

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

**Petition No.:** 06-005-19-1-5-00703-19  
**Petitioner:** Gary W. Coval  
**Respondent:** Boone County Assessor  
**Parcel No.:** 003-17660-12  
**Assessment Year:** 2019

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 initiated his 2019 assessment appeal with the Boone County Assessor on May 22, 2019.
2. On August 8, 2019, the Boone County Property Tax Assessment Board of Appeals (PTABOA) issued a Notification of Final Assessment Determination (Form 115) denying the Petitioner any relief.
3. The Petitioner timely filed a Petition for Review of Assessment (Form 131) with the Board.
4. On July 30, 2020, Dalene McMillen, the Board's Administrative Law Judge (ALJ), held the Board's administrative hearing telephonically.<sup>1</sup> Neither the Board nor the ALJ inspected the property.
5. Gary W. Coval appeared *pro se* via telephone. County Assessor Lisa Garoffolo appeared for the Respondent via telephone. Both were sworn and testified.

**Facts**

6. The property under appeal is a single-family residence located at 9316 Deer Ridge Drive in Zionsville.
7. The PTABOA determined a 2019 total assessment of \$660,400 (land \$56,800 and improvements \$603,600).

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<sup>1</sup> The ALJ stated the hearing would be held in conformance with the Board's small claims procedures and neither party objected.

8. On his Form 131, the Petitioner requested a total assessment of \$606,800 (land \$56,800 and improvements \$550,000).

### **Record**

9. The official record for this matter is made up of the following:

a) A digital recording of the hearing.

b) Exhibits:

- Petitioner Exhibit 1: “Summary Report & Comparison Chart Deer Ridge Homes, Zionsville 2019,”  
Petitioner Exhibit 2: Photograph of Deer Ridge lot 13,  
Petitioner Exhibit 3: 2019 property record card for Deer Ridge lot 13,  
Petitioner Exhibit 4: Photograph of Deer Ridge lot 22,  
Petitioner Exhibit 5: 2019 property record card for Deer Ridge lot 22,  
Petitioner Exhibit 6: Photograph of Deer Ridge lot 2,  
Petitioner Exhibit 7: 2019 property record card for Deer Ridge lot 2,  
Petitioner Exhibit 8: Photograph of Deer Ridge lot 8,  
Petitioner Exhibit 9: 2019 property record card for Deer Ridge lot 8,  
Petitioner Exhibit 10: Photograph of Deer Ridge lot 19,  
Petitioner Exhibit 11: 2019 property record card for Deer Ridge lot 19,  
Petitioner Exhibit 12: 2019 subject property record card.
- Respondent Exhibit 1: Taxpayer’s Notice to Initiate an Appeal (Form 130),  
Respondent Exhibit 2: Boone County appeal worksheet,  
Respondent Exhibit 3: Parties agreement to waive 30 day notice on local hearing,  
Respondent Exhibit 4: 2019 subject property record card,  
Respondent Exhibit 5: Six property record cards for Deer Ridge: lot 11, lot 7, lot 13, lot 22, lot 2, and lot 8,  
Respondent Exhibit 6: Petitioner’s “Comparison Chart Deer Ridge Homes, Zionsville,”  
Respondent Exhibit 7: County’s Notice of Preliminary Hearing on Appeal, dated May 23, 2019,  
Respondent Exhibit 8: County’s Notice of Preliminary Hearing on Appeal, dated July 9, 2019,  
Respondent Exhibit 9: Joint Report by Taxpayer / Assessor to the County Board of Appeals of a Preliminary Informal Meeting (Form 134),  
Respondent Exhibit 10: Notice of Hearing on Petition – Real Property (Form 114),  
Respondent Exhibit 11: Form 115,  
Respondent Exhibit 12: Form 131,  
Respondent Exhibit 13: Board’s Notice of Hearing on Petition,

Respondent Exhibit 14: Copy of an envelope from Gary W. Coval to Boone County Assessor dated September 3, 2019.

- c) 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) these findings and conclusions.

### Contentions

10. Summary of the Petitioner's case:

- a) The subject property is over-assessed. In support of his position, Mr. Coval researched comparable assessments near the subject property. Mr. Coval found five comparable properties of similar construction with lots measuring one acre or larger. The properties range in size from 4,864 square feet to 5,999 square feet with assessed values ranging from \$472,800 to \$557,600. Over a two-year period, the assessments of these properties increased within a range of 5.80% to 9.30%. The 5,498 square foot subject property is currently assessed at \$660,400 with the assessment increasing 11.70% over the same two-year period. *Coval testimony; Pet'r Ex. 1-12.*
- b) Mr. Coval also testified regarding three sales in the neighborhood. Two sales occurred within the relevant time frame, and those homes sold for \$535,000 and \$575,000. The third property sold for \$590,000, but this sale occurred after the 2019 assessment date. According to Mr. Coval, "all sales have been below \$600,000" in the Deer Ridge neighborhood. *Coval testimony; Pet'r Ex. 1.*

11. Summary of the Respondent's case:

- a) The subject property is correctly assessed. To support the current assessment, the Respondent went over the features assessed on the property record card:
- Land size of 1.67 acres.
  - First floor living area of 1,733 square feet, second floor area of 2,213 square feet, and a finished attic of 135 square feet.<sup>2</sup>
  - A total basement area of 1,208 square feet with 800 square feet being finished. Additionally, the home has a crawl space of 441 square feet.
  - A "big" garage measuring 1012 square feet.
  - Exterior features are a masonry stoop, concrete patio, and a wood deck.

