

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

Petition: 64-006-16-1-5-00492-17
Petitioner: Dominic Olivadoti
Respondent: Porter County Assessor
Parcel: 64-06-36-476-002.000-006¹
Assessment Year: 2016

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

Procedural History

1. Petitioner initiated his appeal with the Porter County Property Tax Assessment Board of Appeals (“PTABOA”) on August 26, 2016. The PTABOA issued its final determination on April 6, 2017. Petitioner timely filed his petition with the Board on May 4, 2017.
2. Petitioner elected to have the appeal heard under the Board’s small claims procedures. Respondent did not elect to have the appeal removed from those procedures.
3. Ellen Yuhan, the Board’s Administrative Law Judge (“ALJ”), held a hearing on December 14, 2017. Neither the ALJ nor the Board inspected the property.
4. Petitioner Dominic Olivadoti and his tenant, Ginger Stanwick, were sworn and testified. Mary Dambek, Porter County Deputy Commercial Assessor, was sworn and testified for Respondent.

Facts

5. The subject property is a single-family rental home located at 610 North 90 East in Valparaiso.
6. For 2016, the property was assessed at \$34,300 for the land and \$112,800 for the improvements for a total of \$147,100.
7. Petitioner requested the property be assessed using the gross rent multiplier (“GRM”) method.

¹ While the Form 131 shows the subject parcel number as 64-06-36-002.000-006, the property record card and sales disclosure form show it as 64-06-36-476-002.000-006.

Record

8. The official record contains the following:

a. A digital recording of the hearing

b. Exhibits:

Petitioner Exhibit 1: Allen County Assessor's Office GRMs 2017 pay 2018,

Petitioner Exhibit 2: St. Joseph County Residential Rental GRMs,

Respondent Exhibit 1: Subject property record card,

Respondent Exhibit 2: Sales disclosure form,

Respondent Exhibit 3: Photographs of the subject property,

Respondent Exhibit 4: Lease agreement for the subject property,

Respondent Exhibit 5: Multiple Listing Service average rental amounts 1/1/2015 to 1/1/2016,

Respondent Exhibit 6: Vendor GRM sheet,

Respondent Exhibit 7: Rents for single-family homes,

Board Exhibit A: Form 131 petition with attachments,

Board Exhibit B: Notice of hearing,

Board Exhibit C: Hearing sign-in sheet,

c. These Findings and Conclusions.

Burden

9. Generally, a taxpayer seeking review of an assessing official's determination has the burden of proving that a property's assessment is wrong and what the correct assessment should be. *See Meridian Towers East & West v. Washington Twp. Assessor*, 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). A burden-shifting statute creates two exceptions to that rule.
10. 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).
11. 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 Ind. Code § 6-1.1-15,” except where the property was valued using the income capitalization approach in the appeal. Under subsection (d), “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).

12. These provisions may not apply if there was a change in improvements, zoning, or use. Ind. Code § 6-1.1-15-17.2(c).
13. The assessed value increased from \$140,900 in 2015 to \$147,100 in 2016, or approximately 4.4%. Petitioner therefore has the burden of proof.

Summary of Contentions

14. Petitioner’s case:
 - a. The subject property is a single-family rental property that Petitioner contends is over-assessed. He contends he purchased the property as an investment, that it is currently being rented, and that he has no plans to live there. *Olivadoti testimony.*
 - b. He contends that the house has many deficiencies. For example, the house is only equipped with 60 amp electric service while most people have 200 amp service. Furthermore, the roof leaks and the septic system is such that it can only accommodate two people. As a result, Petitioner contends the property could not be rented for the \$1,000 per month which Respondent claims should be the market rent. *Olivadoti testimony.*
 - c. Petitioner contends that, according to a state memorandum, the preferred method for valuing single-family and small multi-family residential rental properties is the GRM method. He contends this method creates a direct relationship between the gross rent generated by the rental property and the sales price, or market value. *Olivadoti testimony.*
 - d. Petitioner contends he was unable to obtain GRM information from Porter County but was able to get GRM information from Allen and St. Joseph counties. He claims those counties have a process for developing a multiplying factor which they then multiply by the property’s monthly rent to arrive at a value. Taking the highest GRM from Allen County of 120 and multiplying it by the subject property’s monthly rent of \$550 results in a value of \$66,000. *Olivadoti testimony; Pet’r Exs. 1 & 2.*
15. Respondent’s case:

- a. Ms. Dambek contends Petitioner paid \$280,000 for the property at a tax sale. She claims Petitioner did not purchase the property as an investment because an investor would not rent the property for \$550 per month but would charge an amount closer to the market rent of \$1,000 per month. *Dambek testimony; Resp't Exs. 2, 4 & 6.*
- b. Ms. Dambek does not disagree with applying the GRM method to Petitioner's property, but contends it must be based on market rent in order to be fair and equitable. She claims Petitioner's rent is not market rent. *Dambek testimony; Resp't Ex. 6.*
- c. Ms. Dambek contends Porter County does not post its GRM information online because of budget restrictions. That said, she contends she offered the Porter County GRM information to Petitioner in person. *Dambek testimony.*

ANALYSIS

16. Petitioner failed to establish a prima facie case for a reduction in assessed value. The Board reached this decision for the following reasons:
 - 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 by a similar user, from the property." 2011 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.4-1-2); *see also* Ind. Code § 6-1.1-31-6(c). The cost approach, the sales comparison approach, and the income approach are three generally accepted techniques used to calculate market value-in-use. MANUAL at 2. Assessing officials primarily use the cost approach. MANUAL at 3. 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. MANUAL at 2. Any evidence relevant to the true tax value of the property as of the assessment date may be presented to rebut the presumption of correctness of the assessment, including an appraisal prepared in accordance with generally recognized appraisal standards. MANUAL at 3.
 - b. Regardless of the method used to prove a property's true tax value, a party must explain how its evidence relates to the subject 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. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). The valuation date and assessment date for 2016 was January 1, 2016. Ind. Code § 6-1.1-2-1.5.
 - c. In Indiana, the GRM method is the preferred method of valuing real property that has one to four residential rental units. *See* Ind. Code § 6-1.1-4-39(b). The GRM method develops an income multiplier by identifying 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 the sale. An opinion of value can then be calculated by multiplying the GRM by the annual income base for the subject property.

- d. The GRM method 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, geographic, and investment characteristics. To establish that 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.
- e. Petitioner contends applying a multiplier of 120, which is the highest GRM for Allen County, to the subject property’s contract rent of \$550 would result in an appropriate assessed value of \$66,000. However, he did not attempt to identify any relevant similarities or account for any differences between the properties in Allen County and the subject property, nor did he show how an Allen County GRM of 120 is applicable to the subject property which is located in Porter County. Petitioner also used contract rent as opposed to market rent in his calculation. In light of these considerations, Petitioner failed to show that the assessed value is incorrect.
- f. Petitioner failed to make a prima facie case for a lower assessment. Where a petitioner does not support his claim with probative evidence, the respondent’s duty to support the assessment with substantial evidence is not triggered. *Lacy Diversified Indus. Ltd. v. Dep’t of Local Gov’t Fin.*, 799 N.E. 2d 1215, 1221-22 (Ind. Tax Ct. 2003).

CONCLUSION

- 17. Petitioner failed to make a prima facie case for reducing the 2016 assessed value and the Board finds for Respondent.

FINAL DETERMINATION

In accordance with the above findings of fact and conclusions of law, the Board determines that the 2016 assessed value should not be changed.

ISSUED: May 14, 2018

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>>.