

REPRESENTATIVE FOR PETITIONERS: David & Rebecca Stevons, pro se
REPRESENTATIVE FOR RESPONDENT: Julie Minton, Morgan County Assessor

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

David & Rebecca Stevons,)	
)	Petition Nos.: 55-021-19-1-5-00949-19
Petitioners,)	
)	Parcel No.: 55-09-34-145-004.000-021
v.)	
)	Assessment Years: 2019
Morgan County Assessor,)	
)	
Respondent)	
)	

DATE: December 28, 2020

Final Determination

The Indiana Board of Tax Review, having reviewed the facts and evidence presented in the Parties' arguments, and having considered the issues, now finds and concludes the following:

Findings of Fact and Conclusions of Law

I. Issue

1. Petitioners, David and Rebecca Stevons, own a parcel of vacant land that they claim is assessed too high. Although they point to sale prices and assessments for other properties, they do not adequately compare those properties to their property or explain how relevant differences affected values. And their vague testimony about unsuccessful attempts to market the property with an asking price higher than the assessment does nothing to show the property was assessed for more than its market value-in-use. We therefore find for the Assessor.

II. Procedural History

2. The Stevonses appealed their vacant lot's 2019 assessment. The Morgan County Property Tax Assessment Board of Appeals ("PTABOA") issued a determination upholding the assessment. The Stevonses responded by timely filing a Form 131 petition with us on October 15, 2019.
3. The PTABOA valued the property at \$37,600. The Stevonses seek a value of \$15,000.
4. On September 29, 2020, our designated administrative law judge, Erik Jones, held a hearing on the Stevonses' petition. Neither he nor the Board inspected the property. The Stevonses and Morgan County Assessor Julie Minton testified under oath.
5. The Stevonses submitted the following exhibits:

Petitioner Exhibit 1	Lots that have been sold in Shireman Estates
Petitioner Exhibit 2	Lake lots up for sale and sold in Morgan County and their tax value
Petitioner Exhibit 3	Lots in Shireman Estates and their tax base
Petitioner Exhibit 4	Discrepancy with county exhibits
Petitioner Exhibit 5	County responses after 2008 real estate crash
6. The Assessor submitted the following exhibits:

Assessor Exhibit 1	Stevons Property Record Card
Assessor Exhibit 2	Stevons Documentation and Comparables
Assessor Exhibit 3	Stevons Map
Assessor Exhibit 4	Stevons Comp Map
Assessor Exhibit 5	CMA Non-lake lots
Assessor Exhibit 6	CMA Lake lots

III. Contentions

A. The Stevonses' contentions

7. The Stevonses bought the vacant lot for \$50,000 in 2007. They originally intended to build on the lot, but the cost was too high. They decided to sell it instead. Unfortunately,

the housing market collapsed as part of the 2008-2009 economic downturn. The Stevonses tried to sell the property themselves and listed it with realtors at different points over the years. They started with an asking price of \$55,000 and reduced it several times, going as low as \$40,000. They last tried to sell the property approximately four years ago. Despite the decrease in the market, their assessment has remained constant. It is the same amount for which they settled their 2017 appeal. But the Stevonses argued that assessments should not lock in at a particular price; they should instead be based on what a property can sell for. *D. Stevons testimony.*

8. To show the disparity between their property's market value and its assessment, the Stevonses pointed to four other lots located in and around their subdivision, Shireman Estates. Those lots sold for prices ranging from \$2,000 to \$19,000. One sale was from October 2016, while the other three were from 2018-2019. Three lots from Shireman Estates had land assessments ranging from \$12,500 to \$25,900.¹ Two other lots from Painted Hills and Lake Edgewood had land assessments of \$5,500 and \$22,300, respectively. Painted Hills has superior amenities to Shireman Estates, such as a clubhouse, pool, and tennis courts. And unlike the lake in Shireman Estates, Lake Edgewood is big enough for water skiing. *D. Stevons testimony; Pet'r Exs. 1-3.*
9. The Stevonses also took issue with properties the Assessor identified as being comparable to their lot. According to the Stevonses, comparing these properties to their property would be akin to comparing downtown Indianapolis to downtown Martinsville. The properties the Assessor identified have access to golf courses, multiple lakes, and private services that make them completely incomparable to the Stevonses' property. The Stevonses also pointed to several properties listed in one of the Assessor's Exhibits (Resp't Ex. 5, which identifies sales for several properties without lake access that the Assessor used to illustrate the difference in sale prices for non-lake properties as compared to lake properties). Those properties sold for an average of only \$10,000—less

¹ This includes a property on Bailliere Drive, which was one of the sold properties from Shireman Estates. That property sold for \$2,000 in April 2018 and was assessed for \$12,500 for 2019. *Pet'r Exs 2-3.*

than a third of the assessment of the Stevonses property. *D. Stevons testimony; Pet'r Exs. 4-5.*

10. In response to their earlier appeal, the Assessor claimed that market value is not “just the amount the buyer is willing to pay but what the seller is willing to take to walk away from the property.” Because the Stevonses sought almost \$55,000 for the lot, the Assessor reasoned that it must have been worth more than \$32,000 to them. The Stevonses disagree and believe the value should be based on its likely sale price. *D. Stevons testimony and argument; Pet'r Ex. 5.*

