

INDIANA BOARD OF TAX REVIEW
Small Claims
Final Determination
Findings and Conclusions

Petition Nos.: 03-005-20-1-4-00520-21
03-005-21-1-4-00896-21
Petitioner: Columbus Regional Health System SVCS
Respondent: Bartholomew County Assessor
Parcel: 03-95-22-440-000.300-005
Assessment Years: 2020 & 2021

The Indiana Board of Tax Review (Board) issues this determination in the above matter, and finds and concludes as follows:

Procedural History

1. The Petitioner appealed its 2020 and 2021 assessments of its property located at 2480 Jonathan Moore Pike in Columbus.
2. On May 11, 2021, and December 1, 2021, the Bartholomew County Property Tax Assessment Board of Appeals (“PTABOA”) issued Form 115s sustaining the vacant land assessments for 2020 and 2021 at \$2,193,000.
3. The Petitioner timely filed appeals with the Board, electing to proceed under the small claims procedures.
4. On May 19, 2022, Dalene McMillen, the Board’s Administrative Law Judge (“ALJ”), held a telephonic hearing. Neither the Board nor the ALJ inspected the property.
5. Melissa Michie appeared as the Petitioner’s attorney. Bartholomew County Assessor, Ginny Whipple appeared for the Respondent and was sworn.

Record

6. The parties submitted the following exhibits:
 - Petitioner Exhibit 1: Indiana Code § 6-1.1-31-6 – Real property assessment; classification of land and improvements; valuation of improved property; determination of true tax value,
 - Petitioner Exhibit 2: 2021 subject property record card,
 - Petitioner Exhibit 3: 2011 Indiana Administrative Code 50 IAC 2.4-1-1,

- Petitioner Exhibit 4: Real Property Assessment Guidelines, Chapter 2, pages 62 and 63,
- Petitioner Exhibit 5: 2021 Real Property Assessment Manual, page 2,
- Petitioner Exhibit 6: 2020 subject property record card,
- Petitioner Exhibit 7: 2011 Indiana Administrative Code 50 IAC 2.4-1-1,
- Petitioner Exhibit 8: 2011 Real Property Assessment Manual, page 2,
- Petitioner Exhibit 9: Real Property Assessment Guidelines, Chapter 2, pages 65 and 66,
- Petitioner Exhibit 10: Indiana Department of Natural Resources – Floodplain Analysis & Regulatory Assessment,
- Petitioner Exhibit 11: City of Columbus – Bartholomew County Planning Department Memorandum, dated August 26, 2020,
- Petitioner Exhibit 12: Indiana Administrative Code 50 IAC 10-3-5,
- Petitioner Exhibit 13: Columbus & Bartholomew County Zoning Ordinance, pages 4-10 – 4-30.

- Respondent Exhibit R-A: Virginia R. Whipple’s resume,
- Respondent Exhibit R-B: Virginia Whipple & Dean Layman’s Statement of Professionalism,
- Respondent Exhibit R-C: 2019 subject property record card,
- Respondent Exhibit R-D: 2020 subject property record card,
- Respondent Exhibit R-E: 2021 subject property record card,
- Respondent Exhibit R-F: Aerial photograph of the subject property,
- Respondent Exhibit R-G: 2017 subject property record card.

7. The record also includes the following: (1) all pleadings and documents filed in this appeal; (2) all orders, and notices issued by the Board or ALJ; and (3) a digital recording of the hearing.

Contentions

8. Summary of the Petitioner’s case:
 - a) The Petitioner contended the Respondent incorrectly valued the subject property’s land by classifying 383,498 square feet as usable undeveloped rather than unusable undeveloped. *Michie argument; Pet’r Exs. 2, 6 & 10.*
 - b) The Real Property Assessment Guidelines (“Guidelines”) describe unusable undeveloped land as vacant land with restrictions, which may include restrictions against building because of environmental hazards or the area has been designated as wetland area by the federal government. The Petitioner argued the subject property fits the definition because it is vacant, zoned commercial, and is located in a floodway. *Michie argument; Pet’r Ex. 4 & 9-13.*

- c) The Department of Natural Resources' Floodplain Analysis & Regulatory Assessment shows the approximate ground elevation of the subject property at 622.5 feet, while the base flood elevation is 626.6 feet. Because of this, any new structure would need to be elevated and/or flood proofed depending on where it was located on the parcel. The Petitioner requested that the property be assessed as unusable undeveloped because "it is not usable as it is." *Michie argument; Pet'r Ex. 10-11, 13.*

