Apartment Assessments

Barry Wood

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Disclaimer

- The Department of Local Government Finance (Department) does not get involved in individual property tax assessments or appeals. The following information should not be construed as legal advice, and any legal questions or issues should be directed to your county attorney.

Agenda

- Indiana Code Provisions
- Assessment Practices
- Low-Income Housing
- Frequently Asked Questions
- Questions

Indiana Code Provisions

IC 6-1.1-4-39 Assessment of rental property and mobile homes; low-income rental housing exclusion; appraisal approach; burden of proof

Sec. 39. (a) For assessment dates after February 28, 2005, except as provided in subsections (c) and (e), the true tax value of real property regularly used to rent or otherwise furnish residential accommodations for periods of thirty (30) days or more and that has more than four (4) rental units is the lowest valuation determined by applying each of the following appraisal approaches:

(1) Cost approach that includes an estimated reproduction or replacement cost of buildings and land improvements as of the date of valuation together with estimates of the losses in value that have taken place due to wear and tear, design and plan, or neighborhood influences.

(2) Sales comparison approach, using data for generally comparable property.

(3) Income capitalization approach, using an applicable capitalization method and appropriate capitalization rates that are developed and used in computations that lead to an indication of value commensurate with the risks for the subject property use.

Indiana Code Provisions

(b) The gross rent multiplier method is the preferred method of valuing:

real property that has at least one (1) and not more than four (4) rental units; and

mobile homes assessed under IC 6-1.1-7.

(c) A township assessor (if any) or the county assessor is not required to appraise real property referred to in subsection (a) using the three (3) appraisal approaches listed in subsection (a) if the assessor and the taxpayer agree before notice of the assessment is given to the taxpayer under section 22 of this chapter to the determination of the true tax value of the property by the assessor using one (1) of those appraisal approaches.

Indiana Code Provisions

(d) To carry out this section, the department of local government finance may adopt rules for assessors to use in gathering and processing information for the application of the income capitalization method and the gross rent multiplier method. If a taxpayer wishes to have the income capitalization method or the gross rent multiplier method used in the initial formulation of the assessment of the taxpayer's property, the taxpayer must submit the necessary information to the assessor not later than the assessment date. However, the taxpayer is not prejudiced in any way and is not restricted in pursuing an appeal, if the data is not submitted by the assessment date. A taxpayer must verify under penalties for perjury any information provided to the township or county assessor for use in the application of either method. All information related to earnings, income, profits, losses, or expenditures that is provided to the assessor under this section is confidential under IC 6-1.1-35-9 to the same extent as information related to earnings, income, profits, losses, or expenditures of personal property is confidential under IC 6-1.1-35-9.

Indiana Code Provisions

(e) The true tax value of low-income rental property (as defined in section 41 of this chapter) is not determined under subsection (a). The assessment method prescribed in section 41 of this chapter is the exclusive method for assessment of that property. This subsection does not impede any rights to appeal an assessment.

(f) Notwithstanding IC 6-1.1-4-4.5, for assessment dates beginning after December 31, 2023, the county assessor or township assessor making the assessment shall perform an assessment of property qualifying under subsection (a) annually, and for each assessment year, perform a valuation of the property qualifying under subsection (a) using each of the appraisal approaches in subsection (a)(1) through (a)(3) and annually report to the taxpayer each of the values under those approaches as determined by the assessor on a form as prescribed under subsection (i). The assessor shall use the department cost schedules without additional modifiers, adjustments, or other trending factors beyond the location cost multiplier adjustments developed by the department for the cost schedules used under this section. The use of locally developed cost schedules, location cost multipliers, and market or trending adjustments is prohibited.

Indiana Code Provisions

(g) The county assessor or township assessor making the assessment of property qualifying under subsection (a) has the burden of proof to establish that the assessed value is the lowest value of those determined using the three (3) appraisal approaches performed by the county assessor or township assessor regardless of the percentage change in the assessed value.

(h) Upon request of the taxpayer, the county assessor or township assessor making the assessment shall provide an explanation to the taxpayer concerning how the assessed value of the property was calculated.

(i) The department shall prescribe a specific form for property qualifying under subsection (a).

Indiana Code Provisions

IC 6-1.1-4-40 Exclusion of federal income tax credits in the determination of the assessed value of low- income housing tax credit property

Sec. 40. The value of federal income tax credits awarded under Section 42 of the Internal Revenue Code may not be considered in determining the assessed value of low-income housing tax credit property.

