

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

Petition: 53-013-18-1-5-00997-18
Petitioner: Chris Parr
Respondent: Monroe County Assessor
Parcel: 53-04-10-301-029.000-013
Assessment Year: 2018

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

Procedural History

1. The Petitioner initiated his 2018 assessment appeal with the Monroe County Assessor on May 15, 2018.
2. On August 3, 2018, the Monroe County Property Tax Assessment Board of Appeals (PTABOA) issued its determination denying the Petitioner any relief.
3. The Petitioner timely filed a Petition for Review of Assessment (Form 131) with the Board electing small claims procedures.
4. The Board issued a notice of hearing on May 1, 2019.
5. Administrative Law Judge (ALJ) Timothy Schuster held the Board's administrative hearing on June 11, 2019. Neither the Board nor the ALJ inspected the property.
6. Chris Parr appeared *pro se* and was sworn. Attorney Marilyn Meighen appeared for the Respondent. Consultant Ken Surface was sworn as a witness for the Respondent.¹

Facts

7. The property under appeal is a residential rental property located at 203 West Oak Street in Ellettsville.
8. The PTABOA determined the total assessment is \$200,600 (land \$17,100 and improvements \$183,500).
9. The Petitioner requested a total assessment of \$160,000 (land \$10,000 and improvements \$150,000).

¹ County Assessor Judith A. Sharp was present but was not sworn and did not testify.

Record

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

a) A digital recording of the hearing.

b) Exhibits:

Petitioner Exhibit 1: 2006-2018 assessed valuations for the subject property,
Petitioner Exhibit 2: 2018 Balance Sheet for the subject property (**confidential**),
Petitioner Exhibit 3: 2018 Balance Sheet for Forrest Green (**confidential**),
Petitioner Exhibit 4: Exterior photograph of Forrest Green,
Petitioner Exhibits 5-10: Interior photographs of Forrest Green,
Petitioner Exhibits 11-13: Requested repairs for Forrest Green,
Petitioner Exhibit 14: Purchaser's Statement for Forrest Green,
Petitioner Exhibit 15: 2018 Balance Sheet for Monroe Square (**confidential**),
Petitioner Exhibits 16-19: Purchase agreement for Monroe Square,²
Petitioner Exhibit 20: Buyer's Inspection Response #1 for Monroe Square,
Petitioner Exhibit 21: Buyer's Inspection Response #2 for Monroe Square.

Respondent Exhibit A: Subject property record card,
Respondent Exhibit B: Neighborhood factor calculation,
Respondent Exhibit C: Version A - Real Property Assessment Guideline,
Appendix B, pages 8 and 9.

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

Objections

11. Ms. Meighen objected to Petitioner's Exhibits 3-21, arguing that they are irrelevant. More specifically, Ms. Meighen argued these exhibits relate to other properties Mr. Parr owns, referred to by Mr. Parr as Forrest Green and Monroe Square. Mr. Parr agreed, but stated he was under the impression all of his appeals were consolidated and being heard together. The ALJ explained that the only property under appeal was 203 West Oak Street and Ms. Meighen's objections were taken under advisement.
12. Given that the subject property is an income-producing property, it is possible that certain income and expense data for other properties could be relevant to the subject property's valuation. But Mr. Parr did not argue that Petitioner's Exhibits 3-21 were relevant to the subject property. In fact, as discussed below, he argued the opposite; an investor would only consider the income stream of a particular property in deciding how much to pay for it. While the Board is convinced these exhibits are irrelevant to this appeal, the

² The Board notes that Petitioner's Exhibits 16-19 includes five pages, not four, as referenced by the parties at the hearing.

objections still go to the weight of the evidence rather than the admissibility. Consequently, the objections are overruled and the exhibits are admitted. The Board notes this ruling has no effect on the final determination.

