

REPRESENTATIVE FOR PETITIONERS:

Rosemarie Scott, *pro se*

REPRESENTATIVE FOR RESPONDENT:

Michael West, Reassessment Supervisor

**BEFORE THE  
INDIANA BOARD OF TAX REVIEW**

Michael Worrell and Rosemarie Scott,	)	Petition No.: 84-004-15-1-5-01259-16
	)	
Petitioners,	)	Parcel No.: 84-09-23-179-004.000-004
	)	
v.	)	County: Vigo
	)	
Vigo County Assessor,	)	Assessment Year: 2015
	)	
Respondent.	)	

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

**February 28, 2018**

**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**

**INTRODUCTION**

1. In this assessment appeal, the Vigo County Assessor offered an appraisal that, while far from perfect, was sufficiently reliable to show the true tax value of the property under appeal. Although the Petitioners, Michael Worrell and Rosemarie Scott, sought a lower value, they failed to offer any probative evidence to support their request.

## **PROCEDURAL HISTORY**

2. Worrell and Scott filed a Form 130 petition with the Assessor contesting their 2015 assessment. The Vigo County Property Tax Assessment Board of Appeals (“PTABOA”) issued a Form 115 notice of determination upholding the original assessment of \$190,800. Worrell and Scott timely filed a Form 131 petition with the Board.

## **HEARING FACTS AND OTHER MATTERS OF RECORD**

3. On December 7, 2017, our administrative law judge, Jacob Robinson (“ALJ”), held a hearing on the petition. Neither he nor the Board inspected the property. Rosemarie Scott and Michael West were sworn as witnesses.
4. Worrell and Scott did not submit any exhibits. The Assessor submitted the following exhibits:
  - Respondent Exhibit 1A: 2014 GIS map of subject property
  - Respondent Exhibit 1B: 2016 GIS map of subject property
  - Respondent Exhibit 2A: 2014 Property Record Card (“PRC”) for subject property
  - Respondent Exhibit 2B: 2015 PRC for subject property
  - Respondent Exhibit 3: Appraisal Report prepared by Laurretta Ann Harmon
  - Respondent Exhibit 4A: 2015 PRC and sales disclosure form for 7811 Marblehead Ct.
  - Respondent Exhibit 4B: 2015 PRC and disclosure form for 35 Doe Court
  - Respondent Exhibit 4C: 2015 PRC and disclosure form for 1882 E. Woodsmall Dr.
  - Respondent Exhibit 4D: 2015 PRC and disclosure form for 98 Southgate Court
  - Respondent Exhibit 4E: 2015 PRC and disclosure form for 15 Southridge Road
  - Respondent Exhibit 4F: 2015 PRC and disclosure form for 225 Southridge Road
5. The following items are also recognized as part of the record:
  - Board Exhibit A: Form 131 petition and attachments
  - Board Exhibit B: Hearing notice
  - Board Exhibit C: Hearing sign-in sheet

In addition, we incorporate into the record all filings by the parties and all orders and notices issued by the Board or the ALJ.

6. The property contains a single-family residence located at 209 Highland Court, Terre Haute.

#### SUMMARY OF THE ASSESSOR'S CONTENTIONS

7. There were no changes to the subject property during the 2015 assessment year. As part of the 2015 reassessment, the Assessor removed a negative influence factor that she had first applied to the property following Worrell and Scott's 2012 and 2013 appeals. *West testimony; Resp't Exs. 1A-1B, 2A-2B.*
8. The Assessor hired Laurretta Ann Harmon, a certified residential appraiser, to appraise the property. Harmon inspected the home, presumably around July 13, 2013—the date she prepared her report. As Harmon explained, Scott indicated that the following conditions existed on March 1, 2015: the half bath, the sink in the upstairs hall bath, and the shower in the master bath were not functioning; and some built-in appliances were missing because repairs had not been completed from a fire in 2012. Harmon noted that the roof was in fair-to-poor condition when she inspected it. She assumed that it was in slightly better condition as of March 1, 2015. Overall, Harmon found that the home had reasonable care and upkeep with no abnormal wear and tear and that depreciation was within normal boundaries for a home of its age and style. *West testimony; Resp't Ex. 3.*
9. Harmon certified that she complied with the Uniform Standards of Professional Appraisal Practice ("USPAP"), and she developed both the cost and sales-comparison approaches to value. Under the cost approach, she used local land sales to estimate a site value of \$50,000. She then added depreciated replacement costs for the improvements (\$100,660) and the "as is" value of site improvements (\$7,500) to arrive at a total value of \$158,160. *Resp't Ex. 3.*
10. For her sales-comparison approach, Harmon relied on three comparable sales (Sales 4-6) from Woodgate, which is the subject property's assessment neighborhood, and three sales (Sales 1-3) from other neighborhoods. The properties sold between April 2014 and