Indiana Code Provisions

IC 6-1.1-4-41 Assessment of low-income rental housing

Sec. 41. (a) For purposes of this section, "low-income rental property" means real property used to provide low- income housing eligible for federal income tax credits awarded under Section 42 of the Internal Revenue Code, including during the time period during which the property is subject to an extended low-income housing commitment under Section 42(h)(6)(B) of the Internal Revenue Code.

(b) For assessment dates after February 28, 2006, the true tax value of low-income rental property is the greater of the true tax value:

1. determined using the income capitalization approach; or
2. that results in a gross annual tax liability equal to five percent (5%) of the total gross rent received from the rental of all units in the property for the most recent taxpayer fiscal year that ends before the assessment date.

Indiana Code Provisions

(c) For assessment dates after December 31, 2017, the total true tax value of low income rental property that offers or is used to provide Medicaid assisted living services is equal to the total true tax value that results in a gross annual tax liability equal to five percent (5%) of the total gross rent received from the rental of all living units in the property for the most recent taxpayer fiscal year that ends before the assessment date. The total true tax value shall not include the gross receipts from, or value of, any assisted living services provided.

(d) The department of local government finance may adopt rules under IC 4-22-2 to implement this section.

Indiana Code Provisions

IC 6-1.1-10-16.7 Real property exemption; expiration

Sec. 16.7. (a) Except as otherwise provided in this section, for assessment dates after December 31, 2021, all or part of real property is exempt from property taxation if:

(1) the improvements on the real property were constructed, rehabilitated, or acquired for the purpose of providing housing to income eligible persons under the federal low-income housing tax credit program under 26 U.S.C. 42;

(2) the real property is subject to an extended use agreement under 26 U.S.C. 42 as administered by the Indiana housing and community development authority; and

(3) the owner of the property has entered into an agreement to make payments in lieu of taxes under IC 36-1-8-14.2 (before its expiration), IC 36-2-6-22 (before its expiration), IC 36-3-2-11 (before its expiration), IC 36-1-8-14.3, IC 36-2-6-23, or IC 36-3-2-12.

Indiana Code Provisions

(b) This section may not be construed in such a way as to:

(1) alter the terms of an agreement with the holders of any outstanding notes, bonds, or other obligations of an issuing body;

(2) authorize the issuing body to alter the terms of an agreement described in subdivision (1); or

(3) impair, or authorize the issuing body to impair, the rights and remedies of any creditor of the issuing body.

Assessment Practices

- Assessors must value apartments using the lowest of the three (3) approaches to value – Cost, Sales, or Income.
- The Gross Rent Multiplier (GRM) is the “preferred method” for real property having 1 to 4 rental units, and mobile homes assessed under Indiana Code 6-1.1-7.
- The assessing official and the taxpayer may agree to the assessment using one approach (before notice of the assessment is given to the taxpayer).
- If a taxpayer wishes to have the income capitalization method or the gross rent multiplier method used in the initial formulation of the assessment of the taxpayer's property, the taxpayer must submit the necessary information to the assessor not later than the assessment date. However, the taxpayer is not prejudiced in any way and is not restricted in pursuing an appeal, if the data is not submitted by the assessment date.

Assessment Practices

- All information related to earnings, income, profits, losses, or expenditures that is provided to the assessor is confidential under IC 6-1.1-35-9.
- The true tax value of low-income rental property (as defined in Indiana Code 6-1.1-4-41) is the exclusive method for assessment of that property. This does not impede any rights to appeal an assessment.
- For assessment dates beginning after December 31, 2023, the assessing official shall perform an assessment of property annually, and for each assessment year, perform a valuation of the property using each of the appraisal approaches and annually report to the taxpayer each of the values under those approaches as determined by the assessor on Form 11-A.

Assessment Practices

- The assessor shall use the Department cost schedules without additional modifiers, adjustments, or other trending factors beyond the location cost multiplier adjustments developed by the Department for the cost schedules. The use of locally developed cost schedules, location cost multipliers, and market or trending adjustments is prohibited.
- The assessing official making the assessment of property has the burden of proof to establish that the assessed value is the lowest value of those determined using the three (3) appraisal approaches, regardless of the percentage change in the assessed value.
- The value of federal income tax credits awarded under Section 42 of the Internal Revenue Code may not be considered in determining the assessed value of low-income housing tax credit property.

