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

Petition: **55-015-16-1-5-00483-17**
Petitioner: **Michael B. & Beverly S. Irwin**
Respondent: **Morgan County Assessor**
Parcel: **55-02-28-235-038.000-015**
Assessment Year: **2016**

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

Procedural History

1. Michael and Beverly Irwin own a home at 13980 N. Cottage Grove Ct. in Camby. They filed an appeal with the Morgan County Assessor challenging their 2016 assessment. On March 15, 2017, the Morgan County Property Tax Assessment Board of Appeals ("PTABOA") issued its determination, valuing the property as follows:

   2016: Land: $32,000 Improvements: $215,000 Total: $247,000

2. The Irwins appealed this decision by filing a Form 131 petition with the Board. Because the assessment is less than $1 million, the Irwins' petition qualifies as a small claim under our procedural rules, and neither party opted out of our small claims procedures. 52 Ind. Admin. Code 3-1-2(a); 52 IAC 3-1-3. On October 19, 2017, Kyle C. Fletcher, our designated administrative law judge, held a hearing. Neither he nor the Board inspected the property.

3. Michael Irwin appeared pro se. Reva Brummett, one of the Assessor's deputies, appeared on her behalf. Irwin and Brummett were both sworn as witnesses.

Record

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

   a. A digital recording of the hearing

   b. Petitioners' Exhibit AA: IBTR Hearing Information and Instructions
      Petitioners' Exhibit A: Appraisal of the Irwins' property as of August 1, 2016 prepared by Richard Hamilton
      Petitioners' Exhibit B: 2016 Property Record Card ("PRC") for the Irwins' property
      Petitioners' Exhibit C: 2013 PRC for the Irwins' property
      Petitioners' Exhibit D: 2012 PRC for the Irwins' property

Petitioners' Exhibit E: 2016 PRC for 13821 N. Bluff Creek Ct.
Petitioners' Exhibit F: 2016 PRC for 13971 N. Bluff Creek Ct.
Petitioners' Exhibit G: 2016 PRC for 13981 N. Layton Mills Ct.

c. Respondent's Exhibit 1: 2016 PRC for the Irwins' property
Respondent's Exhibit 2: Front and rear photos of the Irwins' property
Respondent's Exhibit 3: Information listing for the Irwins' property
Respondent's Exhibit 4: Hamilton appraisal
Respondent's Exhibit 5: 2016 PRC, listing, and photos of 6581 E. Coal Bluff Ct.
Respondent's Exhibit 6: 2016 PRC, listing, and photos of 6293 E. Pemboke Ct.
Respondent's Exhibit 7: 2016 PRC, listing, and photos of 13352 N. Badger Grove Ct.
Respondent's Exhibit 8: CMA 1 – Line with 2015 sales from the Settlement
Respondent's Exhibit 9: Building standards for the Settlement
Respondent's Exhibit 10: CMA 1 – Line with 2015 sales from the Landing
Respondent's Exhibit 11: Building standards for the Landing
Respondent's Exhibit 12: CMA 1 – Line with 2015 sales from the Mission
Respondent's Exhibit 13: Building standards for the Mission
Respondent's Exhibit 14: CMA 1 – Line with 2015 sales from the Commons
Respondent's Exhibit 15: Building standards for the Commons
Respondent's Exhibit 16: Photos of 13981 N. Layton Mills Ct.
Respondent's Exhibit 17: Photos of 13971 N. Bluff Creek Ct.
Respondent's Exhibit 18: Photos of 13821 N. Bluff Creek Ct.
Respondent's Exhibit 19: Comparable sales adjustment grid, parcel map, and PRCs and photos of comparable properties
Respondent's Exhibit 20: Appraisal of Irwins' property as of August 30, 2012 prepared by Debra Lyell
Respondent's Exhibit 21: Subject Market Value (Based on MIBOR Market Indicators) with six pages of information from MIBOR
Respondent's Exhibit 22: Historic Price Trend
Respondent's Exhibit 23: Outline of Brummett's testimony

