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

Petition: **03-005-11-1-5-00009**
Petitioners: **Albert & Kevina Schumaker**
Respondent: **Bartholomew County Assessor**
Parcel: **03-95-13-310-000.700-005**
Assessment Year: **2011**

The Indiana Board of Tax Review (Board) issues this determination in the above matter, and finds and concludes as follows:

Procedural History

1. The Petitioners initiated their 2011 assessment appeal with the Bartholomew County Assessor on May 14, 2012.

2. On January 30, 2013, the Bartholomew County Property Tax Assessment Board of Appeals (PTABOA) issued its determination indicating "[P]etition Denied."

3. The Petitioners filed a Petition for Review of Assessment (Form 131) with the Board on March 5, 2013. They elected the Board's small claims procedures.

4. The Board issued a notice of hearing on October 16, 2015.

5. Administrative Law Judge (ALJ) Jennifer Bippus held the Board's administrative hearing on December 10, 2015. She did not inspect the property.

6. Tax Representative Milo Smith appeared for the Petitioners. Bartholomew County Assessor Lew Wilson appeared for the Respondent. Virginia Whipple and certified appraiser JoEllen Wright were witnesses for the Respondent.[1] All of them were sworn.

Facts

7. The property under appeal is a single-family residence located at 2335 Riverside Drive in Columbus.

[1] Ms. Whipple identified herself as a "real estate facilitator" and a representative of "the interests of the Bartholomew County Assessor." *Resp't Ex. A; Bd. Ex. C.* To the extent the Respondent intended Ms. Whipple to represent him at the hearing, the Respondent is reminded that Ms. Whipple must comply with the Board's representation rules. Thus, she must submit written verification that she is a "professional appraiser" approved by the Department of Local Government Finance as required by 52 IAC 1-1-3.5 in addition to filing a power of attorney with the Board as required by 52 IAC 2-3-2. *See* 52 IAC 1-1-3.5. In this case, the Respondent is properly represented by County Assessor Lew Wilson and the Board views Ms. Whipple's role as a witness for the Respondent.

8. The PTABOA determined the total assessment is $545,600 ($200,000 for land and $345,600 for improvements).[2]

9. At the hearing, Mr. Smith requested the same assessment as determined by the PTABOA, a total assessment of $545,600 ($200,000 for land and $345,600 for improvements).

Record

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

a) Petition for Review of Assessment (Form 131) with attachments,

b) A digital recording of the hearing,

c) Exhibits:

Petitioners Exhibit 1:	2010 subject property record card,
Petitioners Exhibit 2:	2011 subject property record card,
Petitioners Exhibit 3:	Text of Ind. Code § 6-1.1-4-4.4.
Respondent Exhibit A:	"Statement of Professionalism,"
Respondent Exhibit B:	Curricula Vitae for Mr. Wilson and Ms. Whipple,
Respondent Exhibit C:	2010 subject property record card,
Respondent Exhibit D:	2011 subject property record card,
Respondent Exhibit E:	Aerial photograph of the subject property,
Respondent Exhibit F:	Qualifications of JoEllen (Jodi) Wright,
Respondent Exhibit G:	Certified appraisal prepared by Ms. Wright with an effective date of March 1, 2011,
Respondent Exhibit H:	Aerial photograph indicating the proximity of the subject property in relation to the comparable properties utilized in Ms. Wright's appraisal,
Respondent Exhibit I:	Photographs of the comparable properties utilized in Ms. Wright's appraisal.
Board Exhibit A:	Form 131 with attachments,
Board Exhibit B:	Notice of hearing dated October 16, 2015,
Board Exhibit C:	"Notice of County Representation" for Ms. Whipple,
Board Exhibit D:	Hearing sign-in sheet,
Board Exhibit E:	E-mail with attached letter from Mr. Smith to the Board withdrawing the petition dated December 9, 2015,
Board Exhibit F:	E-mail from Mr. Wilson to the Board objecting to the Petitioners' withdrawal dated December 9, 2015,

[2] The property record card indicates a total assessment of $566,200 ($200,000 for land and $366,200 for improvements). *Whipple testimony; Pet'rs Ex. 2; Resp't Ex. D.* However, the PTABOA's decision is controlling.

