

REPRESENTATIVE FOR THE PETITIONERS: Jeffrey Baker, *pro se*

REPRESENTATIVE FOR THE RESPONDENT: Eric Grossman, Tippecanoe County
Assessor

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

Jeffrey D. & Julia E. Baker,)	Petition Nos.: 79-035-22-1-5-01080-22
)	
Petitioners,)	Parcel No.: 79-07-06-400-002.000-035
)	
v.)	County: Tippecanoe
)	
Tippecanoe County Assessor,)	Assessment Year: 2022
)	
Respondent.)	

August 7, 2023

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:

INTRODUCTION

1. The Petitioners appealed the 2022 assessment of their residential property in Tippecanoe County. The Assessor had the burden of proof. The Assessor offered an appraisal prepared in accordance with the Uniform Standards of Professional Appraisal Practice (“USPAP”) that provides a reliable, market-based opinion of the subject property’s market value-in-use. The Petitioners failed to offer any probative evidence supporting a different value. Accordingly, we find for the Assessor and order no change to the 2022 assessment.

PROCEDURAL HISTORY

2. The Petitioners appealed the 2022 assessment of their property located at 3411 Putnam Street in West Lafayette on June 14, 2022.
3. The Tippecanoe County Property Tax Assessment Board of Appeals (“PTABOA”) sustained the assessment at \$82,300 for land and \$241,100 for improvements for a total of \$323,400.
4. On May 9, 2023, Dalene McMillen, the Board’s Administrative Law Judge (“ALJ”), held a telephonic hearing. Neither the Board nor the ALJ inspected the property.
5. Jeffrey Baker, Tippecanoe County Assessor Eric Grossman, and Appraiser Deborah Lewellen all testified under oath.
6. The Petitioners offered no exhibits:
7. The Respondent offered the following exhibits:
 - Respondent Exhibit 1: Subject property narrative,
 - Respondent Exhibit 2: Subject property record card,
 - Respondent Exhibit 3: Residential appraisal report of the subject property prepared by Deborah Lewellen with an effective date of January 1, 2022.
8. The record also includes the following: (1) all pleadings and documents filed in these appeals, (2) all orders, and notices issued by the Board or ALJ; and (3) the digital recording of the hearing.

FINDINGS OF FACT

9. The subject property is a 2,292 square foot two-story wood frame home. It was built in 1994 and is located in West Lafayette. *Grossman testimony; Resp’t Ex. R2.*

10. The Assessor engaged Deborah Lewellen of Appraisals by Deb Lewellen, Inc. to appraise the retrospective market value of the subject property as of January 1, 2022. She certified that her appraisal complied with USPAP. She developed her opinion of value using the sales-comparison approach. She selected six comparable properties located in the same neighborhood that sold for prices ranging from \$356,000 to \$457,900 between February 5, 2021, and October 28, 2021. She adjusted the comparables for a number of factors including age, gross living area, basement finish, rooms below grade, and garage size. After adjustments, the sale prices ranged from \$381,900 to \$404,300. She reconciled these sales to a value of \$392,000. *Lewellen testimony; Resp't Exs. 3.*

PETITIONER'S CONTENTIONS

11. The Petitioners testified that the subject property's assessed value increased more than 5% between 2021 and 2022. For this reason, they believe the Assessor should have the burden of proof. *Baker testimony.*
12. The Petitioners also argued the Assessor's appraisal is flawed because there were no interior inspections of the comparables. They also argued that an appraisal is a matter of opinion "conceived with whoever is paying for that opinion." Finally, Baker testified that the subject property did not have brick, yet the appraisal listed it as having brick. *Baker testimony.*

RESPONDENT'S CONTENTIONS

13. The Assessor agreed the county should have the burden of proof because the subject property's assessment increased by more than 5% in 2022 over the previous year. *Grossman testimony; Resp't Exs. 1 & 2.*
14. Based on Lewellen's appraisal, the Assessor argued that the subject property was not over-assessed for the year under appeal. He requested the 2022 assessment be sustained. *Grossman testimony.*

BURDEN OF PROOF

15. Generally, the taxpayer has the burden of proof when challenging a property tax assessment. Accordingly, the assessment on appeal, “as last determined by an assessing official or the county board,” will be presumed to equal “the property's true tax value.” I.C. § 6-1.1-15-20(a) (effective March 21, 2022).
16. However, the burden of proof shifts if the property's assessment “increased more than five percent (5%) over the property's assessment for the prior tax year.” I.C. § 6-1.1-15-20(b). Subject to certain exceptions, the assessment “is no longer presumed to be equal to the property's true tax value, and the assessing official has the burden of proof.” *Id.*
17. If the burden has shifted, and “the totality of the evidence presented to the Indiana board is insufficient to determine the property’s true tax value,” then the “property’s prior year assessment is presumed to be equal to the property's true tax value.” I.C. § 6-1.1-15-20(f).
18. Here, the current assessment of \$323,400 is an increase of more than 5% over the previous assessment of \$250,700. Thus, the Assessor has the burden of proof.

