimony; Resp't Ex. 4, 6.*
- f) The third property is located in Benton County. This property is a two bedroom one bathroom home that sold for \$105,000 on May 30, 2018. The gross rental income was \$12,960, resulting in a GRM of 8.1. *Thomas testimony; Resp't Ex. 4, 7.*

⁵ Again, the Petitioners only offered the first four pages of the seven-page appraisal, so the appraiser's name, signature, certifications, and a statement as to whether the appraiser complied with USPAP are not part of the record.

- g) The fourth property, located in Marshall County, is a two bedroom one bathroom home. This property sold for \$119,500 on September 22, 2016. The gross rental income was \$12,600, resulting in a GRM of 9.5. *Thomas testimony; Resp't Ex. 4, 8.*
- h) The median GRM for all the properties utilized was 8.8. The median GRM of the second and third properties, the properties that sold in 2018, was 7.9. The median with the first property removed, because it has three bedrooms and two bathrooms, is 8.1. The median with the fourth property removed is 8.8, because it is an older sale and not in a rural county. For purposes of valuing the subject property, Mr. Thomas settled on a GRM of 8.4 in an effort to make sure it was not “artificially high.” *Thomas testimony; Resp't Ex. 4.*
- i) Mr. Thomas then estimated the annual gross income of the subject property. He used \$550 per month for the 992 square foot rental unit, based on the amount Mr. Hawkins supplied for the identical units across the driveway. Mr. Thomas then used a square foot rate of \$0.55 to compute a monthly rental rate of \$902 for the 1,640 square foot owner-occupied unit.⁶ Mr. Thomas added these totals together to arrive at a total monthly rental of \$1,452. Mr. Thomas estimated the annual gross income to be \$17,424. Multiplying the annual gross income by a GRM of 8.4 results in a value of \$146,362. After adding the \$16,600 “value of personal use outbuildings” on the property record card, the total property value is \$162,962. The Respondent is not arguing that the assessment be increased to that amount, but that the current assessment not be changed. *Thomas argument; Resp't Ex. 4.*
- j) The evidence presented by the Petitioners is flawed. Specifically, the 2019 appraisal states the typical marketing time for a property is 3-6 months, but the appraiser used sales that were on the market for less than 20 days. The appraiser used a two-story home built in 1870 and compared it to ranch-style houses. The appraiser failed to indicate how he calculated a monthly income of \$1,200 for the subject property. Finally, the Petitioners failed to offer the entire appraisal. The omitted pages would indicate the scope of work, intended use, definition of market value, assumptions and limiting conditions, and the appraiser’s credentials and signature. *Thomas argument; Resp't Ex. 9, 10, 11, 12.*

Burden of Proof

12. 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 creates two exceptions to that rule.
13. 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

⁶ \$550 divided by 992 square feet is \$0.55 per square foot.

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 appeal taken to the Indiana board of tax review or to the Indiana tax court.” Ind. Code § 6-1.1-15-17.2(b).

14. Second, Ind. Code § 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 was effective March 25, 2014, and has application to all appeals pending before the Board.
15. Here, the Respondent accepted the burden of proof. The assessment increased from \$131,800 in 2018 to \$150,200 in 2019, an increase of 14%. Thus, the burden of proof is on the Respondent.

Analysis

16. The Respondent did not make a prima facie case that the 2019 assessment is correct. The Petitioners failed to make a case for any further reduction below the 2018 level.
 - a) Real property is assessed based on its market value-in-use. 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. Assessing officials primarily use the cost approach, but other evidence is permitted to prove an accurate 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 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 a 2019 assessment, the valuation date was January 1, 2019. *See* Ind. Code § 6-1.1-2-1.5.
 - c) As discussed above, the Respondent has the burden to prove the assessment is correct. In an attempt to meet that burden, the Respondent presented an analysis prepared by Mr. Thomas. Mr. Thomas developed a GRM and valued the property at \$162,962.

