

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

Petition: 52-012-19-1-5-00864-19
Petitioners: H. Richard & Suzanne M. Hawkins
Respondent: Miami County Assessor
Parcel: 52-07-13-100-007.000-012
Assessment Year: 2019

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

Procedural History

1. The Petitioners initiated their 2019 assessment appeal with the Miami County Assessor on June 10, 2019.
2. On August 29, 2019, the Miami County Property Tax Assessment Board of Appeals (PTABOA) issued its determination denying the Petitioners any relief.
3. The Petitioners timely filed a Petition for Review of Assessment (Form 131) with the Board, electing the Board's small claims procedures.
4. On December 17, 2019, Administrative Law Judge (ALJ) Joseph Stanford held the Board's administrative hearing. Neither the Board nor the ALJ inspected the property.
5. H. Richard Hawkins and County Assessor Karen LeMaster appeared *pro se*. Brian Thomas was a witness for the Respondent. All of them were sworn.¹

Facts

6. The property under appeal is a duplex-style rental home located at 3367 West 200 North in Peru.
7. The PTABOA determined the 2019 total assessment was \$114,300 (land \$19,400 and improvements \$94,900).
8. At the hearing, the Petitioners requested a total assessment of \$80,000.

Record

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

¹ Suzanne Hawkins was present but was not sworn and did not testify.

a) A digital recording of the hearing.

b) Exhibits:

- Petitioners Exhibit A3: Summary of historical changes to the assessment,
Petitioners Exhibit A4: Table indicating changes to the assessment,
Petitioners Exhibit B1: Form 131,
Petitioners Exhibit B2: 2018 Notice of Assessment of Land and Structures/Improvements (Form 11) and subject property record card,
Petitioners Exhibit B3: 2019 Form 11 and subject property record card,
Petitioners Exhibit B4: First page of Taxpayers Notice to Initiate an Appeal (Form 130) filed June 10, 2019,
Petitioners Exhibit B5: First page of a second Form 130 for the subject property,²
Petitioners Exhibit B6: First and third pages of Notification of Final Assessment Determination (Form 115) and subject property record card,
Petitioners Exhibit C1: Petitioners' conclusion.
- Respondent Exhibit 1: Subject property record card,
Respondent Exhibit 2: Aerial photograph of the subject property,
Respondent Exhibit 3: Summary of contentions and a photograph of the subject property,
Respondent Exhibit 4: Summary of the approach used to value the subject property,
Respondent Exhibit 5: Multiple Listing Service (MLS) sheet for 502 and 508 West Canal in Peru,
Respondent Exhibit 6: MLS sheet for 4197 South 00 East West in Kokomo,
Respondent Exhibit 7: MLS sheet for 303 North Justus in Oxford,
Respondent Exhibit 8: MLS sheet for 223 South Liberty Drive in Bremen.

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 Petitioners' case:

a) The current assessment is incorrect. Mr. Hawkins suggested a value of \$80,000 at the Petitioners' "initial interview" with the Respondent, and he contends an assessment of \$80,000 is "equitable for the value of the property." *Hawkins argument.*

² It is unclear if this Form 130 was filed.

- b) In 2012 the subject property was assessed at \$81,500 and “stayed in that general region” until 2019 when the assessment increased to \$114,300. *Hawkins testimony; Pet’r Ex. A3, A4.*
- c) The comparable properties used by the Respondent in the gross rent multiplier (GRM) computation are “different properties of different sizes.” For example, the property located at 502 West Canal is only 10 years old, while the subject property was built in 1975. *Hawkins argument (referencing Resp’t Ex. 4).*

11. Summary of the Respondent’s case:

- a) The current assessment is correct. In support of this argument, the Respondent presented an income valuation of the subject property prepared by Mr. Thomas. Mr. Thomas developed a GRM and estimated the property’s value at \$110,880. *Thomas argument; Resp’t Ex. 4.*
- b) During the appeal process, the Respondent requested lease and income information from Mr. Hawkins. Mr. Hawkins provided an income estimate of \$550 per month and Mr. Thomas relied upon this information in his GRM analysis. *Thomas testimony; Resp’t Ex. 3, 4.*
- c) In his analysis, Mr. Thomas identified four properties as “comparable.” The first property is located in rural Miami County and is situated on a slightly larger lot. This three bedroom two bathroom home sold on March 8, 2016, for \$157,000. The gross rental income for this property was \$15,600 resulting in a GRM of 10.1. *Thomas testimony; Resp’t Ex. 4, 5.*
- d) The second property is located in rural Howard County. This two bedroom one bathroom home sold for \$101,500 on June 18, 2018. The gross rental income for this property was \$13,200 resulting in a GRM of 7.7. *Thomas testimony; Resp’t Ex. 4, 6.*
- e) The third property is a two bedroom one bathroom home located in Benton County. This home sold for \$105,000 on May 30, 2018. The gross rental income was \$12,960 resulting in a GRM of 8.1. *Thomas testimony; Resp’t Ex. 4, 7.*
- f) The fourth property is a two bedroom one bathroom home on an oversized lot located in Marshall County. This home sold for \$119,500 on September 22, 2016. The gross rental income was \$12,600 resulting in a GRM of 9.5. *Thomas testimony; Resp’t Ex. 4, 8.*
- g) The median GRM for all the properties was 8.8. For the purposes of valuing the subject property, Mr. Thomas ultimately settled on a GRM of 8.4 “to make sure it was not artificially high.” *Thomas testimony; Resp’t Ex. 4.*
- h) Mr. Thomas then estimated the annual gross income of the subject property. Mr. Thomas used the \$550 per month rent supplied by the Petitioners and estimated the

