

REPRESENTATIVE FOR PETITIONER:

Parl Robinson, *pro-se*

REPRESENTATIVE FOR RESPONDENT:

F. John Rogers, Attorney

**BEFORE THE  
INDIANA BOARD OF TAX REVIEW**

Parl C. Robinson,	)	Petition No. 02-072-12-1-5-00034
	)	
Petitioner,	)	Parcel No. 02-08-08-480-001.000-072
	)	
v.	)	Allen County
	)	
Allen County Assessor,	)	St. Joseph Township
	)	
Respondent.	)	2012 Assessment

Appeal from the Final Determination of the  
Allen County Property Tax Assessment Board of Appeals

**November 27, 2013**

**FINAL DETERMINATION**

The Indiana Board of Tax Review (“Board”), having reviewed the facts and evidence, and having considered the issues, now finds and concludes the following:

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

**Case Summary**

1. Because the subject property’s 2012 assessment increased by more than 5% over its assessment for the previous year, the Allen County Assessor had the burden of proof. Her approach to proving the market value-in-use—simply describing how she assessed the property under the relevant assessment regulations—did not suffice to carry that

burden. The Petitioner, Parl Robinson, is therefore entitled to have the property's 2012 assessment reduced to its 2011 level. Mr. Robinson, however, failed to offer probative evidence to support any further reduction.

### **Procedural History**

2. Mr. Robinson filed a Form 130 petition with the Allen County Assessor contesting his property's 2012 assessment. On September 27, 2012, the Allen County Property Tax Assessment Board of Appeals ("PTABOA") issued its determination denying Mr. Robinson relief. Mr. Robinson then timely filed a Form 131 petition with the Board.
3. On June 20, 2013, the Board's administrative law judge, Jennifer Bippus ("ALJ"), held a hearing. Mr. Robinson testified under oath, as did Timothy Nagel, a deputy assessor. Neither the Board nor the ALJ inspected the property.
4. Mr. Robinson submitted the following exhibits:
  - Petitioner Exhibit 1: Summary of Mr. Robinson's contentions, titled *Belief that Assessment is Incorrect*
  - Petitioner Exhibit 2: The Assessor's land study for Brookside Estates
  - Petitioner Exhibit 3: Property record card for 7124 Saint Joe Road
  - Petitioner Exhibit 4: Property record card for the subject property
  - Petitioner Exhibit 5: Property record card for 4719 Ashland Drive
5. The Assessor submitted the following exhibits:
  - Respondent Exhibit 1: Summary of the Assessor's contentions, titled *Respondent's Position Statement*
  - Respondent Exhibit 2: Property record card for the subject property
  - Respondent Exhibit 3: Aerial photograph that includes the subject property
  - Respondent Exhibit 4: 2011 Real Property Assessment Guidelines, pages 12-13
  - Respondent Exhibit 5: Land study for Brookside Estates
  - Respondent Exhibit 6: Multiple Listing Service listing for the subject property
6. The following items are also part of the record:
  - Board Exhibit A: Form 131 petition

- Board Exhibit B: Hearing notice
- Board Exhibit C: Notice of Appearance for F. John Rogers
- Board Exhibit D: The Assessor's list of witnesses and exhibits
- Board Exhibit E: Hearing sign-in sheet

7. The PTABOA determined the assessment is \$14,200. Mr. Robinson requested an assessment of \$4,200.

## **Contentions**

### **A. Summary of Mr. Robinson's Case**

8. The subject property is a vacant lot located at 4720 Ashland Drive in Fort Wayne. It is in a subdivision known as Brookside Estates. Mr. Robinson bought the property for \$10,000 in 2006, even though it was listed for sale at \$21,000. The assessment generally reflected that purchase price until 2012, when the assessment increased to \$14,200. According to Mr. Robinson, something is flawed when an assessment increases that much. *Robinson testimony and argument; see Pet'r Ex. 4.*
9. Nearby lots are valued differently than the subject property—some higher, some lower—even though they are the same size and have the same use. For example, the land assessment for 7124 Saint Joe Road, which is next door to the subject property, went from \$14,100 in 2011 down to \$10,600 in 2012 and back up to \$16,800 in 2013. Similarly, the land assessment for the property across the street at 4719 Ashland Drive increased from \$15,000 in 2011 to \$21,900 in 2012. *Robinson testimony; Pet'r Exs. 2-3, 5.*
10. Further skewing the assessment process, banks tie properties up in red tape during foreclosures while the Assessor gives credits or makes adjustments to their assessments. And taxes for business properties are decreasing while homestead taxes are increasing. Between the subject property's increased assessment and the 3% tax cap, Mr. Robinson's taxes have gone up 48%. Although he has listed the property for sale at \$21,900, he

received no offers. And properties typically sell for less than their list price. *Robinson testimony and argument.*

## **B. Summary of the Assessor's Case**

11. The assessment is correct. Indiana ordered a general reassessment of all property for March 1, 2012. Because there were no vacant lot sales in Brookside Estates, the Assessor used the allocation method approved in the 2011 Real Property Assessment Guidelines to determine land values. The Assessor studied various sales from St. Joseph Township and determined that 20% of sale price for improved properties was attributable to land. Applying that finding to improved sales in Brookside Estates yielded a median land value of \$18,240. The data further indicated that the Assessor should use the 132-foot standard depth chart, and that neighborhood lots had an average of 100 feet of effective frontage. The Assessor therefore calculated a base rate of \$175 per front foot for lots in Brookside Estates. *Nagel testimony; Resp't Exs. 4-5.*
12. The subject lot has effective frontage of 142 feet and an effective depth of 143 feet. Applying the \$175 base rate to a lot with those dimensions yields a value of \$25,844. Mr. Robinson, however, appealed the property's assessment shortly after he bought it in 2006. As a result of the appeal, the PTABOA asked the Assessor to apply the following negative influence factors: 30% for excessive frontage; 8% for the lack of utility hook-ups, landscaping or a residential driveway; and 7% for a "corner adjustment." *Nagel testimony.* Those influence factors brought the assessment at issue in that appeal down to an amount roughly equal to Mr. Robinson's purchase price. The Assessor has carried the negative influence factors forward to the 2012 reassessment. *Id.; Resp't Ex. 2.*
13. On August 28, 2012, Mr. Robinson listed the property for sale at \$21,900. While that is after the March 1, 2012 assessment date, it is close enough to be relevant. *Nagel argument; Resp't Ex. 6.*