February 2015 for prices ranging from \$129,000 to \$160,000. *West testimony; Resp't Ex. 3.*

11. Harmon considered adjusting the sale prices for various reasons. She adjusted four sale prices because they involved sales or financing concessions. She also adjusted the sale prices to account for various differences between the properties, including site size, home size, construction quality, the lack of fireplaces, and the number of bathrooms. *West testimony; Resp't Ex. 3; Resp't Exs. 4A-4F.*
12. Harmon did not adjust for age differences. The subject home was 43 years old. Two of the comparable homes were 48 years old, two were 31 years old, one was 30 years old, and one was 22 years old. In a supplemental addendum to her appraisal report, Harmon explained that, when contemplating age adjustments, effective age is significantly more important than actual age. According to Harmon, the effective ages of her comparable homes were based on MLS data, including interior photographs and observations from the street. Her report did not list any of the homes' effective ages. *Resp't Ex. 3.*
13. Harmon similarly did not adjust for differences in the homes' designs even though the subject home was a two-story "four square" design, while she described two of her comparable homes (Sales 5-6) as ranches and another (Sale 4) as a "ranch+." She did not explain why she decided against any adjustment for those design differences. *See Resp't Ex. 3.*
14. After Harmon applied all her adjustments, the sale prices ranged from \$128,600 to \$164,700. In reconciling those prices, she gave the greatest weight to Sales 4 and 6 (30% each), which had adjusted prices of \$164,700 and \$155,600, respectively. She settled on a value of \$153,000. *Resp't. Ex. 3.*
15. Harmon considered her sales-comparison approach to be the strongest indicator of value but thought the cost approach also supported her value estimate. She ultimately relied on her sales-comparison approach and valued the property at \$153,000 as of March 1, 2015.

Accordingly, the Assessor requested that we reduce the 2015 assessment to \$153,000.  
*West testimony; Resp't Ex. 3.*

16. While Scott criticized Harmon's selection of comparable sales and several of her adjustments, the Assessor's witness and representative, Michael West, pointed out that Scott is not a licensed real estate broker, appraiser, or assessor. Scott's comments were merely her lay opinion. *West testimony.*
17. Although Scott claimed that her property record card ("PRC") shows the subject home as having two fireplaces when it actually has only one, West explained that the PRC was describing the number of components—one firebox and one flue—rather than the number of fireplaces. *West testimony; Resp't Exs. 2A, 2B.*
18. West acknowledged that the total living area listed on the PRC differed from Harmon's calculation of gross living area. But he attributed the discrepancy to differences in how the Assessor and Harmon measured the home: the Assessor used exterior measurements while Harmon used interior measurements. *West testimony; Resp't Exs. 2A-2B, 3.*

#### **SUMMARY OF WORRELL AND SCOTT'S CONTENTIONS**

19. According to Scott, an assessment should reflect the market, which is what reasonable people would pay for a property. Given the subject home's condition, she did not believe anyone would pay \$190,800 for it. The home had a fire in 2012 and a sewer backup shortly thereafter, which prevented Scott from moving back into the home until August 2014. In 2014, the Assessor valued the property at \$107,000, which Scott argued was correct. According to Scott, she did not make any changes to the property that could justify the large assessment increase in 2015. She tried to sell the property for \$127,000. Two potential buyers tried to get financing that would allow them to replace the roof with lender funds, but banks would not appraise the property for \$107,000 and consider a roof loan. Scott did not say when those proposed sales occurred. *Scott testimony.*

20. Scott criticized Harmon's appraisal, claiming that Harmon should have tried harder to find comparable sales from Scott's neighborhood. Although some of the sales were from Woodgate South, the subject property is in Woodgate East. Woodgate South has newer homes and is more expensive in general. The same is true for Colonial Park, one of the other neighborhoods from which Harmon drew her sales. *Scott testimony.*

21. Scott claimed there were several sales from her neighborhood that Harmon could have used as comparable sales, but she offered only very general information about them and did not give any of the sale dates. She generally complained about the age differences between the subject home and the homes from some of Harmon's comparable sales. She also made some more specific comments about those homes:

