

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

Petition: 36-003-12-1-5-00001
Petitioner: Samuel J. Spray
Respondent: Jackson County Assessor
Parcel: 36-53-55-900-003.000-003
Assessment Year: 2012

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

Procedural History

1. The Petitioner, Samuel Spray, appealed his 2012 assessment to the Jackson County Property Tax Assessment Board of Appeals (“PTABOA”), which issued its determination denying him relief on January 30, 2014.
2. The Petitioner then filed a Form 131 petition with the Board on March 3, 2014. He elected to proceed under our small claims rules.
3. On February 25, 2016, our designated administrative law judge, Gary Ricks, held a hearing on the petition. Neither he nor the Board inspected the property.
4. The Petitioner and the Respondent, Jackson County Assessor Katie Kaufman, appeared *pro se*. Both were sworn as witnesses.
5. The property is a 175.25-acre tract that includes a homesite. It is located at 2000 S. Block County Rd. 600 W. in Medora.
6. The PTABOA determined the following assessment:
Land \$161,100 Improvements \$79,700 Total \$240,800
7. The Petitioner did not request a specific value.
8. The official record of this hearing consists of the following:
 - a. A digital recording of the hearing.

b. Exhibits:

Petitioner Exhibit 1:	Printout with prior version of Ind. Code § 6-1.1-4-13,
Petitioner Exhibit 2:	Excerpt from Emergency Watershed Protection Program Floodplain Warranty Easement Deed (“Easement Deed”), Part III. Obligations of the Landowner
Petitioner Exhibit 3:	Deer Hunting Lease Price Guide,
Petitioner Exhibit 4:	Closing information for sale of subject property.
Respondent Exhibit A:	2012 Property Record Card for the subject property,
Respondent Exhibit B:	Indiana Code § 6-1.1-4-13 (2015),
Respondent Exhibit C:	Easement Deed.
Board Exhibit A:	Form 131 petition with attachments,
Board Exhibit B:	Hearing notice,
Board Exhibit C:	Hearing sign-in sheet.

c. These Findings and Conclusions.

Petitioner’s Contentions

9. A 65.63-acre portion of the property is misclassified as agricultural land and is assessed too high. The Petitioner conveyed a watershed easement over that area to the United States Department of Agriculture’s Natural Resources Conservation Service (“NRCS”). Under the terms of that easement, the land cannot be used for agricultural purposes. Specifically, it cannot be used for haying, mowing, or seed harvesting. And the property owner cannot alter the grassland, woodland, wildlife habitat, or other natural features by burning, digging, plowing, disking, cutting or otherwise destroying the vegetative cover. The property owner is also prohibited from harvesting wood products, planting or harvesting any crop, and grazing or allowing livestock on the land. *Spray testimony, Pet’r Exs. 1-2.*
10. The best use for the land within the easement is to rent to hunters, so it should be classified as rental property and valued using a gross rent multiplier. On average, hunting land in Indiana leases for \$19 per acre. *Spray argument, Pet’r Ex. 3.*
11. On December 1, 2015, the Petitioner and his wife sold the 65.63 acres at issue for \$46,000, or roughly \$700/acre. *Spray testimony; Pet’r Ex. 4.*

Respondent’s Contentions

12. The land is accurately assessed and properly classified. Much of the property is subject to severe flooding and therefore receives negative influence factors. *Kaufman testimony; Resp’t Ex. A.*

13. The 65.63-acre portion at issue is not broken out separately on the property record card. In 2010, the Petitioner and his wife granted the NRCS an easement over the 65.63 acres in exchange for \$160,261. There is no more fitting classification for the subject property than agricultural. Indiana Code § 6-1.1-4-13 provides that land enrolled in conservation reserve or agricultural easement programs administered by the NRCS must be classified as agricultural.¹ Unlike with classified forests, there is no provision for applying additional tax breaks to such land. *Kaufman argument, Resp't Exs. A-C.*