B. The Assessor's contentions

11. The Assessor contends that the assessment is correct. For support, she pointed to four unimproved properties within the same section of Shireman Estates as the Stevonses's property. Those properties are located around the lake and were assessed for an average of \$38,675. *Minton testimony; Ass'r Exs. 1-3.*
12. Shireman estate lots with lake access were given an influence factor. While the Stevonses' property does have lake access, that access is minimal compared to some of the other properties around the lake. The Assessor therefore reduced the influence factor to 20% when she settled the 2017 appeal. The agreed assessment was \$36,700, which has not changed. *Minton testimony; Ass'r Exs. 1, 4.*
13. In contrasting the Stevonses' proposed comparable properties with her own, the Assessor testified that many of the properties the Stevonses chose were either located far away from their property, did not have lake access, or both. To illustrate the disparity, the Assessor offered two spreadsheets. The first identifies 10 vacant parcels without lake access that sold for an average of \$10,250, while the second identifies four vacant parcels with lake access that sold for an average of \$73,500—a difference of more than \$60,000. *Minton testimony; Ass'r Exs. 3-6.*

IV. Conclusions of Law

14. Generally, a taxpayer seeking review of an assessing official's determination has the burden of proof. Indiana Code § 6-1.1-15-17.2 creates an exception to that general rule and assigns the burden of proof to the assessor in two circumstances—where the assessment under appeal represents an increase of more than 5% over the prior year's assessment, or where it is above the level determined in a taxpayer's successful appeal of the prior year's assessment, regardless of the amount of the increase. I.C. § 6-1.1-15-17.2(b), (d).
15. While the Stevonses argued that the burden should be placed on the Assessor, they did not explain why. The record shows that neither of the circumstance contemplated by the burden-shifting statute exists. To the contrary, the assessment from which the Stevonses are appealing was identical to the previous year's assessment (\$36,700). We therefore find that the Stevonses have the burden of proof.
16. The Stevonses have not made a prima facie case for reducing their assessment. The goal of Indiana's real property assessment system is to arrive at an assessment reflecting a property's true tax value. 50 IAC 2.4-1-1(c); 2011 REAL PROPERTY ASSESSMENT MANUAL at 3. True tax value does not mean "fair market value" or "the value of the property to the user." I.C. § 6-1.1-31-6(c), (e). It is instead determined under the rules of the Department of Local Government Finance ("DLGF"). I.C. § 6-1.1-31-5(a); I.C. § 6-1.1-31-6(f). The DLGF defines true tax value as "market value in use," which it in turn defines as "[t]he 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." MANUAL at 2.
17. All three standard appraisal approaches—the cost, sales-comparison, and income approaches—are appropriate for determining true tax value. MANUAL at 2. In an assessment appeal, parties may offer any evidence relevant to a property's true tax value, including appraisals prepared in accordance with generally recognized appraisal principles. *Id.* at 3; *see also Eckerling v. Wayne Twp. Ass'r*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006) (reiterating that a market value-in-use appraisal that complies with the

Uniform Standards of Professional Appraisal Practice is the most effective method for rebutting the presumption that an assessment is correct). Regardless of the method used, a party must explain how its evidence relates to the relevant valuation date. *Long v. Wayne Twp. Ass'r*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). For 2019 assessments, the valuation date was January 1, 2019. *See* I.C. § 6-1.1-2-1.5(a)(2).

18. To prove that their property was over-assessed, the Stevonses offer a mix of list prices, sale prices, and assessments for properties from Shireman Estates and two nearby subdivisions. A party offering sales or assessment data must use generally accepted appraisal or assessment practices to show that the properties from which the data is drawn are comparable to the property under appeal. *See* I.C. § 6-1.1-15-18(c); *see also Long*, 821 N.E.2d at 470-71. Conclusory statements that properties are “similar” or “comparable” do not suffice; instead, parties must explain how the properties compare to each other in terms of characteristics that affect market value-in-use. *Long*, 821 N.E.2d at 471. They must similarly explain how relevant differences affect values. *Id.*
19. The Stevonses did not offer the type of comparative data and analysis contemplated by the Tax Court or generally accepted appraisal and assessment practices. While they identified the subdivisions in which the properties were located and discussed some of the amenities available in those subdivisions, they offered little or no evidence on many other characteristics that affect market value-in-use. And they did not even attempt to explain how relevant differences affected the properties’ values. For those reasons, that comparative evidence is not probative of their property’s market value-in-use.
20. Turning to the Stevonses’ attempts to sell the property, we recognize that an unsuccessful listing may say something about the upper end of a property’s value, at least where there is evidence showing commercially reasonable attempts to market the property at that price. But that is no help to the Stevonses in this case. The property was assessed for less than the lowest list price the Stevonses identified. And they offered little evidence about how the property was marketed. Finally, the last listing was two or more years

before the relevant valuation date of January 1, 2019, and the Stevonses did not attempt to explain how it related to the property's value as of that date.

V. Conclusion

The Stevonses, who had the burden of proof, failed to make a prima facie case for reducing their assessment. We therefore find for the Assessor and order no change to the assessment.

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>>.