## Discussion

### A. Burden of Proof

14. Generally, a taxpayer seeking review of an assessing official's determination has the burden of proving that his property's assessment is wrong and what its 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). But where the assessment under appeal represents an increase of more than 5% over the previous year's assessment for the same property, the assessor has the burden of proving that the appealed assessment is correct. Ind. Code § 6-1.1-15-17.2.
15. The Assessor valued the subject property at \$9,600 for 2011. The assessment under appeal—the PTABOA's determination of \$14,200 for 2012—represents an increase of far more than 5%. The Assessor therefore has the burden of proving that the 2012 assessment is correct. To the extent that Mr. Robinson seeks an assessment below \$9,600, he bears the burden of proving that lower value.

### B. Analysis

16. The Assessor did not meet her burden of proof. The Board reaches this conclusion for the following reasons:
  - a. Indiana assesses real property 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 a similar user, from the property." Ind. Code § 6-1.1-31-6(c); 2011 REAL PROPERTY ASSESSMENT MANUAL 2 (incorporated by reference at 50 IAC 2.4-1-2). Three standard approaches are used to determine market value-in-use: the cost, sales-comparison, and income approaches. MANUAL at 2. Assessing officials primarily use a mass-appraisal version of the cost approach, under which they estimate the value of the land as if vacant and then add the depreciated cost

new of the improvements to arrive at a total value estimate. *See id.* Any evidence relevant to a property's true tax value as of the assessment date, including an appraisal prepared in accordance with generally recognized appraisal principles, may be offered in an assessment appeal. *Id.* at 3.

- b. The Assessor mainly argued that she followed the 2011 Real Property Assessment Guidelines in computing a unit value for the subject property and applied negative influence factors that had originally been designed to make the property's assessment reflect its purchase price from 2006. It is insufficient to make a prima facie case by simply showing how the Guidelines were, or should be applied. *See Eckerling v. Wayne Twp. Assessor*, 841 N.E.2d 674, 677 (Ind. Tax Ct. 2006) (holding that a taxpayer failed to make a prima facie case by focusing strictly on the assessor's methodology in applying assessment regulations). Thus, the Assessor needed to show that her Guidelines-based assessment is a correct market value-in-use. She did not offer any probative evidence to support such a finding. That is particularly true given that the negative influence factors she applied to the property were based on how various characteristics affected its value in the 2006, rather than the 2012, real estate market. *See Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005) (finding that an appraisal estimating the value of the taxpayers' property as of December 10, 2003, lacked probative value where taxpayers failed to explain how the appraisal related to the property's value as of January 1, 1999).
- c. The Assessor also points to the fact that Mr. Robinson listed the property for sale at \$21,600. Again, that does little to show the market value-in-use. While an unsuccessful listing might arguably show the upper limit of market value, it does little to prove a particular value, or range of values, below that limit.
- d. Because the Assessor did not offer probative evidence to show the market value-in-use, she failed to make a prima facie case that the 2012 assessment is correct.

Therefore, Mr. Robinson is entitled to have that assessment returned to its 2011 level of \$9,600.

17. Mr. Robinson, however, did not prove his assessment should be less than it was for 2011. The Board reaches this conclusion for the following reasons:

- a. In seeking a lower value, Mr. Robinson offered assessment data for two nearby lots—one on Saint Joe Road and one on Ashland Drive. The Indiana Code allows parties to offer evidence about comparable assessments to prove the value of a property under appeal, but comparability must be determined using generally accepted assessment and appraisal practices. I.C. § 6-1.1-15-18. Thus, a party must explain how the relevant characteristics of a property under appeal compare to those of any purportedly comparable property on which he seeks to rely. He must also explain how any differences between the properties affect their values. *See Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005) (rejecting comparable sales evidence).
- b. Beyond noting that the three properties are all roughly the same size and are located next to each other, Mr. Robinson did not meaningfully compare the other two properties to the subject property, much less account for any relevant differences. While he argued that the neighborhood's land assessments are inconsistent and have fluctuated over time, he did not even attempt to explain how those facts show any particular value for the subject property. Therefore, Mr. Robinson failed to prove the 2012 assessment should be reduced below its 2011 level.

#### **SUMMARY OF FINAL DETERMINATION**

18. The Assessor had the burden of proving the 2012 assessment was correct. She failed to make a prima facie case. Consequently, Mr. Robinson is entitled to have that assessment reduced to its previous year's level of \$9,600. But beyond that point, Mr. Robinson

failed to prove that he was entitled to any further reduction. Thus, the Board orders that the 2012 assessment be changed to \$9,600.

The Indiana Board of Tax Review issues this Final Determination of the above captioned matter on the date written above.

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Chairman, Indiana Board of Tax Review

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Commissioner, Indiana Board of Tax Review

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Commissioner, Indiana Board of Tax Review

### **IMPORTANT NOTICE**

#### **- 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>>.