

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

Petition No.: 45-004-17-1-5-00296-20
Petitioner: Gold Coast Rand Development Corp.
Andy Young
Respondent: Lake County Assessor
Parcel: 45-08-09-477-023.000-004
Assessment Year: 2017

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

Procedural History

1. Gold Coast Rand Development Corp. (“Gold Coast”) appealed the 2017 assessment of its vacant land located at 1932 Washington Street in Gary, Indiana.
2. On March 11, 2020, the Lake County Property Tax Assessment Board of Appeals (“PTABOA”) sustained the assessment of the vacant land at \$1,200.
3. Gold Coast timely appealed to the Board, electing to proceed under our small claims procedures.
4. On June 7, 2022, Dalene McMillen, the Board’s Administrative Law Judge (“ALJ”), held a hearing on Gold Coast’s petition. Neither the Board nor the ALJ inspected the property.
5. Andy Young, President of Gold Coast appeared for the Petitioner. Lake County Assessment Coordinator Jessica Rios appeared for the Assessor. Both were sworn.

Record

6. The official record for this matter is made up of the following:
 - a) Exhibits:

Petitioner Exhibit 3: Appraisal report prepared by Kovachevich & Co., Inc. for 2517-2521 Washington Street,¹
Petitioner Exhibit 7: Aerial map,

¹ The Petitioner submitted Petitioner Exhibits 1, 2, 4, 5 and 6 but did not enter them into the record.

- Petitioner Exhibit 8: Indiana Code § 6-1.1-4-13.6 – Determination and review of land values,
Petitioner Exhibit 9: Real Property Assessment Guidelines, Chapter 2, pages 6 & 8-11.²

- b) 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.

Objection

7. The Assessor objected to Petitioner's Exhibit 3, 7, 8 and 9 on the grounds that they were exchanged less than 24 hours before the hearing. This appeal was filed as small claims. 52 IAC 4-8-2 provides that evidence in a small claims hearing need only be exchanged if requested not less than 10 business days before the hearing. The Assessor failed to assert that such a request was made. Thus, the objection is overruled.

Findings of Fact

8. Findings:
- a) Steven Kovachevich, a Certified General Real Estate Appraiser, appraised the combined value of three different parcels located on the same street as the subject property. Together, those parcels were approximately .21 acres. Kovachevich estimated a value for those parcels of \$750 as of January 1, 2017. They were assessed for a combined total of \$3,800 in 2017. *Young testimony; Pet'r Exs. 3-4.*

Contentions

9. Summary of the Petitioner's case:
- a) Gold Coast contends the Assessor incorrectly valued the subject property's land by applying an incorrect land rate. In particular, Gold Coast argues the county's land order was "meaningless" and the base rates were "fraudulent" because they were not created according to the Indiana statutes, the Real Property Assessment Guidelines or the Real Property Assessment Manual. Gold Coast also argued that the county uses a neighborhood map that is between 25 and 35 years old and has not been modified even though the City of Gary has gone through "tumultuous" changes since then. Gold Coast also claimed that the county's base rates are not logical because a busy street may have a lower land base rate than a "dive" street. Gold Coast also claimed that "identical" neighborhoods are being assessed with different rates. *Young testimony; Pet'r Ex. 7.*
- b) Gold Coast claimed that the county has 10,000 properties that "churn" through the tax sale system, including some in the subject neighborhood. Gold Coast argued that

² The Respondent did not submit any exhibits into the record.

when a property is not assessed properly and it has a tax burden that people are not willing to “deal” with, it has little to no marketable value. *Young testimony*.

- c) In addition, Gold Coast contends the Assessor should have relied on the Kovachevich appraisal to assess the subject property. *Young testimony; Pet’r Ex. 3*.

10. Summary of the Respondent’s case:

- a) The Assessor argued that Gold Coast did not provide any evidence to support a different market value-in-use and failed to meet its burden of proof. Therefore, no change is recommended. *Rios testimony*.

Analysis

11. The Petitioner failed to make a prima facie case for reducing the property’s 2017 assessment.

- a) Generally, an assessment determined by an assessing official is presumed to be correct. 2011 REAL PROPERTY ASSESSMENT MANUAL at 2.³ The petitioner has the burden of proving the assessment is incorrect and what the correct assessment should be. *Piotrowski v. Shelby County Ass’r*, 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); 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.
- 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 2017 assessment, the valuation date was January 1, 2017. *See* Ind. Code § 6-1.1-2-1.5(a).
- d) First, Gold Coast claims that the base rates used to develop the assessment were fraudulent because they were not properly established. But it offered little support for this claim. We also note that although I.C. § 6-1.1-4-13.6(c) does require the Assessor to “use the land values determined under this section,” it does not provide that true tax value necessarily equals the values determined by those rates. Even if the Assessor erred in applying the base rates, it has long been the case that simply

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

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). 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.* Thus, we will examine whether Gold Coast provided any market-based evidence sufficient to prove a different assessment.

- e) Gold Coast did present a USPAP compliant appraisal, but it was not an appraisal of the subject property. Instead, it was an appraisal for three nearby parcels. Gold Coast stated that the Assessor should have based the subject property's assessment on the appraisal. But Gold Coast failed to offer market-based evidence showing how the subject property's value related to the value of those other parcels. It did not compare the relative differences between them, nor did it offer market-based adjustments to explain those differences. Thus, we cannot rely on the appraisal as evidence of value for the subject property.
- f) Because Gold Coast offered no probative market-based evidence to demonstrate the subject property's market value-in-use for 2017, it failed to make a prima facie case for a lower assessment.
- g) We also note that it appears Gold Coast may have been challenging the uniformity and equality of the assessment as mandated by I.C § 6-1.1-2-2 and Article 10 of the Indiana Constitution. As the Tax Court has explained, "when a taxpayer challenges the uniformity and equality of his or her assessment one approach that he or she may adopt involves the presentation of assessment ratio studies, which compare the assessed values of properties within an assessing jurisdiction with objectively verifiable data, such as sales prices or market value-in-use appraisals." *Westfield Golf Practice Center v. Washington Twp. Assessor*, 859 N.E.2d 396, 399 n.3 (Ind. Tax Ct. 2007) (emphasis in original). Such studies, however, should be prepared according to professionally acceptable standards. *Kemp v. State Bd. of Tax Comm'rs*, 726 N.E.2d 395, 404 (Ind. Tax Ct. 2000). They should also be based on a statistically reliable sample of properties that actually sold. *Bishop v. State Bd. of Tax Comm'rs*, 743 N.E.2d 810, 813 (Ind. Tax Ct. 2001) (citing *Southern Bell Tel. and Tel. Co. v. Markham*, 632 So.2d 272, 276 (Fla. Dist. Co. App. 1994)). But Gold Coast only made only generalized claims that other unidentified neighborhoods and streets were assessed at different rates. We do not find this to be a sufficient showing under these standards.
- h) 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).

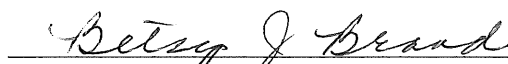
Final Determination

In accordance with the above findings and conclusions, the Board orders no change to the subject property's 2017 assessment.

ISSUED: Sept 6th 2022



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>