ANALYSIS

19. The Indiana Board of Tax Review is the trier of fact in property tax appeals, and its charge is to “weigh the evidence and decide the true tax value of the property as compelled by the totality of the probative evidence before it.” I.C. § 6-1.1-15-20(f). The Board’s conclusion of a property's true tax value “may be higher or lower than the assessment or the value proposed by a party or witness.” *Id.* Regardless of which party has the initial burden of proof, either party “may present evidence of the true tax value of the property, seeking to decrease or increase the assessment.” I.C. § 6-1.1-15-20(e).

20. In order to meet its burden of proof, a party “must present objectively verifiable, market-based evidence” of the value of the property. *Piotrowski v. Shelby Cty. Assessor*, 177 N.E.3d 127, 132 (Ind. Tax Ct. 2021) (citing *Eckerling v. Wayne Twp. Assessor*, 841 N.E.2d 674, 677-78 (Ind. Tax Ct. 2006)). For most real property types, neither the taxpayer nor the assessor may rely on the mass appraisal “methodology” of the “assessment regulations.” *P/A Builders & Developers, LLC v. Jennings County Assessor*, 842 N.E.2d 899, 900, (Ind. Tax Ct. 2006). This is because the “formalistic application of the Guidelines’ procedures and schedules” lacks the market-based evidence necessary to establish the market value-in-use of a specific property. *Piotrowski*, 177 N.E.3d at 133.
21. Market-based evidence may include “sales data, appraisals, or other information compiled in accordance with generally accepted appraisal principles.” *Peters v. Garoffolo*, 32 N.E.3d 847, 849 (Ind. Tax Ct. 2015). Relevant assessments are also admissible, but arguments that “another property is ‘similar’ or ‘comparable’ simply because it is on the same street are nothing more than conclusions . . . [and] do not constitute probative evidence.” *Marinov v. Tippecanoe Cty. Assessor*, 119 N.E.3d 1152, 1156 (Ind. Tax Ct. 2019). Finally, the evidence must reliably indicate the property’s value as of the valuation date. *O’Donnell v. Dept. of Local Gov’t. Fin.*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006).
22. Here, the Assessor offered market-based evidence in the form of the Lewellen appraisal. She concluded to a value of \$392,000 as of January 1, 2022. We find her opinion to be generally reliable. The Petitioners made three main criticisms of the appraisal: (1) the value is unreliable because the appraiser failed to do an interior inspection of the subject property or the comparable properties, (2) the Assessor paid for the appraiser’s opinion of value, and (3) Lewellen erred when she described the subject property as having brick. We address each in turn. First, although an interior inspection can be beneficial, we find Lewellen adequately explained how she used MLS listings to evaluate the interiors of the properties. Moreover, the Petitioners did not introduce any reliable evidence showing that inspecting the interiors would have altered Lewellen’s opinion of value. As to the

second point, there is no evidence in the record that the appraiser had any incentive to inflate the value of this particular property, nor do we find any evidence she would. Finally, it appears Lewellen erred when she described the subject property as having brick. But the Petitioners failed to demonstrate how this impacted her opinion of value. While we find this error somewhat detracts from her credibility, we do not find it significant enough to undermine her overall conclusions. For these reasons, we find the Lewellen appraisal persuasive evidence of the subject property's market value-in-use.

23. We now turn to whether the Petitioners provided reliable evidence supporting a different value. The Petitioners argued that the subject property's assessment should not have increased, but they offered no support or evidence for that contention. Statements that are unsupported by probative evidence are conclusory and of no value to the Board in making its determination. *Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1118 (Ind. Tax Ct. 1998). To make a case, a taxpayer must show the current assessment does not accurately reflect the subject property's market value-in-use. *P/A Builders and Developers, LLC v. Jennings Co. Ass'r*, 842 N.E.2d 899, 900 (Ind. Tax Ct. 2006). To do that, a taxpayer must present "objectively verifiable, market-based evidence." *Piotrowski BK #5643, LLC v. Shelby Cnty Ass'r*, 177 N.E.3d 127 (Ind. Tax Ct. 2021). But the Petitioners failed to do so.
24. Lewellen's conclusion of \$392,000 is more than the current assessment of \$323,400, but the Assessor did not ask to raise the assessment. For this reason, we decline to do so.

SUMMARY OF FINAL DETERMINATION

25. The Board orders no change to the 2022 assessment.

The Final Determination of the above captioned matter is issued by the Indiana Board of Tax Review on the date written above.


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>>.