Assessment Practices

- “Low-income rental property" means real property used to provide low-income housing eligible for federal income tax credits awarded under Section 42 of the Internal Revenue Code, including during the time period during which the property is subject to an extended low-income housing commitment under Section 42(h)(6)(B) of the Internal Revenue Code.
- For assessment dates after February 28, 2006, the true tax value of low-income rental property is the greater of the true tax value:
  (1) determined using the income capitalization approach; or
  (2) that results in a gross annual tax liability equal to five percent (5%) of the total gross rent received from the rental of all units in the property for the most recent taxpayer fiscal year that ends before the assessment date.

Assessment Practices

- For assessment dates after December 31, 2017, the total true tax value of low income rental property that offers or is used to provide Medicaid assisted living services is equal to the total true tax value that results in a gross annual tax liability equal to five percent (5%) of the total gross rent received from the rental of all living units in the property for the most recent taxpayer fiscal year that ends before the assessment date. The total true tax value shall not include the gross receipts from, or value of, any assisted living services provided.

Low Income Housing

- Section 8:
  - Housing Choice Vouchers
    - This program provides eligible households vouchers to help pay the rent on privately owned homes of their choosing. A family receiving a voucher must pay at least thirty (30) percent of its monthly adjusted gross income for rent and utilities. The vouchers are generally administered and can be applied for through local (city) housing authorities.
    - The Section 8 Housing Choice Voucher (HCV) is administered by various housing agencies throughout the State of Indiana and is not all managed by the Indiana Housing & Community Development Authority (IHCDA) (https://www.in.gov/ihcda/). IHCDA contracts with local community action programs to provide case management, including waitlists for application to the HCV program.

Low Income Housing

- The HCV Program comprises the majority of the Indiana Housing and Community Development Authority's Section 8 rental assistance programs. IHCDA administered vouchers to help over 4,000 families pay their rent each month. Eligibility for the HCV program is based on a family's household income.
- The voucher covers a portion of the rent, and the tenant is expected to pay the balance. The tenants' share is an affordable percentage of their income and is generally calculated to be between thirty (30) to forty (40) percent of their monthly-adjusted gross income for rent and utilities. Most HCV program services are provided by Local Subcontracting Agencies throughout the state of Indiana.

Low Income Housing

- Like other income producing properties, the Income Approach for Low Income Housing is calculated using an estimated Net Operating Income (Gross Income less Operating Expenses) and converted to a present value by dividing it by a capitalization rate, which reflects the Discount Rate, the Recapture Rate, and the Effective Tax Rate.

- Replacement Reserves, which account for short-lived items, are considered an allowable operating expense.

- Tax credits may not be considered in determining the operating income of Low-Income Housing Property.

Low Income Housing

- Section 42:
  - The Section 42 low-income housing tax credit program, also called the rental housing tax credit program, is a federal program governed by the Internal Revenue Service (IRS). The purpose of the program is to provide a tax credit to property owners/developers to create affordable rental housing. In exchange for the tax credit, the property owner must agree to restrict occupancy to program eligible households, to follow program rent restrictions, and to keep the housing safe and sanitary.
  - Every state has a designated “housing finance authority” that is responsible for overseeing the program in that state. For Indiana, the designated agency is the IHCDA. IHCDA conducts compliance audits, inspections, and annual reviews on all Section 42 properties in Indiana to ensure that the program rules are being followed.

Low Income Housing

- Section 42:
  - IHCDA maintains a list of all active Section 42 properties online at: http://www.in.gov/myihcda/2344.htm.
  - A household must meet two tests in order to be eligible for Section 42 housing. First, the household must be income eligible. Second, the household must meet the program's student status rule.
  - Income limits are based on the number of individuals that will be living in the unit. For purposes of determining household size, a household includes all individuals that will reside in the unit, whether or not those individuals are related. This includes individuals temporarily absent from the household (such as children away at school), unborn children, children in joint custody agreements that will reside in the unit at least 50% of the time, and foster children or foster adults. There are two special rules related to households:

Low Income Housing

- Section 42:
  - The household members get to choose whether or not to include a member who is permanently confined to hospital or nursing home.
  - Military members away on active duty are only counted in household size if they are the head or co-head, or if they leave behind a spouse or dependent child in the unit.

  - Note: Live-in aides and guests are not counted in household size.

Low Income Housing

- Section 42:
  - Once household size has been determined, this number is used to determine the correct income limit to apply. The U.S. Department of Housing and Urban Development (HUD) annually releases program income limits based on household size. Each county has its own set of income limits.
  - Section 42 program units are designated for households at 30%, 40%, 50%, or 60% of the area median income (AMI). A unit will be designated for occupancy at one of these levels. A unit can be occupied by a household with an income below the limit. Therefore, a unit designated at 60% could have a household at 30% AMI move into it, but a unit designated at 30% could NOT have a household at 60% AMI move into it.