- d) The GRM is the “preferred” method of valuing properties with between one and four residential rental units. Ind. Code § 6-1.1-4-39(b). Indiana has not defined the term GRM by statute or regulation, but it is a commonly used appraisal term. The GRM method develops an income multiplier by looking to market data for sales of comparable income-producing properties and calculates the ratio of the sale price to the gross income at the time of sale. An opinion of value can then be calculated by multiplying the GRM by the annual income base for the subject property.
- e) The GRM eliminates the complex value adjustments required by the sales comparison approach by assuming differences between the properties are reflected in their respective rental rates. However, in order to derive and apply a reliable GRM for valuation purposes the properties analyzed must still be comparable to the subject property and to one another in terms of physical, locational, and investment characteristics. To establish properties are comparable, a party 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. Specific reasons must be provided as to why a proponent believes 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 two properties. *Id.* at 470.
- f) Here, the Respondent disclosed the four purportedly comparable properties used to compute the GRM. The Respondent offered a property record card and MLS sheet for each, along with testimony and documentation as to the county where each property is located, whether each is located in a rural area, and how many bedrooms and bathrooms are in each property. But the properties are not all the same as the subject property in the characteristics Mr. Thomas identified. And the record reveals little regarding the properties’ relative conditions or amenities as compared to the subject property. Additionally, the analysis lacks a detailed description of how the properties’ locations are comparable, and lacks any meaningful analysis regarding the properties’ investment characteristics. Thus, the Board is not persuaded that the properties are comparable.
- g) Further, while the Respondent offered some analysis regarding the selection of a GRM, there is little support for the final determination of 8.4. True, the Respondent computed a median GRM for all four properties, and computed the GRMs for groupings of two or three of the properties, but none of the GRMs in the analysis equal 8.4. The GRMs for the two properties that sold closest to the valuation date in question appear to be 7.7 and 8.1. As part of making a prima facie case, “it is the taxpayer’s duty to walk the [Board] through every element of [its] analysis.” *Long*, 821 N.E.2d at 471 (*quoting Clark v. Dep’t of Local Gov’t Fin.*, 779 N.E.2d 1277, 1282 n.4 (Ind. Tax Ct. 2002)). This requirement applies equally to a Respondent bearing the burden. Here, the Respondent failed to connect the final dots in support of the selection of a GRM of 8.4.

- h) Finally, there is not sufficient support for the rental rates and annual income the Respondent computed and relied upon. For the 992 square foot rental unit, the Respondent based the monthly rental rate of \$550 per month, or \$0.55 per square foot per month, solely on the rate Mr. Hawkins gave for the Petitioners' "identical units across the driveway." While it could be argued the units across the driveway are comparable, fulfilling the requirement to base the GRM on market income data requires looking at more than one other property.
- i) As for the 1,640 square foot owner-occupied unit, the Respondent based the \$902 per month rental rate on the same \$0.55 per square foot. But Mr. Thomas offered no evidence to support his assumption the square foot rental rate would be the same for a unit nearly twice as large. Indeed, that assumption appears to disregard the concept of economies of scale, which suggests that as the size of the unit increases, the square-foot rental rate decreases.
- j) For the reasons set forth, the Respondent failed to make a prima facie case the assessment is correct. Therefore, the Petitioners are entitled to have their 2019 assessment reduced to the 2018 level of \$131,800. But the Board's inquiry does not end there, because the Petitioners requested a value "not in excess of \$120,000." Thus, the Board now turns to the Petitioners' evidence.
- k) The Petitioners offered selected pages from two different appraisals. The first appraisal estimates the value of the property at \$120,000, as of March 5, 2013. Even if the Petitioners had offered the entire appraisal, its effective date is nearly six years before the valuation date in question with nothing relating it to that date. Thus, it lacks probative value.
- l) The second appraisal estimates the value of the property at \$103,000, as of July 11, 2019. While this date is six months past the relevant valuation date, it still could give some indication of the value on that date.
- m) The appraisal states the assignment type is a "HUD Pre-Foreclosure Sale (PFS)." In the four pages of the appraisal the Petitioners submitted, the appraiser does not discuss how this affected his or her value determination. Moreover, the Petitioners did not submit the pages of the appraisal containing the appraiser's signature, certifications, whether the appraiser complied with USPAP, and the appraiser's assumptions and definition of market value. The Petitioners offered no testimony or explanation regarding any of these things, and the appraiser did not appear at the hearing to testify.
- n) The Board cannot simply make assumptions regarding these important facts and issues not included in the record. As such, this appraisal report also lacks probative value, and the Petitioners therefore failed to make a prima facie case for reducing the 2019 assessment any lower than \$131,800.

Conclusion

17. The Respondent failed to make a prima facie case the 2019 assessment is correct. As a result assessment must be reduced to the 2018 level of \$131,800. The Petitioners failed to make a case for any further reduction.

Final Determination

In accordance with the above findings and conclusions, the 2019 assessment must be reduced to \$131,800.

ISSUED: April 15, 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>>.