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<sup>2</sup> Ms. Garoffolo stated the attic finished area of 338 square feet listed on the property record card is incorrect.

- The home has three full baths and one half-bath. In addition, the home also has “specialty plumbing, which is a whirlpool tub.”
- The home was constructed in 1992 and is listed in average condition with a quality grade factor of B+. In 2019, a 22% depreciation factor and 1.88 neighborhood factor were applied.

*Garoffolo testimony; Resp’t Ex. 4.*

- b) The Respondent also presented the county “worksheet” listing a comparative market analysis (CMA) of \$197 per square foot. When the CMA is applied to the subject property it results in a value of \$805,100. This calculation indicates the current assessment of \$660,400 is not overstated. *Garoffolo testimony; Resp’t Ex. 2.*

### **Burden of Proof**

12. Generally, the taxpayer has the burden to prove that an assessment is incorrect and what the correct assessment should be. *See Meridian Towers East & West v. Washington Twp. Ass’r*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also Clark v. State Bd. of Tax Comm’rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998). The burden-shifting statute creates two exceptions to that rule.
13. First, Ind. Code § 6-1.1-15-17.2 “applies to any review or appeal of an assessment under this chapter if the assessment that is the subject of the review or appeal is an increase of more than five percent (5%) over the assessment for the same property for the prior tax year.” Ind. Code § 6-1.1-15-17.2(a). “Under this section, the county assessor or township assessor making the assessment has the burden of proving that the assessment is correct in any review or appeal under this chapter and in any appeal taken to the Indiana board of tax review or to the Indiana tax court.” Ind. Code § 6-1.1-15-17.2(b).
14. Second, Ind. Code § 6-1.1-15-17.2(d) “applies to real property for which the gross assessed value of the real property was reduced by the assessing official or reviewing authority in an appeal conducted under IC 6-1.1-15.” Under those circumstances, “if the gross assessed value of real property for an assessment date that follows the latest assessment date that was the subject of an appeal described in this subsection is increased above the gross assessed value of the real property for the latest assessment date covered by the appeal, regardless of the amount of the increase, the county assessor or township assessor (if any) making the assessment has the burden of proving that the assessment is correct.” Ind. Code § 6-1.1-15-17.2(d).
15. Here, the parties agree the assessed value of the subject property increased by more than 5% from 2018 to 2019. In fact, the assessment increased from \$605,000 in 2018 to \$660,400 in 2019. Thus, according to Ind. Code § 6-1.1-15-17.2, the Respondent has the burden to prove the 2019 assessment is correct.

## Analysis

16. The Respondent failed to make a prima facie case that the 2019 assessment is correct.
- a) Real property is assessed based on its market value-in-use. Ind. Code § 6-1.1-31-6(c); 2011 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 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.
  - b) 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 (Ind. Tax Ct. 2005). For the 2019 assessment, the valuation date was January 1, 2019. *See* Ind. Code § 6-1.1-2-1.5.
  - c) Here, the Respondent had the burden to prove the 2019 assessment is correct. In an attempt to prove the property is correctly assessed, she merely described the components, such as living area, grade, and bathrooms used to calculate the assessed value. A party may not make a case simply by showing how the Department of Local Government Finance's assessment guidelines were applied. *See Eckerling v. Wayne Twp. Ass'r*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006). Instead, the Respondent needed to offer market-based evidence of the subject property's market value-in-use on the assessment date, something she failed to do.
  - d) The Respondent also offered the county's CMA calculation. But nothing was offered to explain how the Respondent arrived at her price per square foot, all that was offered was a base price per square foot number with no facts explaining how it was derived. In presenting her CMA calculation, the Board infers the Respondent may be attempting to employ a sales comparison approach. A sales comparison approach "estimates the total value of the property directly by comparing it to similar, or comparable, properties that have sold in the market." MANUAL at 3. In order to effectively use the sales comparison approach as evidence in property assessment appeals, the proponent must establish the comparability of the properties being examined. Conclusory statements that a property is "similar" or "comparable" to another property do not constitute probative evidence of the comparability of the two properties. *Long*, 821 N.E.2d at 470. Instead, the proponent must identify the characteristics of the subject property and explain how those characteristics compare to the characteristics of the purportedly comparable properties. *Id.* at 471. Similarly, the proponent must explain how any differences between the properties affect their relative market values-in-use. Even if the Respondent had provided additional information regarding her CMA calculation, she failed to explain how the properties

used to calculate the price per square foot were similar to the subject property. Thus, the Respondent's evidentiary presentation falls short of providing the level of analysis contemplated by *Long*.

- e) For these reasons, the Respondent failed to offer probative evidence to prove the 2019 assessment is correct. Therefore, the Petitioner is entitled to have his assessment returned to its 2018 value of \$605,000. However, on his Form 131 he requested that the property be assessed at \$606,800. Thus, the Board will accept the Petitioner's concession and set the 2019 assessment at \$606,800.

### **Conclusion**

17. The Board finds for the Petitioner.

### **Final Determination**

In accordance with the above findings and conclusions, the 2019 assessment must be reduced to \$606,800.

ISSUED: December 7, 2020

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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>>.