Board Exhibit G:	E-mail from Jane Chrisman to Mr. Smith and Mr. Wilson indicating the hearing is to proceed as scheduled dated December 10, 2015.

d) These Findings and Conclusions.

Petitioners' Request to Withdraw Petition and Respondent's Subsequent Objection

11. Mr. Smith e-mailed the Board on December 9, 2015, at 4:47 PM in an attempt to withdraw the Petitioners' appeal. Mr. Wilson responded by objecting to the withdrawal. Mr. Wilson stated that the Respondent had invested "too much time and resources" into this matter. Because the emails were sent after close of business, the Board acted on the request the following morning, December 10, 2015, the day of the hearing. Via e-mail to both parties, they were advised that the hearing would proceed as scheduled, and each side could offer oral argument regarding the proposed withdrawal and related objection at the hearing. *Bd. Ex. E, F, G.*

12. At the hearing, Mr. Smith argued that his last-minute withdrawal was prompted by an ambiguity in the PTABOA's determination (Form 115). Specifically, Mr. Smith pointed to the PTABOA's statement on the second page of the Form 115 stating the Petitioners "did not produce evidence sufficient to justify lowering [the] assessment." Thus, Mr. Smith "initially assumed" the PTABOA denied the appeal. As a result he filed a Form 131 with the Board. However, after reviewing the Form 115 the day before the hearing, Mr. Smith noticed that the assessed values listed on the first page of the Form 115 had been reduced to the requested 2010 values. As such, Mr. Smith stated he was "satisfied" with the PTABOA's decision and attempted to withdraw the Form 131 the night before the scheduled hearing. *Smith testimony; Bd. Ex. A.*

13. In response, Ms. Whipple argued that the Respondent "put a lot of effort and resources into gathering evidence to defend the assessment." She went on to argue that Mr. Smith's withdrawal was "too late." Mr. Wilson added that the Respondent should be entitled to present its case because he would be requesting an increase in the assessment. The ALJ took the issue under advisement and proceeded with the hearing. *Whipple argument; Wilson argument.*

14. Neither party cited any statutes, rules, or case law in their arguments. The Board considered a similar request in *Props v. Hamilton Co. Ass'r*, 29-003-09-1-5-00088, et. seq. Ind. Bd. Tax Rev. (March 3, 2014) which found guidance in *Joyce Sportswear Co. v. State Bd. of Tax Comm'rs*, 684 N.E.2d 1189 (Ind. Tax Ct. 1997).

15. In *Joyce Sportswear Co.*, the taxpayer sought to withdraw the appeal after learning that the State Board intended to raise the assessment. *Joyce Sportswear Co*., 684 N.E.2d at 1190. At the time of the appeal, the State Board of Tax Commissioners had the "plenary authority to reassess the property at a value higher than the one appealed by correcting errors in the original assessment." *Id*. at1194. The Tax Court found that a counterclaim was "analogous to the State Board's statutory right to assess the property." *Id*. at 1195. It

noted that "[h]ad the petition been dismissed, the State Board would have suffered legal prejudice, i.e., the inability to arrive at the correct assessment," because the statute of limitations had expired for the State Board to act sua sponte. *Id*. It held that "if the State Board [could] demonstrate either substantial expenses or legal prejudice, the taxpayer's petition to withdraw [would be] properly denied" as inappropriate under a Trial Rule 41(A) voluntary withdrawal. *Id*. at 1193. In *Props*, the Board found that a taxpayer's last-minute request to withdraw should be granted over the assessor's objection because the assessor did not seek to raise the assessment and did not present evidence of substantial expense.

16. Here, the Respondent seeks to raise the assessment and has incurred the expense of an expert witness. Under *Props* and *Joyce Sportswear*, the Board finds the Respondent has made a showing of prejudice and a voluntary withdrawal would be inappropriate. Accordingly, the Respondent's objection to the Petitioners' withdrawal is sustained and the Board will issue its final determination based upon the merits of the case.

Objection to Documentary Evidence

17. Mr. Smith objected to Respondent Exhibit G on the grounds that the Respondent did not provide him with a copy of the exhibit prior to the hearing. In response, Ms. Whipple argued that Mr. Smith did not request copies of the Respondent's evidence. The ALJ took the objection under advisement.