- Sale 1 (7811 Marblehead Court) has a basement, a new roof, a long driveway, a flat backyard with woods, and is located on a cul-de-sac;
- Sale 2 (35 Doe Court) is the most comparable sale, but it has a screened-in porch, a newer roof, and it has been "updated";
- Sale 3 (1882 E. Woodsmall Drive) has a "really nice yard," a flat backyard, an asphalt driveway, a lower level, and a new roof;
- Sale 4 (98 Southgate Court) is a "newer, nicer home," with a new roof, a deck, a finished attic, a big crawl space. And it is a ranch;
- Sale 5 (15 Southridge Road) is a ranch;
- Sale 6 (225 Southridge Road) is "too much nicer," only 22 years old, and it is a ranch.

*Scott testimony.*

22. Scott also claimed that Harmon's adjustments failed to account for the home's condition, which Scott asserted was even worse in 2015 than when Harmon viewed it for her appraisal. Scott identified the following condition-related issues:

- Three layers of roofing were over 26 years old;
- Areas of the soffit were "completely rotted";
- Several windows had not been repaired following the fire and could not be opened;
- Doors to the back deck did not open;
- The master bathroom's shower was not functioning;
- The opening to the laundry area was unfinished and had no door;
- One bathroom lacked towel bars;
- One bathroom, a bedroom and the garage lacked working lights;

- The garage door was inoperable, rotten, and had missing springs;
- The heating system was original from 1972;
- The water heater was approximately 15 year old;
- The fireplace was not functional.

Scott also claimed that the subject property's backyard was unusable because it sloped into a hollow, that the driveway was short, and that the home sat closer to the road than did neighboring homes. *Scott testimony.*

23. At a minimum, Scott felt that Harmon should have adjusted her comparable properties' sale prices to account for the poor condition of her roof, soffit, and heating system. She also pointed to the discrepancy between gross living area as listed in Harmon's report (1,912 sq. ft.) and on the PRC (2,128 sq. ft.), and she claimed that the PRC erroneously listed the home as having two fireplaces. Finally, she argued that the home was "not nice enough" to merit the C+1 construction quality grade that the Assessor assigned to it. *Scott testimony; Resp't Exs. 2A, 2B.*

#### **BURDEN OF PROOF**

24. Generally, a taxpayer seeking review of an assessment must prove that the assessment is wrong and what the correct value should be. Indiana Code § 6-1.1-15-17.2 creates an exception to the general rule and shifts the burden to the assessor to prove that the assessment is correct in specified circumstances, including where the assessment under appeal represents an increase of more than 5% over the prior year's assessment for the same property. Ind. Code § 6-1.1-15-17.2(a), (b). If the assessor has the burden and fails to meet it, the assessment reverts to the previous year's level or to another amount shown by probative evidence. I.C. § 6-1.1-15-17.2(b).
25. Worrell and Scott's assessment increased by more than 5% between 2014 and 2015. The Assessor conceded that she bears the burden of proof.

## ANALYSIS AND CONCLUSIONS OF LAW

26. 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.
27. 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 accepted 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 USPAP-compliant market value-in-use appraisal is the most effective method for rebutting the presumption that an assessment is correct). Regardless of the method used, parties must explain how their evidence relates to the relevant valuation date. *Long v. Wayne Twp. Ass’r*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). Otherwise, the evidence lacks probative value. *Id.* The valuation date for 2015 assessments was March 1, 2015. I.C. § 6-1.1-4-4.5(f).
28. As discussed above, the Assessor has the burden of proving that the 2015 assessment was correct. She offered a USPAP-compliant appraisal report in which Harmon estimated the property’s market value at \$153,000 as of the appropriate valuation date.
29. Harmon relied principally on the sales-comparison approach, which is based on, among other things, the principle of substitution. An appraiser “estimates the total value of the property directly by comparing it to similar, or comparable, properties that have sold in



the market.” MANUAL at 2. To apply that approach, appraisers identify the relevant characteristics of the property they are appraising and find sales of properties that share those characteristics. After selecting comparable sales, appraisers adjust the sale prices to account for any relevant differences between a comparable sale’s characteristics and those of the property being valued. This process requires appraisers to exercise their professional judgment. There are no definitive answers as to how closely two properties must compare for one to be a substitute for the other.