d. Board Exhibit A: Form 131 petition
Board Exhibit B: Hearing notice
Board Exhibit C: Hearing sign-in sheet

e. These Findings and Conclusions

Summary of Contentions

5. The Irwins' case:

a. The Irwins offered an appraisal from Richard Hamilton in which he estimated their property's market value at $200,000 as of August 1, 2016. The Assessor previously accepted a different appraisal as showing the property's correct assessment for an earlier assessment date. *Pet'rs Ex. A; Irwin testimony.*

b. Hamilton certified that he complied with the Uniform Standards of Professional Appraisal Practice ("USPAP"), and he relied on the sales-comparison approach. He chose three sales from the Irwins' neighborhood, Heartland Crossing. None were from the Settlement, which is the section of the neighborhood where the Irwins' home is located. Hamilton told Mr. Irwin that the Irwins' home was difficult to appraise because it was "the only one-story there," and he preferred comparing homes with the same number of stories. *Pet'rs Ex. A; Irwin testimony.*

c. Hamilton's three comparable homes sold between August 2015 and February 2016 for prices ranging from $182,000 to $203,000. Hamilton considered adjusting each property's sale price to account for relevant ways in which it differed from the Irwins' property, including differences in: gross living area, the number of bedrooms and bathrooms, the presence and size of basements, the presence of fences, and the number of fireplaces. He rounded his adjustments for bedrooms ($3,000 per bedroom), bathrooms ($1,000 per half bath), fireplaces ($500), and partial fences ($500) to the nearest $100. He adjusted for significant differences in gross living area and basement area by $25/sq. ft. and $5/sq. ft., respectively. He did not make any adjustments for location or construction quality. The adjusted sale prices ranged from $181,500 to $201,530, which Hamilton reconciled to a value of $200,000 for the Irwins' property. *Pet'rs Ex. A*.

d. Although the Assessor's witness, Reva Brummett, offered a valuation opinion using sales from the Settlement, Mr. Irwin took issue with her approach. He noted that those properties had fences and pools while the Irwins' property did not. *Pet'rs Exs. E-G; Irwin testimony.*

e. When asked whether he would sell the property for $200,000, Mr. Irwin responded that he would want at least what he paid for it and that he "would say a fair price for it is about" $225,000. *Irwin testimony*.

6. The Assessor's case:

a. Heartland Crossing has about 1200 lots in seven different sections, each with different price points to accommodate various budgets. The Settlement is Heartland Crossing's premier section. Rather than using the recent sales from the Settlement, Hamilton used sales from three other sections: a February 29, 2016 sale from the Landing, an August 25, 2015 sale from the Mission, and a February 26, 2016 sale from the Commons. *Resp't Exs. 4-7; Brummett testimony.*

b. Properties from those three sections are not as comparable to the Irwins' property as properties from the Settlement are. The Settlement's lots are larger than lots from other sections. Homes in the Settlement are also larger—both on average and at a minimum—than homes in the other sections. Most Settlement homes are custom built and have superior construction quality. The Settlement requires the front of homes to be 65% masonry with eight feet of masonry wrapping around the rest of the

building. Those requirements do not apply to homes from the other three sections. Each of those sections has tract-home models that appear multiple times throughout the section. *Resp't Exs. 8-15; Brummett testimony.*

c. The exteriors of Hamilton's comparable homes are inferior to the exterior of the Irwins' home. The Irwins have a custom one-story home with a 100% brick exterior. The Landing home is two stories with a partial brick exterior. The same model appears once more in the Landing. The Mission home is also a two-story tract home, and the same model appears 15 more times in the Mission. That home's front is brick but the rest is siding, and there is no landscaping beyond a three-by-six-foot stoop outside of the back door. Similarly, the Commons home has two stories with brick on the front only. The same model appears twice more on the same street. *Resp't Exs. 1-3, 5-7; Brummett testimony.*