18. Under the Board's procedural rules for small claims hearings, parties are only required to exchange copies of their exhibits *if requested. See* 52 IAC 3-1-5(d) ("if requested not later than ten (10) business days prior to hearing by any party, the parties shall provide to all other parties' copies of any documentary evidence…at least five (5) business days before the small claims hearing.") Mr. Smith did not contend that he made any such request. Thus, Mr. Smith's objection is overruled, and Respondent's Exhibit G is admitted.

Contentions

19. Summary of the Petitioners' case:

    a) The Petitioners initiated their appeal because the Respondent changed the grade of their home from a "B+1" to a "B+2." This change increased their assessment from $545,600 in 2010 to $566,200 in 2011. Accordingly, "any such change from the previous year's assessment requires the assessor to document the reason each change, and gives the assessor the burden of proof in any appeal to prove that each change was valid." *Smith argument; Pet'rs Ex. 2, 3.*

    b) However, after examining the "ambiguous" Form 115 carefully, the Petitioners' representative attempted to withdraw the appeal the night before the hearing. The Form 115 indicates "[P]etition Denied = Tax Payer/Tax representative did not produce evidence sufficient to justify lowering [the] assessment." However the

property's value was reduced back to the 2010 level of $545,600. Because the Petitioners' initially sought to have their assessment reduced to the prior year's level, their representative attempted to withdraw their appeal when the discrepancy was noticed. Regardless of whether the withdrawal is accepted, the 2011 assessment should be $545,600. *Smith argument; Bd. Ex. A.*

c) Here, the Respondent is requesting an increase to the 2011 assessment based upon their appraisal. Increasing the assessment by utilizing an appraisal would "make this assessment not uniform and equal with the other homes in the neighborhood." Further, the Respondent's appraisal is flawed for the following reasons:

- Ms. Wright conceded that she did not conduct an interior inspection of the property; she only performed a "drive-by" appraisal. Because the interior condition of a home is an important factor in estimating value, the Respondent's appraisal is not "adequate" and should not be considered.

- Ms. Wright incorrectly indicated a site measurement of 3.02 acres in her appraisal. The property under appeal only measures 1.02 acres.

- The site adjustments applied to the Respondent's purportedly comparable sales are "too high." The first purportedly comparable property, located at 3680 Woodside Drive, has a "positive" site adjustment of $87,000. This adjustment appears to be "extremely high" given the fact this site is .57 acres larger than the subject property.

- The remaining two purportedly comparable sales also received large site adjustments. Ms. Wright applied "positive" site adjustments of $167,500 and $139,500 to these properties.

- Finally, Ms. Wright failed to develop or consider the cost approach in her final estimate of value.

Smith argument (referencing Resp't Ex. G).

20. Summary of the Respondent's case:

a) In an effort to make the subject property "comparable to other properties in the neighborhood" the Respondent changed the property's grade from "B+1" to "B+2." According to the property record card, the 2011 total assessment was $566,200. However, the Respondent concedes that according to the Form 115, the correct total assessment of record should be $545,600. *Whipple testimony; Resp't Ex. H, I.*

b) The Respondent offered a Uniform Standards of Professional Appraisal Practice (USPAP) compliant appraisal prepared by JoEllen Wright, an Indiana certified residential appraiser, with an effective date of March 1, 2011. Utilizing the sales comparison approach she estimated the subject property should be valued at

$670,500. This value, however, includes two acres of land that are not part of the subject property, but are owned by the Petitioners. Ms. Whipple argued that both the 1.05 acre subject parcel and adjacent 2 acre parcel are really one property. To determine the assessed value of the subject property, $7,500 was deducted and attributed to the parcel not on appeal. Accordingly, after this adjustment is made, Ms. Wright's final estimate of value is $663,000.[3] The Respondent is requesting the Board to increase the March 1, 2011, assessment to this value. *Wilson argument; Whipple testimony; Wright testimony; Resp't Ex. G.*

c) In her appraisal, Ms. Wright relied mainly on the sales-comparison approach to value. Because the property is not utilized as a rental, the income approach was not applicable. Ms. Wright stated she did not consider the cost approach because she did not view the interior of the home. Ms. Wright also stated the cost approach would be inapplicable here because a "house of this age is very difficult to determine depreciation." *Wright testimony; Resp't Ex. G.*