Low Income Housing

- Section 42:
  - Income eligibility is determined by looking at all earned income (such as employment), unearned income (such as Social Security, child support, other benefits, etc.), and asset income (such as interest from bank accounts). The total household income from all household members from all sources (except those sources specifically excluded by program regulations) must be at or below the income limit at the time of move-in.
  - Example: if a household has 4 members and they wanted to move into a unit designated at 50% area median income, the property manager would have to determine household income and make sure that the income is at or below the 4-person 50% income limit in effect. If household income was above this limit, then the household would not be eligible to move-in.

Low Income Housing

- Section 42:
  - Section 42 was designed to prohibit the use of the program to create dormitories or other student housing. Therefore, households in which all members are full-time students are generally ineligible to live in Section 42 program units. An individual is considered a fulltime student if he or she was a full-time student (based on the definition of full-time used by the school they attend) for parts of five (5) or more months out of the calendar year.
  - An individual or household must apply for Section 42 housing at the property at which they wish to reside. The application process will include the completion of an income and asset questionnaire as well as a student status questionnaire. Any income or asset sources identified must be verified through third-party sources by property management to calculate income. After eligibility has been verified, the household must sign a "Tenant Income Certification" form certifying that all information provided was true and that the calculated household income is accurate.

Low Income Housing

- Section 42:
  - All households accepted into Section 42 housing must enter into a lease agreement.
  - If tenants are responsible for paying their own utilities, then the property must use a "utility allowance." This is an estimate of the average monthly utility cost for a unit.
  - To determine the actual rent that can be charged, the property manager must deduct the utility allowance from the rent limit in the chart released by HUD.

Low Income Housing

- Section 42:
  - For example, a household lives in a two-bedroom unit designated at 50%. The HUD chart says that the rent limit for a two-bedroom unit at 50% in that county is $550. The utility allowance for a two-bedroom unit at the property is $150. The maximum amount of rent that can be charged to the household is $400 ($550 rent limit minus $150 utility allowance).
  - Section 42 properties cannot refuse to accept Section 8 vouchers. However, voucher holders must meet all other eligibility and tenant selection criteria in order to be eligible for occupancy.

Low Income Housing

- Section 42:
  - Per Indiana Code 6-1.1-10-16.7 (a), Section 42 property is exempt if the owner has agreed to payments in lieu of taxes (PILOT).
  - Per Indiana Code 6-1.1-4-41 For assessment dates after February 28, 2006, the true tax value of low-income rental property is the greater of the true tax value:
    (1) determined using the income capitalization approach; or
    (2) that results in a gross annual tax liability equal to five percent (5%) of the total gross rent received from the rental of all units in the property for the most recent taxpayer fiscal year that ends before the assessment date.

Frequently Asked Questions

- *Q: An apartment complex is 100% finished/completed as of January 1, 2025. However, the apartment complex does not have any tenants as of 1/1/2025 – thus no income. Under IN Code 6-1.1-4-39 (a), what value would you assign (given that it is the lowest of the three approaches)?*
- A: We know that it should be assessed and not at $0. Since no income and expense data is available, that method of valuation would not be available which leaves either the cost approach or the sales comparison approach. The assessor would need to determine which of the other two approaches results in the lowest value. The assessor would also note on the Form 11-A under the Income Approach that no information was available.

Frequently Asked Questions

- *Q: Will the cost approach always be the lowest?*
- A: Generally, yes, the cost approach will be the lowest. However, there may be situations where it is not (e.g., perhaps there is a property with a high vacancy rate, and the income and expenses show a lower amount).

- *Q: If cost is always lowest, is it reasonable to assume that the assessed value would decrease over time?*
- A: The assessed value could decrease over time due to depreciation (and assuming the property owner does not make any significant change/improvements); however, some counties may have seen the assessments increase (primarily due to increases in the land portion of the assessment).

Frequently Asked Questions

- *Q: Does Indiana Code 6-1.1-4-39 apply to nursing homes? Technically, they are renting a room for more than 30 days. Does it apply to assisted living? Then do they require the Form 11-A? Because low-income housing falls under a different category, does it require a Form 11-A? Technically it is only supposed to be done by the income approach.*
- A: Nursing homes and assisted living do not fit under the apartment statute. Medicaid and Medicare largely pay for residents' stays; hence, the Income Approach does not make sense. Medicare rates for each person are over $500 a day and Medicaid is over $200 a day.