d. Hamilton's comparable homes also lack many interior features of the Irwins' home, like custom cabinetry, custom "built-ins," tray ceilings, and hardwood floors. Although Hamilton chose the nicest homes in the other sections of Heartland Crossing, homes from the Settlement better reflect the value of the Irwins' home. *Resp't Exs. 1-7; Brummett testimony.*

e. Brummett therefore used three sales from the Settlement to estimate the value of the Irwins' property. The sales were from April through July of the year leading up to the assessment date. The homes were custom built. Two were on lots that were within 1,000 square feet of the size of the Irwins' lot. They had the same quality specifications and were nearly the same size as the Irwins' home. *Resp't Exs. 16-19; Brummett testimony.*

f. Brummett testified that she adjusted the sale prices using the same per-unit adjustments as Hamilton, with the exception of an adjustment for her comparable properties' larger garages, which she took from an August 30, 2012 appraisal of the Irwins' property. Two of her three comparable properties had pools, and one had a shed. Although Brummett did not take her adjustments for those items from the appraisals, she did not explain how she quantified them. She made the pool and shed adjustments on the same line of the grid as her adjustment for fences. She deducted $5,000 from the sale price for the home with a partial fence and pool, and $5,500 from the price of the home with a pool and shed. Brummett's adjusted sale prices ranged from $236,130 to $259,275. Although she did not try to reconcile those prices to any specific value, she concluded that they supported the assessment. *Resp't Exs. 4, 19-20; Brummett testimony.*

g. Brummett also pointed out that the Irwins bought the property "as is" for $217,500 in July 2007. It was bank owned and all the kitchen appliances except for the dishwasher were gone. She assumed that those appliances had since been replaced. She also pointed to an appraisal valuing the property at $210,000 as of August 30, 2012. *Resp't Exs. 20-22; Brummett testimony.*

h. Brummett trended the sale price and appraisal to reflect values as of the January 1, 2016 valuation date at issue in these appeals. To do this, she used aggregate data from the Metropolitan Indianapolis Board of Realtors ("MIBOR"). First, she pointed to printouts containing information for "quarter over quarter" changes to median sale prices in Morgan County, although she testified that they referred to "January over January" increases. Brummett then applied each percentage increase to the 2012 appraisal value, compounding the principal amount each year, to arrive at a trended value of $249,490 as of January 1, 2016. She also used a graph from MIBOR showing median sale prices for Morgan County homes from January 2007 through September 2017. She determined that the market had increased by 18% between January 2007 and January 2016, and by 15% between January 2010 and January 2016. That brought the sale price to $256,650 and the appraised value to $241,500. *Resp't Exs. 20-22; Brummett testimony.*

i. Although the Assessor offered a copy of the 2012 appraisal, Brummett did not discuss its contents other than to reference its value conclusion and to say that the PTABOA believed the comparable properties were "fairly decent." She did not say whether any of the properties were from the Settlement. According to the appraisal, one property was located within .11 miles of the Irwins' home. The other properties were more than two miles from the Irwins' home and were located in Mooresville, rather than Camby. *Brummett testimony; Resp't Ex. 20*.

Burden of Proof

7. Generally, a taxpayer seeking review of an assessing official's determination has the burden of making a prima facie case both that the current assessment is incorrect and what the correct assessment should be. Indiana Code § 6-1.1-15-17.2, also known as the burden shifting statute, creates two exceptions to that rule.

8. The assessor has the burden of proving the assessment is correct when (1) the assessment under appeal represents an increase of more than 5% over the prior year's assessment for the same property or (2) a successful appeal reduced the prior year's assessment below the current year's level. I.C. § 6-1.1-15-17.2. If the assessor fails to meet her burden, the assessment reverts to the previous year's value or to another amount shown by probative evidence. *See* I.C. § 6-1.1-15-17.2(b).

9. Because the assessment increased from $202,600 in 2015 to $247,000 in 2016, the parties agreed that the Assessor had the burden of proof.