d) In developing her sales-comparison, Ms. Wright relied on the sales of three comparable properties that sold in the latter part of 2010. She considered the comparables to be "alternative selections" to the subject property for the "typical purchaser." As Ms. Wright noted, the largest adjustments were made for site values. The "positive adjustments" were applied to the comparable sales because the subject is located in a "superior" neighborhood. According to Ms. Wright, the adjustments were appropriate because "you have that view from the subject site clear down to the river area, so people pay for that." *Wright testimony; Resp't Ex. G.*

e) In response to cross-examination, Ms. Wright provided more insight into her site adjustments. Ms. Wright explained that she examined the "utility of the site" as opposed to size. For example, the property located at 3680 Woodside Drive is a larger lot, but a "positive" adjustment was appropriate because when compared to the subject property, the subject property has a "superior per acre valuation on it." Ms. Wright went on to explain she made site adjustments according to a "value to value basis, not acreage to acreage basis." *Whipple testimony; Wright testimony; Resp't Ex. G.*

f) Similarly, the property located at 2265 West Carr Hill Road is situated on a larger lot than the subject property. Even though this lot is larger, this property received a "positive" adjustment because "it is low, it is flat, and [lacks] access." *Wright testimony; Resp't Ex. G.*

g) Additionally, the property located at 300 Tipton Lane received a "positive" site adjustment of $139,500. This adjustment was appropriate because when compared to the subject property, the subject property is "superior with access from both sides of the road and has a superior view." *Wright testimony; Resp't Ex. G.*

[3] Additionally, all of Ms. Wright's site adjustments will require a $7,500 modification as well.

Burden of Proof

21. 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 as recently amended by P.L. 97-2014 creates two exceptions to that rule.

22. 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).

23. 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.

24. Here, the Petitioners initially argued that in accordance with Ind. Code § 6-1.1-4-4.4, because the Respondent changed the property's grade from "B+1" to "B+2" the burden of proof should rest with the Respondent. That statute states, in pertinent part, that if an assessor changes the underlying parcel characteristics, including grade, the assessor has the burden in any appeal of proving that the change was valid. Ind. Code § 6-1.1-4-4.4. Thus, at the hearing, the ALJ made a preliminary determination that the burden of proof was on the Respondent.

25. However, as previously discussed, according to the PTABOA's Form 115 determination, the 2011 total assessment was to be set at $545,600. This total assessment is the same as the 2010 assessment. Additionally, the parties agree that is the assessment of record. Thus, the Board is left to conclude that the PTABOA struck the Respondent's change to the subject property's grade.

26. As such, because there was no change to the assessment in 2011, the Board reverses the ALJ's preliminary determination and finds that the burden of proof remains with the Petitioners. However, because the Petitioners concede the assessment is correct, the burden-shift has no practical effect. The burden is on the Respondent to prove the higher

value sought, and if a prima facie case is made, the Petitioners must impeach that value or offer their own evidence supporting the original assessment.

Analysis

27. The Petitioners did not make a prima facie case for reducing the assessment. Further, the Respondent failed to prove that the assessment should be increased.

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 a similar user, from the property." 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. *Id*. Assessing officials primarily use the cost approach. 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. *Id*. A taxpayer is permitted to offer evidence relevant to market value-in-use to rebut an assessed 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 2011 assessment, the valuation date was March 1, 2011. *See* Ind. Code § 6-1.1-4-4.5(f).

c) First, the Respondent addressed the property's grade change. In doing so, he explained the grade was changed from a "B+1" to a "B+2" so it would be "comparable to other properties in the neighborhood." In making this argument, it is unclear whether the Respondent was simply attempting to explain the action that the PTABOA subsequently struck, or if he was seeking to change the grade to "B+2." To the extent that he was seeking a change to "B+2" he failed to make a prima facie case.