30. Scott criticized Harmon’s selection of comparable properties because they are not located in her immediate neighborhood. But Scott failed to offer any evidence to show that the market in which the subject property competes for buyers is limited solely to its own neighborhood. Although Scott argued that there were better comparable sales in the neighborhood, she failed to offer any details. In any case, all of Harmon’s sales were within two miles of the subject property.
31. Scott also pointed to differences between the subject home and the homes from Harmon’s comparable sales in terms of age, design, and condition. But Scott did not show that any of those homes were so different from the subject home as to preclude them from being substitutes. Although Harmon was not at the hearing to defend her selection of comparable sales, her report makes clear that she considered the relevant characteristics and found her comparable sales to be similar to the subject property in most respects. We also find that Harmon made appropriate adjustments to account for most of the relevant differences.
32. Scott described a variety of issues regarding the subject property’s condition and claimed that many of them existed in 2015 but had been addressed by the time Harmon inspected the property. The weight of the evidence indicates otherwise. For example, Harmon noted Scott’s representations about issues with the bathrooms and appliances that existed on the valuation date but that had been addressed by the time Harmon inspected the property.

33. We have no doubt that the subject home was deteriorated. But Harmon appears to have accounted for much of the deterioration that Scott described, and she judged it to be within the normal range for a home of that age and style. In any case, Scott failed to show that Harmon's comparable homes were in substantially better condition. She offered little more than conclusory statements about the condition of the homes in Harmon's comparable sales. She described four of Harmon's comparable sales as having "new" or "newer" roofs without offering any evidence about their installation dates or any other details establishing differences in overall condition significant enough to warrant adjustments. Scott was similarly vague about other condition-related claims, referring to Harmon's comparable homes having "updates" or being "nicer" than the subject home.
34. While Scott was more concrete when describing other differences, such as one home being on a cul-de-sac and another having an attic, or several homes having flat yards and longer driveways, she offered nothing to show the extent, if any, to which market participants valued those differences. Scott also pointed to the fact that Sale 1 had a basement, while the subject home was built on a crawl space. Harmon, however, adjusted the sale price downward to account for that difference.
35. Scott's claim about Harmon valuing the subject home as having fewer square feet than what the PRC listed likewise does little to impeach Harmon's valuation opinion. West credibly explained that the discrepancy probably stemmed from Harmon using interior, instead of exterior, measurements. In any case, to the extent Harmon underestimated the home's size, that error would have been in Worrell and Scott's and favor.
36. We do share some of Scott's concerns about Harmon's lack of age adjustments. While Harmon explained that effective age is a more important than actual age, she did not list the effective ages for any of her comparable homes. On the other hand, Scott did not offer any evidence to show that the age differences significantly affected the properties' values. Indeed, only one sale (Sale 6) had a home that was substantially newer than the subject home was.

37. Harmon's decision to compare the subject home to three ranch-style homes without making any design-related adjustments likewise gives us some pause. Her appraisal would have been more persuasive had she explained her reasoning on that account. Scott, however, did not offer any evidence to show that market participants valued ranch-style homes differently than "foursquare" homes like hers.
38. While Scott cast some doubt on Harmon's credibility, we still find Harmon's valuation opinion sufficiently reliable, if only barely, to make a prima facie case that the property's true tax value was \$153,000.
39. Scott did not offer any independent market-based evidence to show a different value. To the extent her claims about errors on her PRC might be viewed as an attempt to value the property by correcting the Assessor's methodology, that claim fails. Indiana's current appeal system focuses on examining whether an assessment actually reflects the external benchmark of market value-in-use, not on whether an assessor properly applied mass appraisal guidelines when developing the assessment. *See Westfield Golf Practice Cntr. v. Washington Twp. Ass'r*, 859 N.E.2d 396, 399 (Ind. Tax Ct. 2007); *see also Eckerling*, 841 N.E.2d at 678 (explaining that "strict application" of assessment regulations is not enough to rebut the presumption that an assessment is correct; a taxpayer must use market-based evidence to make a prima facie case).

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

40. This appeal illustrates the risk a party takes when she tries to poke holes in an opponent's valuation evidence without offering her own market-based evidence to show a more reliable value. While far from perfect, Harmon's appraisal was sufficiently reliable to support a value of \$153,000. Absent probative evidence to show a different value, we order that the assessment must be reduced to \$153,000.

This Final Determination of the above-captioned matter is issued by the Board on the date first 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

**- 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>>.