Burden of Proof

14. 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. Indiana Code § 6-1.1-15-17.2 creates an exception to the general rule and assigns the burden of proof to the assessor where (1) the assessment under appeal represents an increase of more than 5% over the prior year's assessment for the same property, or (2) the taxpayer successfully appealed the prior year's assessment, and the current assessment represents an increase over what was determined in the appeal, regardless of the level of that increase. *See I.C. § 6-1.1-15- 17.2(a), (b) and (d).* If an assessor has the burden and fails to prove the assessment is correct, it reverts to the previous year's level (as last corrected by an assessing official, stipulated to, or determined by a reviewing authority), or to another amount shown by probative evidence. *See I.C. § 6-1.1-15-17.2(b).*
15. We need not analyze whether Ind. Code § 6-1.1-15-17.2 applies because the Petitioner conceded that he has the burden of proof.

Analysis

16. In Indiana, 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." I.C. § 6-1.1-31-6(c). 2011 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.4-1-2). Evidence in an assessment appeal should be consistent with that standard. For example, a market-value-in-use appraisal prepared in accordance with Uniform Standards of Professional Appraisal Practice often will be probative. *See id.; see also, Kooshtard Property VI, LLC v. White River Twp. Ass'r*, 836 N.E.2d 501, 506 n.6 (Ind. Tax Ct. 2005). A party may also offer actual construction costs, sale or assessment information for the property under appeal or comparable properties, and any other information compiled according to generally accepted appraisal principles. *See Eckerling v. Wayne Twp. Ass'r*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006); *see also, I.C. § 6-1.1-15-18*

¹ The Respondent pointed to the version of Ind. Code § 6-1.1-4-13 that was in effect as of the hearing. The language she cited was added through an amendment in 2015. 2015 Ind. Acts 249 § 6. Before that amendment, the statute did not explicitly reference land in conservation programs administered by the NRCS.

(allowing parties to offer evidence of comparable properties' assessments to determine an appealed property's market value-in-use).

17. Regardless of the valuation method used, a party must explain how its evidence relates to the relevant valuation date. *See Long v. Wayne Twp. Ass'r*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). Otherwise, the evidence lacks probative value. *Id.* For 2012 assessments, the valuation date was March 1, 2012.
18. The Petitioner contends that the Assessor misclassified the 65.63 acres within the watershed easement as agricultural land and therefore assessed that land too high.
19. Even if one assumes the Petitioner is correct that the land in question was misclassified as agricultural, he failed to make a prima facie case for changing the value. Simply challenging the methodology used to assess a property typically does not suffice to rebut the presumption that the assessment is correct. Instead a taxpayer must offer probative market-based evidence to show the property's true tax value. *See Eckerling* 841 N.E.2d at 678.
20. The Petitioner offered little or no evidence in that regard. At most, he pointed to some information from the internet about the average rate for hunting leases in Indiana. The information was from 2016, and the Petitioner did not explain how it related to the property's value as of the relevant March 1, 2012 valuation date at issue in this appeal.
21. Even if he had related the information to the valuation date, it was far too vague to use in valuing the property. For example, the Petitioner did not identify time period covered by the lease rate; it could be daily, weekly, or monthly. He likewise did not say whether more than one person could lease the land at the same time. Thus, we know little about the property's income potential. In any case, simply showing a property's income potential does not directly translate to a value. The Petitioner needed to show what reasonable investors would pay for the property in light of its projected income stream. Appraisal theory provides ways to do that, such as by capitalizing the property's net market-level income or, in a variation of that approach, by applying an appropriate multiplier to its gross income. *See Indiana MHC, LLC v. Scott County Ass'r*, 987 N.E.2d 1182, 1185 (Ind. Tax Ct. 2013) (explaining that, under the income capitalization approach, a property's present value is determined by dividing its market level net operating income by an appropriate capitalization rate). The Petitioner did not apply those approaches, or any approach for that matter, to translate the property's projected income to an overall value.
22. He did offer evidence showing he and his wife sold the land in question for approximately \$700 per acre on December 1, 2015. Once again, he failed to explain how that sale price related to the property's value as of the relevant valuation date. Thus, the sale price does not make a prima facie case for changing the assessment. *See Long*, 821 N.E.2d at 471.

Final Determination

In accordance with these findings of fact and conclusions of law, we order no change to the assessment.

Issued: July 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 within 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>.