d) As explained above, because the current assessment does not include a change in grade from the previous year the Respondent does not bear the burden to prove that the grade is correct. The Respondent's burden in seeking an increase in the assessment is to prove both that the current assessment is incorrect, and what the correct assessment should be. *Meridian Towers*, 805 N.E.2d 475, 478. In that context, the Respondent's discussion of grade amounts to little more than a discussion of the methodology used in computing the assessment. The Tax Court has explained that those types of methodological challenges generally do not suffice to rebut an assessment's accuracy or establish a property's true tax value. *See Eckerling v. Wayne Twp. Ass'r*, 841 N.E.2d 674, 677 (Ind. Tax Ct. 2006) (explaining that strict

application of assessment regulations is not enough to rebut the presumption that the assessment is correct.")

e) Thus, the Board turns to the Respondent's appraisal. The appraisal was prepared by JoEllen Wright, a certified residential appraiser. Ms. Wright certified that her appraisal conforms to USPAP. A market value-in-use appraisal prepared in accordance with USPAP will often be probative. *Kooshtard Property VI, LLC v. White River Twp. Ass'r,* 836 N.E.2d 501, 506 n.6 (Ind. Tax Ct. 2005).

f) The Petitioners' representative attempted to rebut the Respondent's appraisal with several arguments. First, the Board will address Mr. Smith's "uniformity and equality" claim. The Property taxation Clause of the Indiana Constitution requires "[t]he General Assembly [to] provide, by law, for a uniform and equal rate of property assessment and taxation and [to] prescribe regulations to secure a just valuation for taxation of all property…." IND. CONST. ART. 10 § 1; *see also*, Ind. Code § 6-1.1-2-2(a) ("[A]ll tangible property which is subject to assessment shall be assessed on a just valuation basis and in a uniform and equal manner.") Indiana courts have long held that the provision requires: "(1) uniformity and equality in assessment, (2) uniformity and equality as to the rate of taxation, and (3) a just valuation of all property." *Westfield Golf Practice Center, LLC v. Washington Twp. Ass'r,* 859 N.E.2d 396, 397 (Ind. Tax Ct. 2007).

g) In *Westfield Golf*, the taxpayer claimed that the assessment of its golf practice range violated the Property Taxation Clause based on a lack of uniformity and equality. *Westfield Golf Practice Center, LLC,* 859 N.E.2d 396 at 398. The Tax Court began by addressing what it means to be uniform and equal in the context of Indiana's current assessment system. As the Court explained, before the switch to our current system, true tax value was determined under Indiana's own assessment regulations and bore no relation to any external, objectively verifiable standard of measurement. *Id*. Properties within the same neighborhood in a land order were presumed to be comparable to each other, and the principles of uniformity and equality were therefore violated when those properties were assessed and taxed differently. *Id.*

h) That changed under the new system, which incorporates market value-in-use as its external, objectively verifiable benchmark. The focus shifted from examining how assessment regulations were applied to examining whether a property's assessed value actually reflects that external benchmark. *Westfield Golf Practice Center, LLC,* 859 N.E.2d 396 at 399. Thus, "the end result—a uniform and equal *rate* of assessment—is required, but there is no requirement of uniform procedures to arrive at that rate." *Id. (quoting State ex. Rel. Att'y Gen. v. Lake Superior Court,* 820 N.E.2d 1240, 1250 (Ind. 2005) (emphasis in original). In a footnote, the Court explained that one method of proving a lack of uniformity and equality is to present assessment ratio studies comparing the assessments of properties within an assessing jurisdiction with objectively verifiable data, such as sale prices or market value-in-use appraisals. *Id.* at 399 n.3. The taxpayer in *Westfield Golf* lost its appeal because it focused solely on the base rate used to assess its driving range landing area compared

to the rates used to assess other driving ranges and failed to show the actual market value-in-use for any of the properties. *Id.* at 399.

i) Similar to the taxpayer in *Westfield Golf*, Mr. Smith's argument here misses the mark. Mr. Smith focused on whether the procedure used to arrive at the Respondent's requested assessment, using an appraisal rather than the cost approach, as opposed to whether the appraisal yielded an unequal rate of assessment. In fact, Mr. Smith did not offer any evidence regarding the market value-in-use or assessments for any other properties. Thus, the Petitioners failed to rebut the Respondent's case with this argument.

