

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

Petition: 79-004-18-1-5-00503-19
Petitioner: Josh Krachinski
Respondent: Tippecanoe County Assessor
Parcel: 79-07-32-155-012.000-004
Assessment Year: 2018

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

PROCEDURAL HISTORY

1. Mr. Krachinski contested the 2018 assessment of his property located at 319 Weeping Willow Lane in Lafayette. The Tippecanoe County Property Tax Assessment Board of Appeals (“PTABOA”) issued its determination on May 1, 2019, valuing the unimproved parcel at \$29,400.
2. Mr. Krachinski filed a Form 131 petition with the Board and elected to proceed under the Board’s small claims procedures. On October 30, 2019, Ms. Jennifer Thuma, the Board’s designated administrative law judge (“ALJ”), held a hearing on Mr. Krachinski’s petition. Neither she nor the Board inspected the property.
3. Mr. Krachinski appeared *pro se*. The Tippecanoe County Assessor, Eric Grossman represented himself. Mr Krachinski, Mr. Grossman, and Chris Coakes, the Assessor’s valuation specialist, were sworn as witnesses.
4. The parties submitted the following exhibits:

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| Petitioner Exhibit A: | Narrative of Argument & Contractor Estimates, |
| Petitioner Exhibit B: | Narrative of Argument & Summary Report, |
| Petitioner Exhibit C: | Narrative of Argument & Beacon Documents, |
| | |
| Respondent Exhibit 1: | Narrative, |
| Respondent Exhibit 2: | Subject Property Record Card-2019, |
| Respondent Exhibit 3: | Subject Property Record Card-2006, |
| Respondent Exhibit 4: | Excerpts from the Indiana Code. |
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 the ALJ; (3) an audio recording of the hearing.

SUMMARY OF CONTENTIONS

6. Mr. Krachinski presented the following case:
 - a. Mr. Krachinski testified that the subject property was a hilly and wooded vacant lot that needed to be cleared and leveled before anything could be built. He provided estimates from three contractors showing the cost of this work. These ranged from \$337,811 to \$428,500. He explored buying adjacent land to augment the subject property but was unable to find a willing seller. He argued that in its current state the subject property was just providing green space for the neighborhood while he incurred the costs of mowing and maintenance. He claimed the subject property should be assessed at \$500. *Pet'r Ex. A, B; Mr. Krachinski testimony.*
 - b. Mr. Krachinski also argued that the “developer discount” had been mistakenly removed from the subject property. He requested that this be added back to his assessment. *Pet'r Ex. C; Mr. Krachinski testimony.*
 - c. Finally, Mr. Krachinski, pointed to three other nearby lots that he claimed were similar to the subject property. These were assessed at \$8500, \$12,000 and \$15,000. *Pet'r Ex. B; Mr. Krachinski testimony.*
7. The Assessor presented the following case:
 - a. The Assessor requested no change to the assessment. He noted that although Mr. Krachinski had requested an assessment of \$500, he had offered no evidence of properties that sold for or were assessed for that amount. The Assessor also testified that the subject property was a residential parcel in a relatively newly platted neighborhood while the comparables offered by Mr. Krachinski were in much older neighborhoods in industrial areas. For that reason, he argued they were not comparable. The Assessor also argued that it was not clear what scope of work was used to develop the contractor estimates for the site work. *Mr. Grossman testimony.*
 - b. In addition, the Assessor explained that Indiana Code 6-1.1-4-12, commonly referred to as the developer discount, does not mandate a specific value be applied to the subject property. Rather, it provides that a property purchased for development cannot be reassessed until certain triggering events occur, such as construction of a building. The Assessor testified that the subject property was classified as residential in 2007 when Mr. Krachinski purchased it and, it held that classification through the 2018 assessment. Thus, the subject property was receiving the “developer discount.” *Mr. Grossman testimony; Resp't Exs. 2, 3.*

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 five percent 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. Indiana Code § 6-1.1-15-17.2(b) and (d).

9. The assessment of this property did not change from 2017 to 2018. Both parties agreed that Mr. Krachinski had the burden of proof in this case. We agree.

ANALYSIS

10. Mr. Krachinski did not make a prima facie case for reducing the property's 2018 assessment. 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." Indiana Code § 6-1.1-31-6(c) and Indiana Code § 6-1.1-31-6 (e). It is instead determined under the rules of the Department of Local Government Finance ("DLGF") in accordance with Indiana Code § 6-1.1-31-5(a); Indiana Code § 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 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.* The assessment valuation date for 2018 was January 1 in accordance with Indiana Code § 6-1.1-2-1.5(a).
 - c. While Mr. Krachinski argued that the property's assessment should be \$500, he did not present any probative market-based evidence to support that value. For the comparable assessments he did present, Mr. Krachinski failed to explain how relevant differences between the subject property and the purportedly comparable properties affected their market value-in-use as required by *Long*. *See Long* at 471. In contrast, the Assessor pointed out several differences between the comparables and the subject, including the age of the neighborhoods and the proximity of industrial areas.
 - d. Mr. Krachinski also argued that the "developer discount" had been removed and should be added back to the property. As the Assessor pointed out, the term

“developer’s discount” can be misleading. The intent, as explained by the Indiana Tax Court, is to encourage developers to buy farmland, subdivide it into lots and resell the lots. *Aboite Corp. v. State Bd. of Tax Comm’rs*, 762 N.E. 2d 254, 257 (Ind. Tax Ct. 2001). Allowing property to maintain agricultural values, which are generally lower than other classifications of properties, encourages development. Indiana Code §6-1.1-4-12 (i) does not mandate that a parcel purchased for development receive an agricultural land value but instead provides a limitation on when qualifying land held by a developer in inventory is allowed to be reassessed. Until one of the specified events happens, the prior assessment classification is maintained. *See also Howser Development, LLC v. Vienna Twp. Assessor*, 833 N.E. 2d 1108, 1110 (Ind. Tax Ct. 2005).

- e. Although he claimed the developer discount had been removed, Mr. Krachinski offered no evidence to support this conclusory statement. We credit the Assessor’s testimony that the subject property had not been reassessed, and thus was still receiving the developer discount.
- f. We acknowledge the subject property’s unusual topography may affect its value, but merely showing infirmities in the subject property is insufficient. Mr. Krachinski needed to offer affirmative evidence showing what the value should be. None of the evidence supported Mr. Krachinski’s claim that the subject property should be assessed at \$500, nor was it sufficient to support any other value. Thus, Mr. Krachinski failed to present a prima facie case for any reduction in the subject property’s 2018 assesment. Where a petitioner has not supported his 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

In accordance with the above findings of fact and conclusions of law, the Board finds for the Assessor and orders no change to the subject property’s 2018 assessment.

ISSUED: January 27, 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>>.