

REPRESENTATIVE FOR THE PETITIONERS: Denise Tillman, *pro se*

REPRESENTATIVE FOR THE RESPONDENT: Marilyn Meighen, Attorney

**BEFORE THE  
INDIANA BOARD OF TAX REVIEW**

Denise Tillman W/L/E	)	Petition Nos.: 53-006-20-1-5-00800-20
Ken Herndon & Patricia Herndon	)	53-006-20-1-5-00801-20
&	)	53-006-20-1-5-00802-20 <sup>1</sup>
Denise Tillman,	)	
	)	Parcel Nos.: 53-11-28-400-009.000-006
Petitioners,	)	53-11-28-400-004.000-006
	)	53-11-28-400-005.000-006
v.	)	
	)	County: Monroe
Monroe County Assessor,	)	
	)	Assessment Year: 2020
Respondent.	)	

September 21, 2022

**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 2020 assessments of the above-captioned parcels. Because they failed to provide reliable, market-based evidence proving the market value-in-use of the properties, the Board finds for the Respondent.

<sup>1</sup> Petitions # 53-006-20-1-5-00800-20 and # 53-006-20-1-5-00801-20 are in the names of Denise Tillman W/L/E, Ken Herndon, & Patricia Herndon. Petition # 53-006-20-1-5-00802-20 is in the name of Denise Tillman only.

**PROCEDURAL HISTORY**

2. The Petitioners appealed the 2020 assessments of the above-captioned parcels with the Monroe County Assessor. On October 13, 2020, the Monroe County Property Tax Assessment Board of Appeals (“PTABOA”) issued its determinations sustaining the three parcels’ assessments at:

Address	Land	Improvements	Total
S. Strain Ridge Rd.	\$2,000	\$0	\$2,000
1374 E. Monroe Dam Rd.	\$113,200	\$15,000	\$128,200
1399 E. Monroe Dam Rd.	\$274,800	\$5,400	\$280,200

3. On June 30, 2022, Dalene McMillen, the Board’s Administrative Law Judge (“ALJ”), held a telephonic hearing. Neither the Board nor the ALJ inspected the subject property.
4. Denise Tillman, and Ken Surface of Nexus Group testified under oath.
5. The Petitioners offered the following exhibits:

- Petitioner Exhibit 1: Indiana Code § 6-1.1-4-1,
- Petitioner Exhibit 2A: Legal description for 12.14 acres,
- Petitioner Exhibit 2B: Legal description for 4 acres,
- Petitioner Exhibit 2C: Legal description for 0.56 acre and 0.40 acre,
- Petitioner Exhibit 3: 2011 Real Property Assessment Manual page 2,
- Petitioner Exhibit 4: Map of Lake Monroe,
- Petitioner Exhibit 5A-5C: The Appraisal Foundation – USPAP 2020-2021 Edition “Definitions” pages 3, 5 & 6,
- Petitioner Exhibit 6A-6D: Department of Local Government Finance “Property Tax Terms” pages 1, 2, 3 & 4,
- Petitioner Exhibit 7A-7E: 2011 Real Property Assessment Manual “Definitions” pages 4, 5, 6, 7 & 8
- Petitioner Exhibit 8: U.S. Bureau of Labor Statistics “USD Relative Purchasing Power (1913-2019),”
- Petitioner Exhibit 9A-9D: Federal Reserve Bank of Dallas – Everyday Economic “Money,”
- Petitioner Exhibit 10: The Federal Reserve Board – Remarks by Chairman Alan Greenspan “*The euro as an international currency,*”

Petitioner Exhibit 11: Indiana Codes § 6-1.1-5-5, § 6-1.1-5-5.5, § 6-1.1-5-5.7, § 6-1.1-5-6 & § 6-1.1-5-7,  
Petitioner Exhibit 12: Auditor's Manual page 10-7.

6. The Respondent offered the following exhibits:

Respondent Exhibit A: 2020 subject property record cards,  
Respondent Exhibit B: Three aerial maps,  
Respondent Exhibit C: Indiana Code § 6-1.1-31-6,  
Respondent Exhibit D: 2011 Real Property Assessment Manual page 2,  
Respondent Exhibit E: Sales disclosure form for 1375 East Monroe Dam Road in Bloomington,  
Respondent Exhibit F: Sales disclosure form and property record card for parcel 53-11-28-101-005.000-006.

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.

#### **OBJECTIONS**

8. Tillman made objections to several exhibits on similar grounds. For Respondent Ex. A, the property record cards, she objected on the grounds that they did not have the correct legal descriptions. For Respondent Exs. B<sup>2</sup>, E, and F, the aerial map and sales disclosure forms, she objected on the grounds that they do not show the current market value and that value cannot be inferred from past transactions. All of these objections go more to the weight the evidence should be given rather than its admissibility. Thus, we overrule the objections and admit the exhibits.

