

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

Petition: 28-002-19-1-3-00218-21
Petitioner: Griffin Industries, Inc.
Respondent: Greene County Assessor
Parcel: 28-13-31-000-004.000-002
Assessment Years: 2019

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

PROCEDURAL HISTORY

1. Griffin Industries, Inc. contested the 2019 assessment of its industrial property located on Griffin Road in Newberry. The Greene County Property Tax Assessment Board of Appeals (“PTABOA”) issued its determination valuing the property at \$303,200 for land and \$1,077,900 for improvements for a total of \$1,381,100.
2. Griffin timely appealed to the Board and elected to proceed under our small claim procedures. On July 29, 2021, Jennifer Thuma, our designated Administrative Law Judge (“ALJ”), held a telephonic hearing on Griffin’s petition. Neither she nor the Board inspected the property.
3. Gregory Poore, Certified Tax Representative represented Griffin. Greene County Attorney Marvin Abshire represented the Assessor, Dawn Abrams. She and Mr. Poore were sworn as witnesses.

RECORD

4. The official record for this matter contains the following:

Petitioner Exhibit 1:	Comparable Sales
Petitioner Exhibit 2:	Copy of 2 pages from 2019 Form 131
Petitioner Exhibit 3:	2019 IBTR Hearing Notice
5. The record for the matter also includes the following: (1) all pleadings, motions, and documents filed in these appeals; (2) all notices and orders issued by the Board or our ALJ; and (3) an audio recording of the hearing.

BURDEN OF PROOF

6. Generally, a taxpayer seeking review of an assessing official's determination has the burden of proof. Indiana Code § 6-1.1-15-17.2 creates an exception to that general rule and 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 or where it is above the level determined in a taxpayer's successful appeal of the prior year's assessment. Ind. Code § 6-1.1-15-17.2 (b) and (d).
7. Here, the subject property's assessment decreased from 2018 to 2019. The parties agreed that Griffin had the burden of proof.

SUMMARY OF CONTENTIONS

8. Griffin's case:
 - a. Griffin contended that the subject property's 2019 assessment was too high compared to industrial properties in other parts of the state. Griffin noted that it was not contesting the agricultural portion of the assessment, but instead contended that the Assessor over-valued the industrial improvements. In addition, Poore testified that the property's rural location made it difficult to reach major highway transportation and adversely impacted its value. *Pet'r. Exs. 1,2; Poore testimony.*
 - b. Poore presented a sales-comparison analysis of three industrial properties located in various rural Indiana areas. He adjusted the comparable sales for some factors such as age and sale date. But he did little to explain how he developed these adjustments, or why other factors did not require adjustment. Based on these sales, he concluded the building was worth \$6.00/sq. ft. or \$334,140. *Pet'r. Exs. 1,2; Poore testimony.*
 - c. Poore then added together the value for the building, the site improvements, and the assessed value of the agricultural land to arrive at a total of \$590,000. He did not certify that his analysis complied with the Uniform Standards of Professional Appraisal Practice ("USPAP"). *Pet'r. Ex. 2; Poore testimony.*
9. The Assessor's case:
 - a. The Assessor argued that Griffin did not meet its burden of proof because Poore did not demonstrate that he had expertise in real estate, his analysis was not a USPAP-compliant appraisal, and he did not provide an explanation for his adjustments or show how they were related to the subject property. *Abshire argument.*

ANALYSIS

10. Griffin failed to meet its burden of proof to show the assessment was incorrect. The Board reached this decision for the following reasons:

- a. The goal of Indiana’s real property assessment system is to arrive at an assessment reflecting the property’s true tax value. 50 IAC 2.4-1-1(c); 2011 REAL PROPERTY ASSESSMENT MANUAL at 3. “True tax value” does not mean “fair market value” or “the value of the property to the user.” Indiana Code § 6-1.1-31-6(c), (e). It is instead determined under the rules of the Department of Local Government Finance (“DLGF”). Ind. Code § 6-1.1-31-5(a); Ind. Code § 6-1.1-31-6(f). The DLGF defines “true tax value” as “market value in use,” which it in turn defines as “[t]he 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.” MANUAL at 2.
- b. Evidence in an assessment appeal should be consistent with that standard. For example, market value-in-use appraisals that comply with the Uniform Standards of Professional Appraisal Practice often will be probative. *See Id. See also Kooshtard Property VI, LLC v. White River Twp. Ass’r*, 836 N.E.2d 501, 506 n.6 (Ind. Tax Ct. 2005). Taxpayers may use cost or sales information for the property under appeal, sales or assessment information for comparable properties, and any other information compiled according to generally accepted appraisal principles. *Id.* In any case, a party must explain how its evidence relates to the property’s market value-in-use as of the relevant valuation date. *See 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. Ind. Code § 6-1.1-2-1.5(a).
- c. Griffin primarily relied on the sales comparison analysis presented by its tax representative, Gregory Poore. To be probative, valuation evidence must be related to the subject property. Conclusory statements that a property is “similar” or “comparable” to another property do not suffice. *Long*, 821 N.E.2d at 471. Rather, the proponent must identify the characteristics of the subject property and explain how those characteristics compare to the characteristics of a purportedly comparable property. *Id.* at 471. Although Poore adjusted his comparable sales for certain factors, he did little to explain the basis for these adjustments. Nor did he provide sufficient explanation for not adjusting for the numerous factors he rated “similar”, or show that he had sufficient expertise in generally accepted appraisal practices to develop reliable adjustments. Finally, we note that he did not certify that his analysis complied with USPAP. For these reasons, we find Poore’s analysis insufficient to support any change in the assessment.
- d. Thus, we find Griffin failed to make a prima facie case for any change in the assessment. When a taxpayer fails to support their claim with probative evidence, the Assessor’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

11. The Board finds for the Assessor and orders no change to the subject property's 2019 assessment.

ISSUED: OCTOBER 25, 2021



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>>.