j) The Petitioners' representative also attempted to impeach the appraisal itself. Specifically, Mr. Smith contested Ms. Wright's "site value" adjustments. Mr. Smith argued her adjustments were unsupported and "too high." The Board agrees that the appraisal is substantively flawed.

k) First, while Ms. Wright testified that she "did not entirely" develop the subject property's value utilizing the cost approach; she testified she did estimate the subject property's site value. Indeed, she estimated a value of $157,700 for 3.02 acres based on a survey of vacant land sales with a median of $52,227 an acre. However, Ms. Wright made qualitative adjustments based on the superiority of the subject property. Ms. Wright offered no evidence as to how she actually calculated the acreage adjustments in her appraisal. In determining whether the adjustments are unsupported, the Board finds it helpful to compare the appraisal adjustments to what the adjustments would have been if based solely on the median value per acre.

Comparable	Appraisal Adjustment	Median of $52,227 Adj.	Difference
Woodside (1.50 acres)	+$87,000	+$74,685	+$12,315
Carr Hill (4.58 acres)	+$167,500	-$81,474	+$248,974
Tipton (.86 acres)	+$139,500	+$112,810	+$26,690

The median adjustments provide a reference point for Ms. Wright's unexplained adjustments for the superiority of the subject property's location. Based on these numbers, Woodside was adjusted above the median value by $8,611 per acre, Carr Hill by $156,587 per acre, and Tipton by $11,405 per acre. The Board cannot understand how the per acre adjustment to Carr Hill is nearly 20 times greater than the adjustment to Woodside. Ms. Wright offered nothing more than conclusory statements in support of her opinion that the subject property's neighborhood is vastly superior to the neighborhoods of her purportedly comparable properties. The Board fails to find any guiding principle in Ms. Wright's adjustments, and as such, finds the appraisal too flawed to present a prima facie case.

l) In finding that Ms. Wright's appraisal lacks probative value, the Board recognizes that she is a certified residential appraiser, and that she certified that she prepared her appraisal in conformity with USPAP. The Board will not lightly disregard such an appraisal. But even a recognized appraisal expert's testimony lacks probative value when it is conclusory. *See Inland Steel Co. v. State Bd. of Tax Comm'rs,* 759 N.E.2d

201, 220 (Ind. Tax Ct. 2000) (finding that an expert's testimony that the Producer Price Index (PPI) should be used to convert obsolescence from 1993 dollars to 1985 dollars lacked probative value where the expert did not explain what the PPI represented, how it was calculated, or why it was appropriate). Where, as here, an appraisal report is highly conclusory and the opposing party has challenged the appraiser's valuation opinion, the appraiser must do more to explain the basic judgments underlying her opinion. Therefore, the Respondent failed to make a prima facie case for increasing the assessment.

m) Additionally, the Board finds a more substantial flaw that proves fatal to the Respondent's case. The Board notes that the appraisal considers the value of two parcels, only one of which is on appeal. The Board has addressed this issue before and found that "where owners and the market view related parcels as one property, we ultimately care about the value of the entire property – not its individual components." *Lawrence & Glenda Pachniak v. Marshall Co*., Petition No. 50-014-06-1-5-00070 & 50-014-06-1-5-00071 (Ind. Bd. Tax Rev. March 9, 2009) (affirmed in memorandum decision *Pachniak v. Marshall Co. Ass'r*, Indiana Tax Court Cause No.49T10-0904-TA-18 (June 8, 2010). Though the Respondent presented little evidence in support, the Petitioners did not dispute the two parcels are used together and provide substantial value to the residence through a picturesque view of the river. The Respondent has failed to support the apportionment of $7,500 of the appraised value to the parcel not on appeal. The evidence does not include a property record card for that parcel. Without that evidence, the Board cannot determine how the appraised value should be apportioned; i.e. how much should be deducted to reflect the assessed value currently placed on the parcel not on appeal. For this reason, the Respondent's appraisal, even if probative, would have been insufficient to determine the value for the subject parcel.

Conclusion

28. The Petitioners did not seek to reduce the assessment. The Respondent did not make a prima facie case for increasing the assessment. Accordingly, there is no change to the assessment.

Final Determination

In accordance with these findings and conclusions, the 2011 total assessment will remain at $545,600.

ISSUED: April 20, 2016

_____
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>.