

REPRESENTATIVE FOR PETITIONER: Rich Archer, Paradigm Tax Group

REPRESENTATIVE FOR RESPONDENT: Lisa Garoffolo, Boone County Assessor

---

**BEFORE THE  
INDIANA BOARD OF TAX REVIEW**

Seldon & Joyce Bradley,	)	Petition Nos.	06-016-18-1-5-00308-19
	)		06-016-19-1-5-01021-19
Petitioners,	)		
	)	Parcel No.:	06-08-05-000-020.002-016
v.	)		
	)	County:	Boone
Boone County Assessor,	)		
	)	Assessment Years:	2018 & 2019
Respondent.	)		

---

Appeals from the Final Determinations of the  
Boone County Property Tax Board of Appeals

---

**April 3, 2020**

**FINAL DETERMINATION**

The Indiana Board of Tax Review (the “Board”), having reviewed the facts and evidence, and having considered the issues, now finds and concludes the following:

**INTRODUCTION**

1. Seldon & Joyce Bradley contested their home’s 2018 and 2019 assessments. In support of this, the Bradleys provided appraisals prepared in compliance with the Uniform Standards of Professional Appraisal Practice (“USPAP”) by an Indiana certified residential appraiser. We find the appraisals to be the best evidence of value. Thus, we find for the Bradleys.

**PROCEDURAL HISTORY**

2. The Bradleys contested the 2018 and 2019 assessments of their property located at 7660 East 100 South, Whitestown, IN. The Boone County Property Tax Board of Appeals (“PTABOA”) determined the following assessments:

**2018 Land:** \$148,500    **Improvements:** \$1,397,500    **Total:** \$1,546,000  
**2019 Land:** \$148,500    **Improvements:** \$1,385,600    **Total:** \$1,534,100

The Bradleys timely appealed the PTABOA decisions for both tax years to the Board.<sup>1</sup>

3. The Board’s designated Administrative Law Judge, Ms. Jennifer Thuma, held a hearing on February 6, 2020 in Lebanon. Neither she nor the Board inspected the property. Boone County Assessor Lisa Garoffolo, Deputy Assessor Peggy Lewis, Rich Archer, Paradigm Tax Representative, and P.D. Benz, an Indiana certified appraiser, were sworn and testified.

4. The following exhibits were admitted into the record without objection<sup>2</sup>:

Petitioner’s Exhibit 1:	2018 Subject Property Record Card
Petitioner’s Exhibit 2:	2018 Tax Bill
Petitioner’s Exhibit 3:	2018 Form 131 Appeal
Petitioner’s Exhibit 4:	2018 Benz Appraisal of Subject Property
Petitioner’s Exhibit 5:	2019 Subject Property Record Card
Petitioner’s Exhibit 6:	2019 Form 131 Appeal
Petitioner’s Exhibit 7:	2019 Benz Appraisal of Subject Property
Petitioner’s Exhibit R-1:	Receipt of mailing of appeal petition

---

<sup>1</sup> The Assessor argued that the Bradleys’ Form 131 appeals may have been untimely. But the evidence shows the Bradleys mailed their Form 131s within 45 days of the PTABOA decision as required by Ind Code § 6-1.1-15-3. *Pet’r Ex. R-1.*

<sup>2</sup> Prior to the hearing, the Assessor mailed a number of documents to the Board. These documents were not offered at the hearing, and thus are not in evidence. We address them briefly to avoid confusion. Most of the documents are procedural in nature, such as Forms 115 and 131 that are already in the record. But in addition, a “broker price opinion” was submitted for each year under appeal. Both opinions contain the statement “This is a broker price opinion or comparative market analysis and should not be considered an appraisal. In making any decision that relies upon my work, you should know that I have *not* followed the guidelines for development of an appraisal or analysis contained in the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation.” (emphasis in original). Thus, even if these documents had been properly offered and admitted into evidence, they would have had no bearing on our decision as they were not developed using generally accepted appraisal principles.

5. The official record also includes the following: (1) all pleadings, briefs and documents filed in the current appeals; (2) all orders and notices issued by the Board or our ALJ; and (3) an audio recording of the hearing.

#### **BURDEN OF PROOF**

6. Generally, a taxpayer seeking review of an assessing official's decision has the burden of proving that a property's assessment is incorrect and what its correct assessment should be. *See Meridian Towers East & East v. Washington Twp. Assessor*, 805 N.E. 2d 475, 478 (Ind. Tax Ct. 2003). Indiana Code § 6-1.1-15-17.2 provides for an exception to this rule (1) when the assessment under appeal is an increase of more than 5% over the prior year's assessment or (2) where the assessment is above the level determined in the taxpayer's successful appeal of the prior year's assessment. If substantial improvements, zoning changes, or other uses occur in the tax year under appeal, the exception does not apply. Ind. Code §6-1.1-15-17.2 (c).
7. The assessment increased from \$1,442,800 in 2017 to \$1,546,000 in 2018, an increase of more than 5%, and both parties agreed the burden rests with the Assessor for 2018.

