

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

Petition: 18-003-20-1-5-00687-20
Petitioner: David Easterly
Respondent: Delaware County Assessor
Parcel: 18-11-23-226-010.000-003
Assessment Year: 2020

The Indiana Board of Tax Review (Board) issues this determination, finding and concluding as follows:

Procedural History

1. Petitioner, David Easterly, appealed his 2020 assessment to the Delaware County Assessor on June 15, 2020.
2. On October 21, 2020, the Delaware County Property Tax Assessment Board of Appeals (“PTABOA”) issued its determination lowering the assessment, but not to the level Easterly requested.
3. Easterly responded by timely filing a Form 131 Petition for Review of Assessment with the Board, electing our small claims procedures.
4. On May 27, 2021, our designated administrative law judge, Joseph Stanford (“ALJ”), held a telephonic hearing on Easterly’s petition. Neither the Board nor the ALJ inspected the property.
5. Easterly appeared *pro se*. Abby McDaniel, Delaware County appeals clerk, appeared for the Assessor. Both were sworn and testified.

Facts

6. The property under appeal is a residential property located at 1912 South Manhattan Avenue in Muncie.
7. The PTABOA determined the 2020 assessment at \$40,700 (land \$4,700 and improvements \$36,000). Easterly requested an assessment of \$6,200 (land \$4,700 and improvements \$1,500).

Record

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

- a) An audio recording of the hearing.
- b) Exhibits:¹
 - Respondent Exhibit 1: Sales disclosure form,
 - Respondent Exhibit 2: Subject property record card,
 - Respondent Exhibit 3: Form 115 determination.
- 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

- 9. Summary of Easterly's case:
 - a) The assessment is too high. Although Easterly bought the property for \$40,000 on December 11, 2019, he claims that it was not worth nearly that much. He bought it along with 20 other properties, and he had only seen the house from the outside. He soon discovered that it was contaminated from having been used to manufacture methamphetamine, was in poor condition, and had been condemned by the Delaware County Board of Health. According to Easterly, the house was "unlivable" and "unrentable." Although Easterly was not certain, he did not recall knowing that the house had been used to manufacture meth until after he bought it. *Easterly testimony and argument.*
 - b) Easterly was unable to rent the property until May 2020, after it was cleaned and decontaminated. But none of that happened until after January 1, 2020. According to Easterly, on the assessment date, which is the date on which properties are supposed to be valued, the property was not worth anything close to \$40,000. *Easterly testimony and argument.*
- 10. Summary of the Assessor's case:
 - a) The assessment is correct. After the PTABOA reviewed the appeal and removed a fireplace from the assessment, the value decreased to \$40,700, which is in line with what Easterly paid for the property. At the PTABOA hearing, Easterly testified that he knew the property had been a meth house when he agreed to buy it for \$40,000. *McDaniel argument and testimony; Resp't Exs. 1-3.*

Burden of Proof

- 11. Generally, a taxpayer seeking review of its property's assessed value has the burden of proving its assessment is incorrect and what the correct value should be. Various statutes create exceptions to that general rule. The most cited of those statutes, Indiana § 6-1.1-

¹ Easterly did not offer any exhibits.

15-17.2, assigns the burden of proof to the assessor in two circumstances—where the assessment under appeal represents an increase of more than 5% over the prior year’s assessment, or where it is above the level determined in a taxpayer’s successful appeal of the prior year’s assessment, regardless of by how much. I.C. § 6-1.1-15-17.2(b), (d).

12. Easterly argued that the Assessor had the burden of proof. But the assessment increased only 2.8% from 2019 to 2020, rising from \$39,600 to \$40,700. *Resp’t Ex. 2*. Nobody offered evidence to show that the previous year’s assessment had been successfully appealed or pointed to any other circumstance that would shift the burden of proof to the Assessor. Easterly therefore had the burden of proof.

Analysis

13. Easterly did not make a prima facie case for reducing the assessment below the property’s sale price.
 - a) Indiana assesses real property based on its true tax value, which does not mean fair market value, but rather the value determined under the rules of the Department of Local Government Finance (“DLGF”). The DLGF’s 2011 Real Property Assessment Manual defines true tax value as “the 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.” 2011 REAL PROPERTY ASSESSMENT MANUAL 2 (incorporated by reference at 50 IAC 2.4-1-2). Evidence in a tax appeal should be consistent with that standard. For example, a market value-in-use appraisal prepared according to the Uniform Standards of Professional Appraisal Practice often will be probative. *See id.*; *see also, Koostard Property VI, LLC v. White River Twp. Ass’r*, 836 N.E.2d 501, 506 n.6 (Ind. Tax Ct. 2005). A party may also offer actual construction costs, sale or assessment information for the property under appeal or comparable properties, and any other information compiled according to generally accepted appraisal principles. *See Eckerling v. Wayne Twp. Ass’r*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006); *see also I.C. § 6-1.1-15-18* (allowing parties to offer evidence of comparable properties’ assessments to determine an appealed property’s market value-in-use).²
 - b) Easterly argued that his December 2019 purchase price of \$40,000 did not reflect the property’s value as of January 1, 2020, because it was contaminated from its previous use to manufacture meth and was in poor condition. He argued that the property was “pretty much worthless” on the assessment date.
 - c) The property’s contamination and condition certainly could have detracted from the property’s value. But Easterly did not offer any evidence to quantify the extent to which they did so. Indeed, he offered no market-based valuation evidence whatsoever, much less evidence to show that it was either “worthless” or worth only \$6,200.

² The gross rent multiplier is the preferred method for valuing residential rental properties with four units or less. I.C. § 6-1.1-4-39(b).

- d) Nonetheless, Easterly bought the property for \$40,000 just three weeks before the relevant valuation date. It is possible that Easterly overpaid because he did not know about the house's contamination. The parties disagree on that point, and we need not resolve that factual dispute. The sale price shows that the property was worth no more than \$40,000. We therefore order the assessment reduced to that amount.

Final Determination

In accordance with the above findings and conclusions, the 2020 assessment must be reduced to \$40,000.

ISSUED: 8-20, 2021

Chairman, Indiana Board of Tax Review

Betsy J. Brand

Commissioner, Indiana Board of Tax Review

Jonathan A. Elms

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>.