9. Summary of the Respondent's case:

- a) The Respondent argued that the Petitioner did not meet its burden of proof because instead of providing evidence of a different market value-in-use, the Petitioner merely contested the methodology used to determine the assessment. *Whipple testimony.*
- b) In addition, the Respondent contends that the Petitioner misunderstands the land type classifications. The Guidelines define commercial usable undeveloped land as land that is vacant and held for future development. She testified the Petitioner has added a "pile of rubble" to begin building the ground up for development. *Whipple testimony; Resp't Ex. R-F; Pet'r Ex. 4.*
- c) The Respondent pointed out that the Petitioner purchased the property for \$4,250,000 at a foreclosure sale. Although, the sale is not valid, it shows the property's \$2,193,000 assessed values for 2020 and 2021 are not overvaluing the property. *Whipple testimony; Resp't Exs. R-D & R-E.*

Analysis

- 10. The Petitioner failed to make a prima facie case for reducing the 2020 and 2021 assessments.
 - a) Generally, an assessment determined by an assessing official is presumed to be correct. 2021 REAL PROPERTY ASSESSMENT MANUAL at 3.¹ The petitioner has the burden of proving the assessment is incorrect and what the correct assessment should be. *Piotrowski v. Shelby County Assessor*, 177 N.E.3d 127, 131-32 (Ind. Tax Ct. 2022).
 - b) Real property is assessed based on its market value-in-use. Ind. Code § 6-1.1-31-6(c); 2021 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.4-1-2); 2021 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.4-1-2). The cost approach, the sales comparison approach, and the income approach are three generally accepted techniques to calculate market value-in-use. Assessing officials primarily use the cost approach, but other evidence

¹ The 2011 REAL PROPERTY ASSESSMENT MANUAL applies to the 2020 assessment year.

is permitted to prove an accurate valuation. Such evidence may include actual construction costs, sales information regarding the subject property or comparable properties, appraisals, and any other information compiled in accordance with generally accepted appraisal principles.

- c) Regardless of the method used, a party must explain how the evidence relates to the relevant valuation date. *O'Donnell v. Dep't of Local Gov't Fin.*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006); *see also Long v. Wayne Twp. Ass'r*, 821 N.E.2d 466, 471 (In. Tax Ct. 2005). For the 2020 assessment, the valuation date was January 1, 2020. For the 2021 assessment, the valuation date was January 1, 2021. *See* Ind. Code § 6-1.1-2-1.5.
- d) The Petitioner argued the Assessor did not correctly follow the Guidelines in choosing the land classifications for the subject property. Even if the Assessor made errors, simply attacking the methodology is insufficient to rebut the presumption that the assessment is correct. *Eckerling v. Wayne Twp. Ass'r*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006). To make a case, a taxpayer must show the current assessment does not accurately reflect the subject property's market value-in-use. *Id*; *see also P/A Builders 7 Developers, LLC v. Jennings Co. Ass'r*, 842 N.E.2d 899, 900 (Ind. Tax Ct. 2006) (explaining that the focus is not on the methodology used by the assessor but instead on determining what the correct value actually is). To do so, a taxpayer must use market-based evidence to "demonstrate that their suggested value accurately reflects the property's true market value-in-use." *Id*. Here, the Petitioner primarily argued that the Assessor failed to apply the correct land type classifications as outlined by the Guidelines, but it failed to present any probative market-based evidence supporting a different value for the property for 2020 and 2021. Without such evidence, the Petitioner is not entitled to any relief.
- e) Where the Petitioner has not supported its claim with probative evidence, the Respondent's duty to support the assessment with substantial evidence is not triggered. *Lacy Diversified Indus. v. Dep't of Local Gov't Fin.*, 799 N.E.2d 1215, 1221-1222 (Ind. Tax Ct. 2003).

Conclusion

- 11. The Board finds in favor of the Respondent.

Final Determination

In accordance with the above findings and conclusions, the Board orders no change to the 2020 and 2021 assessments.

ISSUED: 8/12/2022

Jonathan A. Ehrst
Chairman, Indiana Board of Tax Review

Betsy J. Brand
Commissioner, Indiana Board of Tax Review

Timothy Schultz
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>>.