#### **FINDINGS OF FACT**

9. The subject property consists of three parcels of approximately 17 acres located near Lake Monroe in Monroe County, Indiana. There are some improvements on two of the

---

<sup>2</sup> Tillman also claimed that Respondent's Ex. B "is not my real property." To the extent Tillman may have been arguing that the assessment was against the wrong person, we find that she failed to properly develop this argument.

parcels, including a shed. Denise Tillman and her family use the property for hiking, camping, and reunions. *Tillman testimony; Surface testimony; Resp't Ex. A, B.*

### PETITIONERS' CONTENTIONS

10. Tillman makes a number of arguments in support of her central claim that real property, and the subject property in particular, cannot be valued. These arguments include claiming that:
- The subject property has no value because it is used for leisure rather than for “economic advantage” such as commercial activity.
  - The assessment system uses ambiguous terms with multiple definitions and is inherently subjective.
  - Currency only has value at the moment of a transaction, and at all other times it has zero value.
  - Assessments are developed using arbitrary opinions and imaginary comparisons.
- Tillman testimony; Pet'r Exs. 1-11.*

11. Tillman also requested a refund for three years of property taxes. *Tillman testimony; Pet'r Ex. 12.*

### RESPONDENT'S CONTENTIONS

12. The Assessor claims the subject properties are assessed correctly. She argues that land and buildings are assets that have value and that Tillman did not provide any evidence to show the current assessed values are incorrect or to support other values. *Meighen argument.*
13. Surface testified that the market value-in-use of a property is the amount a willing buyer and willing seller exchange a piece of property for. He also stated that it does not necessarily mean the value of the property to the user. *Surface testimony; Resp't Exs. C & D.*

14. Surface testified that Tillman purchased 1375 East Monroe Dam Road on February 18, 2015, for \$125,000. He found that the sales disclosure form shows the property was exchanged between a willing buyer and a willing seller. He also noted that Tillman was part of establishing the market value by being part of the transaction on this particular property. *Surface testimony; Resp't Ex. E.*
15. Surface submitted a sales disclosure form and property record card for a property located at 9629 South Strain Ridge Road. It sold on March 6, 2020, for \$192,000. He found that this supported the subject property's assessment. *Surface testimony; Resp't Ex. F.*

#### ANALYSIS

16. Generally, an assessment determined by an assessing official is presumed to be correct. 2021 REAL PROPERTY ASSESSMENT MANUAL at 3. 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).
17. Real property is assessed based on its market value-in-use. Indiana Code § 6-1.1-31-6(c); 2011 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.4-1-2).<sup>3</sup> 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.
18. 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.

---

<sup>3</sup> The Department of Local Government Finance adopted a new assessment manual for assessments from 2021 forward. 52 IAC 2.4-1-2.

2005). For the 2020 assessment, the valuation date was January 1, 2020. *See* I.C. § 6-1.1-2-1.5.

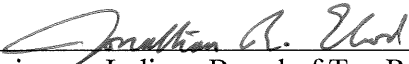
19. The Petitioners claim real property cannot be valued. We take this as a challenge to the assessment system as a whole, including numerous statutes, regulations, and the Indiana Constitution. As a creation of the legislature, we have only those powers conferred by statute. *Whetzel v. Dep't of Local Gov't Finance*, 761 N.E.2d 904 (Ind. Tax Ct. 2002) (citing *Matonovich v. State Bd. of Tax Comm'rs*, 705 N.E.2d 1093, 1096 (Ind. Tax Ct. 1999)); *Hoogenboom-Nofziger v. State Bd. of Tax Comm'rs*, 715 N.E.2d 1018, 1021 (Ind. Tax Ct. 1999). Administrative agencies have no authority to overturn a statute. Indiana law makes it clear that all property is subject to taxation unless it meets specific requirements for an exemption. The Petitioners have not applied for an exemption, thus the property is subject to taxation. Tillman's theory that money has "zero value" except at the moment of a transaction and real property cannot be valued is meritless: the entire property tax system presumes the value of real property can be ascertained. The Petitioners have not shown they are entitled to any relief on these grounds.
20. Tillman also claims that assessments are arbitrary or imaginary. All appraisal theory is based on a hypothetical sale between a willing buyer and willing seller. But 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 is). The Tax Court has recently reaffirmed this principal, holding that a taxpayer must present "objectively verifiable, market-based evidence to show that the property's assessed value does not reflect its market value-in-use." *Piotrowski BK #5643, LLC v. Shelby Cnty. Ass'r*, 177 N.E.3d 127 (In. Tax Ct. 2021).

21. Here, the Petitioners failed to provide any probative, market-based evidence. While Tillman made some claims that the subject property had no value, 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). Because the Petitioners did not provide probative, market-based evidence supporting different values for the subject properties, they are not entitled to any relief.<sup>4</sup>
22. Where the Petitioners have not supported their 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).

#### SUMMARY OF FINAL DETERMINATION

23. The Board finds in favor of the Respondent and order no change to the 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

<sup>4</sup> The Petitioners also requested a refund of property taxes paid for the prior three years. This appeal deals only with the 2020 assessment year. Because they have not shown that they are entitled to any reduction in the assessments, they are likewise not entitled to any refund.

**- 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>>.