Frequently Asked Questions

- *Q: We have roughly 100 multifamily facilities with 5+ units that span multiple parcels. We put in a request with the Auditor's Office in September about having those parcels combined into a single parcel per facility for taxation purposes, but as of today, that has not been accomplished. How should the Assessor's Office handle this situation if the parcels still have not been combined by 1/1/2025?*
- A: The legislation and pre-existing statutory language does not require that the multifamily units be under a single parcel. Operationally it is likely easier for the assessor if the units are all under one parcel, but even if the units are not under a single parcel, the law would still apply.

Frequently Asked Questions

- *Q: Would the Income Approach to valuation and the Sales Approach be reflected only on one (parent) parcel for the facility, with the other (child) parcels holding $0 value for those approaches? For the Cost Approach, what happens if the improvements span multiple parcels? Should that value be broken up somehow across parcels?*
- A: Again, the Department does not believe this question is impacted by whether the units are under a single parcel or not. The Income Approach is based on the estimated income produced from the property as a whole – Value = Income/Rate. The value determination would take a number of different factors into account – i.e., occupancy ratios, market rent based on the median of each of the rents for the apartment, gross income multipliers, etc.

Frequently Asked Questions

- *Q: We're still not sure how to handle mixed use facilities with apartment use. For example, we have a number of facilities with both multifamily and retail use, sometimes also containing a parking garage. We typically assess retail properties based on the Income Approach. If we begin assessing the entire mixed-use facility on the Cost Approach with no modifiers or factors, but continue to assess comparable retail facilities on the Income Approach (or even assess them using the Cost Approach WITH a modifier or factor), that would seemingly lead to an inequitable assessment situation. However, we also are not sure how to potentially split up value in a mixed-use facility where the multifamily rentals are valued in a different manner than the retail section and a parking garage is potentially used by both retail and multifamily occupants. I am also unclear as to how that division could or should be displayed on the Form 11-A. Also, many of those facilities currently span multiple parcels, as well, going back to the first point.*
- A: The Department knows this is something most counties struggle with for mixed used properties. For purposes of determining the Income Approach for mixed used properties, the valuation formula would only be based on the residential units within the property.

Frequently Asked Questions

- *Q: I was wondering if you could guide us on IC 6-1.1-4-41. What documentation should they provide us to prove they are Medicaid assisted low-income housing?*
- A: The Department is not aware of any specific documentation per se; however, the taxpayer should be able to provide copies of Medicaid documentation confirming that they are eligible. You may want to contact the HCDA (https://www.in.gov/ihcda/) to find out if they have any suggestions on documentation and/or can confirm eligibility. Additionally, you may want to check with your county attorney for specific legal advice/guidance.

Frequently Asked Questions

- *Q: I have a couple of questions.*
    - *Sale Price ÷ Monthly Gross Income = GRM*
    - *Example: $60,000 ÷ $525 = 114*
    - *Subject's Monthly Market Rent X GRM = Market Value*
    - *Example: $600 X 114 = $68,400*
    - *What defines the Monthly Gross Income and the Monthly Market Rent? I think I can get the Sale Price info I need.*
- A: Monthly Gross Income would be the market rent as indicated by the market, along with any other sources of income. For example, the monthly gross income for an apartment complex would include the rent charged to the tenants, along with any other sources of income like revenue from washers/dryers, clubhouse rental, pet fees, etc. For a single unit/property, it would be the total income from the monthly rent and any other sources of income (if any). As far as the monthly market rent, it obviously depends on market factors (e.g., supply and demand, location, etc.).

Frequently Asked Questions

- *Q: When working up Section 42 and 515 values, does the 5% rule apply to both? The real root of the question is that is a Section 515 USDA Rural Rental Housing project also subject to using the 5% rule? We worked up a value that way, and they are arguing that isn't correct. I am at a loss here because it seems applicable to all low-income but the IC below is what they hang their hat on.*
- A: It is the Department's understanding that Section 515 properties are those properties that are directly funded (e.g., loans/mortgages) from the U.S. Department of Agriculture (USDA) to non-profit or for-profit rural housing developers. Section 42 deals more with a type of subsidized housing intended to assist low-income renters get safe, affordable housing. However, since this is fact/case sensitive, you should consult with your county attorney for specific legal advice/guidance.

Questions?

Apartment Assessments

- Barry Wood
  - Telephone: 317-232-3762
  - Email: bwood@dlgf.IN.gov

- Website: www.in.gov/dlgf
  - “Contact Us” https://www.in.gov/dlgf/contact-us/