total monthly rent for the two units to be \$1,100. Using this monthly rent, Mr. Thomas estimated the annual gross income to be \$13,200. Multiplying the annual gross income by a GRM of 8.4 results in a value of \$110,800. According to Mr. Thomas, this estimate is within the “acceptable range” because it is only 2.9% lower than the current assessment and the current assessment should not be changed.
Thomas argument; Resp’t Ex. 4.

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). This change was effective March 25, 2014, and has application to all appeals pending before the Board.
15. Here, the Respondent accepted the burden of proof. The assessment increased from \$73,000 in 2018 to \$114,300 in 2019, an increase of 57%. Thus, the burden of proof is on the Respondent.

Analysis

16. The Respondent did not make a prima facie case the 2019 assessment is correct. The Petitioners concede the assessment should be \$80,000.
 - 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 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 a 2019 assessment, the valuation date was January 1, 2019. *See* Ind. Code § 6-1.1-2-1.5.
- c) As discussed above, the Respondent has the burden to prove the assessment is correct. In an attempt to meet the burden, the Respondent presented an analysis prepared by Mr. Thomas. Mr. Thomas developed a GRM and valued the property at \$110,880. According to Mr. Thomas, while this estimate is roughly \$3,000 less than the current assessment, it is within the "acceptable range" and the current assessment should not be changed.
- d) The GRM is the "preferred" method of valuing properties with between one and four residential rental units. Ind. Code § 6-1.1-4-39(b). Indiana has not defined the term GRM by statute or regulation, but it is a commonly used appraisal term. The GRM method develops an income multiplier by looking to market data for sales of comparable income-producing properties and calculates the ratio of the sale price to the gross income at the time of sale. An opinion of value can then be calculated by multiplying the GRM by the annual income base for the subject property.
- e) The GRM eliminates the complex value adjustments required by the sales comparison approach by assuming differences between the properties are reflected in their respective rental rates. However, in order to derive and apply a reliable GRM for valuation purposes the properties analyzed must still be comparable to the subject property and to one another in terms of physical, locational, and investment characteristics. To establish that properties are comparable, a party must identify the characteristics of the subject property and explain how those characteristics compare to the characteristics of the purportedly comparable properties. *Long*, 821 N.E.2d at 471. Specific reasons must be provided as to why a proponent believes a property is comparable. Conclusory statements that a property is "similar" or "comparable" to another property do not constitute probative evidence of the comparability of two properties. *Id.* at 470.
- f) Here, the Respondent disclosed the four purportedly comparable properties used to compute the GRM. The Respondent offered a property record card and MLS sheet for each, along with testimony and documentation as to the county where each property is located, whether each is located in a rural area, and how many bedrooms and bathrooms each property has. But the properties are not all the same as the

subject property in the characteristics Mr. Thomas identified. And the record reveals little regarding the properties' relative conditions or amenities as compared to the subject property. Additionally, the analysis lacks a detailed description of how the properties' locations are comparable, and lacks any meaningful analysis regarding the properties' investment characteristics. Thus, the Board is not persuaded that the properties are comparable.

- g) Further, while the Respondent offered some analysis regarding the selection of a GRM, there is little support for the final determination of 8.4. True, the Respondent computed a median GRM for all four properties, and computed the GRMs for groupings of two or three of the properties, but none of the GRMs in the analysis equal 8.4. The GRMs for the two properties that sold closest to the relevant valuation date, and appear to be the most comparable to the subject property, are 7.7 and 8.1. As part of making a prima facie case, "it is the taxpayer's duty to walk the [Board] through every element of [its] analysis." *Long*, 821 N.E.2d at 471 (*quoting Clark v. Dep't of Local Gov't Fin.*, 779 N.E.2d 1277, 1282 n.4 (Ind. Tax Ct. 2002)). This requirement applies equally to a Respondent bearing the burden. Here, the Respondent failed to connect the final dots in support of the selection of a GRM of 8.4.
- h) Finally, there is not sufficient support for the rental rate and annual income the Respondent computed and relied upon. Mr. Thomas relied on the monthly rent of one unit supplied by Mr. Hawkins, and the Board finds nothing in the record indicating that Mr. Thomas considered any market data in developing his gross income estimate.
- i) For the reasons set forth, the Respondent failed to make a prima facie case the current assessment is correct. Therefore, the Petitioners were entitled to have their 2019 assessment reduced to the 2018 level of \$73,000. The Petitioners, however, conceded an assessment of \$80,000 is "equitable." The Board accepts the Petitioners' concession, and orders that the 2019 assessment be reduced to \$80,000.

Conclusion

- 17. The Respondent failed to make a prima facie case the subject property's 2019 assessment is correct. The Petitioners conceded to an assessment of \$80,000.

Final Determination

In accordance with the above findings and conclusions, the 2019 assessment must be reduced to \$80,000.

ISSUED: April 15, 2020

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>>.