#### **FINDINGS OF FACT**

8. The subject property is a house and associated improvements with 73.69 acres of land located at 7660 East 100 South, Whitestown, in a rural neighborhood. *Archer testimony; Benz testimony; Garoffolo testimony; Pet'r Exs. 1, 4, 5, and 7.*
9. Both parties agreed that the Indiana Department of Natural Resources had previously designated 62 acres of the property as a wildlife preserve. They also agreed that those 62 acres were properly classified as agricultural with a -100% influence factor. In addition, the values of two small portions dedicated to a ditch and a public road are not contested. This leaves 10.62 acres of land as well as the house and other improvements in dispute. *Archer testimony; Garoffolo testimony; Pet'r Exs. 1 and 5.*

10. The Assessor assessed the property using the rules and guidelines of the Department of Local Government Finance (“DLGF”). She testified that she lacked key information about the property, such as the condition of the outbuildings and the existence of a finished basement and pool. *Garoffolo testimony; Lewis testimony.*
11. The Bradleys offered two USPAP-compliant appraisal reports prepared by P.D. Benz, an Indiana certified residential appraiser with over 42 years of experience. Benz completed a separate appraisal for each year under appeal. He included extraordinary assumptions that the appraisals encompassed only the buildings and the 10.62 acres of land in dispute. He examined the land and improvements including the single-family dwelling, three unheated outbuildings, an above-ground pool inset against a dirt embankment on one side, patios, and a cabana. *Benz testimony; Pet’r Exs. 4 & 7.*
12. Benz developed only the sales-comparison approach. For 2018, he selected three comparables located in Boone County. He focused on properties with comparable land sizes to the 10.62 acres of the subject property. The comparables sold between May 2016 and November 2017. He made adjustments for a number of factors, including sale date, size, views/appeal, age, gross living area, and pool/outbuildings. After adjustment, the comparables ranged from \$1,118,000 to \$1,307,500. He settled on a value of \$1,200,000 for the January 1, 2018 valuation date. *Benz testimony; Pet’r Exs. 4 & 7.*
13. For his 2019 appraisal, Benz used one of the same sales from the 2018 appraisal, but also found two new sales that sold after the 2018 valuation date. Again, he looked for properties with comparable land to the subject property. He adjusted the sales for many of the same factors. After adjustment, the comparables ranged from \$1,012,500 to \$1,345,500. He settled on a value of \$1,300,000 for the January 1, 2019 valuation date. *Benz testimony; Pet’r Exs. 4 & 7.*

#### ANALYSIS

14. The goal of Indiana’s real property assessment system is to arrive at an assessment reflecting the 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.” Indiana Code § 6-1.1-31-6 (c), (e). It is instead determined under the rules of the DLGF. Ind. Code § 6-1-1-31-5 (a); Ind. Code § 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.

15. The Assessor presented little in the way of market based evidence. She made some reference to other sales different than those used by Benz but did not walk the Board through the evidence as to why those sales supported the current assessments. A party must explain how its evidence relates to the property’s value as of the relevant valuation date. *O’Donnell v. Dep’t of Local Gov’t Fin.*, 854 N.E. 2d 90, 95 (Ind. Tax Ct. 2006). Conclusory statements that a property is similar or comparable are not probative evidence. *See Long v. Wayne Twp. Assessor*, 821 N.E. 2d 466, 470-471 (Ind. Tax Ct. 2005) and *Kooshtard Prop. VI, LLC v. White River Twp. Assessor*, 836 N.E. 2d 501, 506 n.6 (Ind. Tax Ct. 2005). The Assessor did not discuss the characteristics of the comparables in relation to the subject property, nor did she relate them to the relevant valuation dates. Thus, the Assessor failed to meet her burden of proof.
16. The Assessor made much of the fact that the Bradleys had refused access to their property. She argued that this made it difficult to develop accurate assessments. While we agree that inspecting a property can be crucial to valuation, there is no evidence that the Assessor attempted to avail herself of the discovery process provided for in our procedural rules. Because she failed to do so, we will not order any sanction on the Bradleys.<sup>3</sup>
17. Although the Assessor failed to meet the burden of proof, the Bradleys have requested a lower assessment than the reversion. Thus, we now consider their evidence. They presented USPAP-compliant appraisals prepared by a certified appraiser. In an assessment appeal, a USPAP-compliant, market-value-in-use appraisal is often the best

---

<sup>3</sup> We note that Rich Archer, the Bradleys’ tax representative, testified that the Bradleys had offered the Assessor access at the PTABOA hearing.

evidence of a property's true tax value. *Eckerling v. Wayne Twp. Ass'r*, 841 N.E. 2d 674, 678 (Ind. Tax Ct. 2006).

18. In his appraisal, Benz used the sales comparison approach, one of three accepted methodologies for determining market-value-in-use. He explained how he selected his comparables, then he adjusted each comparable for differences from the subject property. Although the Assessor criticized Benz for looking outside the subject property's school district, Benz explained that this was necessary in order to find comparables with similar land size, which he felt was important. For these reasons, we find Benz's conclusions probative evidence of the market value-in-use of the subject property for the years under appeal.

#### CONCLUSION

19. The Assessor failed to meet her burden of proof. The Bradleys requested a lower valuation. In support of this, they provided USPAP-compliant appraisals. The Assessor did not significantly impeach the appraisals, and we find them to be reliable evidence of the market value-in-use of the subject property for each valuation date. Thus, we order the assessments for the home, buildings, and 10.62 acres of improvements changed to \$1,200,000 for 2018 and \$1,300,000 for 2019.

This 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>>