Contentions

13. Summary of the Petitioner's case:

- a) The subject property is over-assessed. The income from this property is not increasing, but the expenses are. For this reason the assessed value should not be increasing. The Respondent has failed to offer any income or comparable property evidence explaining why the assessment increased in 2018. *Parr argument; Pet'r Ex. 1, 2.*
- b) A prudent investor does not consider the evidence presented by the Respondent, or market income and expense evidence, when purchasing an income-producing property. Instead, an investor considers the income stream of a particular property and then decides what they are willing to pay. *Parr argument.*
- c) The subject property was purchased in 2014 for \$260,000. The property was purchased as part of "a package (with) another piece of property." The property was listed at a "higher price" prior to the sale in 2014, but failed to sell because the interior is old and dated. *Parr testimony (referencing Resp't Ex. A).*

14. Summary of the Respondent's case:

- a) The subject property is correctly assessed. The 2018 assessment increased as a result of annual adjustments made on all valuations. *Meighen argument; Surface testimony; Resp't Ex. B.*
- b) The Respondent performed a ratio study utilizing eight sales from the subject property's neighborhood. The Respondent took "the summation of the sale price minus the land assessed values for all the sales (and divided it by) the summation of all the improvement values of the sold properties after the depreciation." This calculation resulted in a factor of 1.68. Because a few sales skewed the overall calculated factor, the Respondent settled on a factor of 1.40. Applying that factor to the subject property resulted in an overall assessment increase from \$193,400 in 2017 to \$200,600 in 2018. *Surface testimony; Resp't Ex. A, B.*
- c) The Respondent did not determine the 2018 assessment by using the income approach because she did not have current income and expense data. The adjustment process described above is in accordance with the Guidelines, and it employs market data. The Respondent is required to consider market data, and not just the subject property's own income and expenses, in assessing property. *Surface testimony; Meighen argument (citing Indiana MHC, LLC v. Scott Co. Ass'r, 987 N.E.2d 1182 (Ind. Tax Ct. 2013)).*

Burden of Proof

15. 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.
16. 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).
17. 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 for 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.
18. Here, the Respondent, who was represented by counsel, accepted the burden of proof. The Board accepts the Respondent’s concession without further review and places the burden of proof on the Respondent to prove the assessment is correct.

Analysis

19. The Respondent failed to make a prima facie case that the 2018 assessment is correct:
 - 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 2018 assessment, the valuation date was January 1, 2018. *See* Ind. Code § 6-1.1-2-1.5.
- c) In an effort to support the current assessment, the Respondent presented a 2018 ratio study for the subject property's neighborhood. According to the Respondent, the 2018 assessment increased based on the results of the neighborhood ratio study. Mr. Surface identified eight properties utilized in the ratio study and he gave a summation on how the neighborhood factor was calculated and applied to the cost-based assessment. The Respondent, however, failed to offer any support for the notion that a ratio study may be used to prove that an individual property's assessment reflects its market value-in-use. Indeed, the International Association of Assessing Officials Standard on Ratio Studies, which 50 IAC 27-1-44 incorporates by reference, says otherwise:

Assessors, appeal boards, taxpayers, and taxing authorities can use ratio studies to evaluate the fairness of funding distributions, the merits of class action claims, or the degree of discrimination. . . . **However, the ratio study statistics cannot be used to judge the level of appraisal of an *individual* parcel.** Such statistics can be used to adjust assessed values on appealed properties to a common level.

INTERNATIONAL ASSOCIATION OF ASSESSING OFFICIALS STANDARD ON RATIO STUDIES, VERSION 17.03 Part 2.3 (Approved by IAAO Executive Board 7/21/2007) (bold added, italics in original).

- d) The Respondent's burden is not merely to explain why the assessment increased. Instead, the Respondent must offer probative evidence proving the subject property's market value-in-use. *See* Ind. Code § 6-1.1-15-17.2. Here, the Respondent failed to do that. As a result, she failed to make a prima face case that the 2018 assessment is correct. Therefore, the Petitioner is entitled to have his assessment returned to its 2017 level of \$193,400.
- e) The Board's inquiry does not end there because the Petitioner requested a total assessment of \$160,000. The Petitioner failed to present any probative evidence supporting this value.³ While Mr. Parr testified he purchased the property in 2014 for \$260,000, this purchase price included another property, and the sale occurred nearly four years before the 2018 valuation date. Thus, the purchase price is not probative evidence here. Accordingly, the Petitioner failed to make a case for any further reduction in the assessment.

³ The Petitioner failed to explain how any of the evidence he presented had any bearing on his requested amount. Mr. Parr presented a "balance sheet" for the subject property listing assets and liabilities, but failed to provide any income capitalization computation.

Conclusion

20. The Respondent had the burden of proving the 2018 assessment was correct, but failed to make a prima facie case. Therefore, the assessment must be reduced to the 2017 level of \$193,400. The Petitioner requested a lower value, but failed to make a case for any further reduction in the assessment.

Final Determination

In accordance with these findings and conclusions, the 2018 assessment must be reduced to \$193,400.

ISSUED: October 22, 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>>.