Analysis

10. Indiana assesses real property based on its true tax value, which the Department of Local Government Finance ("DLGF") has defined 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." I.C. § 6-1.1-31-6(c); 2011 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.4-1-2). Parties may offer evidence that is

consistent with the DLGF's definition of true tax value. A market value-in-use appraisal prepared according to USPAP often will be probative. *See Eckerling v. Wayne Twp. Ass'r,* 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006). Parties may also offer actual construction costs, sales information for the property under appeal, sales or assessment information for comparable properties, and any other information compiled according to generally acceptable appraisal principles. *Id*.; *see also* I.C. § 6-1.1-15-18 (allowing parties to offer evidence of comparable properties' assessments in property tax appeals).

11. Regardless of the type of evidence parties offer, they must explain how that evidence relates to the relevant valuation date. *Long v. Wayne Twp. Ass'r*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). Otherwise, the evidence lacks probative value. *Id*. The valuation date for 2016 assessments was January 1, 2016. I.C. § 6-1.1-2-1.5(a); I.C. § 6-1.1-4-4.5(f).

12. The Assessor offered two ways to value the Irwins' property. First, she offered Brummett's sales-comparison analysis using the sales of three other properties from the Settlement. Second, she pointed to Brummett's attempts to trend the price the Irwins paid to buy the property in 2007 and the valuation opinion from the 2012 appraisal to reflect values as of January 1, 2016.

13. We begin with Brummett's sales-comparison analysis. Although she acknowledged various differences between her three comparable properties and the Irwins' property, she did not analyze how those differences affected value. Instead, she simply plugged in Hamilton's per-unit adjustments. Where her comparable properties had larger garages, she used adjustments from the 2012 appraisal.

14. Without more information, we will not simply assume that either appraiser's adjustments would automatically translate when applied to different comparable sales. We do not know all of the decisions the appraisers made in quantifying their adjustments. And Brummett did not even try to explain why adjustments from the 2012 appraisal would necessarily translate to the market in January 2016. Nor did she explain how she quantified her pool adjustment. In short, Brummett failed to show that her methodology complied with generally accepted appraisal principles or practices.

15. Brummett's attempts to relate the price the Irwins paid for their home in 2007 and the value from the 2012 appraisal to values as of January 1, 2016 similarly carry little or no probative weight. Even if we were inclined to give some weight to Brummett's trending methodology, the Assessor offered no reason why we should find the 2012 appraisal more persuasive than Hamilton's more-timely appraisal from August 2016. The Assessor criticized Hamilton for using sales from outside the Settlement. Yet two of the three sales from the 2012 appraisal were more than two miles away from the Irwins' property. They were even from a different city. We give no weight to Brummett's conclusory statement that the PTABOA thought sales were "fairly decent" comparables. *See, e.g., Blesich v. Lake Cnty. Ass'r*, 46 N.E.3d 14, 17 (Ind. Tax Ct. 2015) (providing that "[c]onclusory statements do not constitute probative evidence") (citation omitted).

16. In any case, Brummett's trending methodology leaves much to be desired. Her claim that the "quarter over quarter" data for median sale prices actually referred to "January over January" is not credible. Absent some explanation to the contrary, we take the data to mean what it says on its face—that it reflects the difference between the median sale price for the three months ending in January and the median sale price for the preceding three months. Isolating differences in median sale prices between two quarters for each year says little about how much the real estate market appreciated or depreciated between the specific sale and appraisal dates and the January 1, 2016 valuation date. The overall trend in median sale prices from January 2007 to January 2016 is a little more convincing, although it is still broad, given that it covers all of Morgan County.

17. More importantly, the 2012 appraisal and the 2007 sale in which the Irwins bought their property reflect values from several years before the valuation date. While trending sales or appraisal data that old might make sense for property types that sell only infrequently or that have lengthy marketing periods, we are dealing with a home. Both Hamilton's appraisal and the MIBOR listing sheets show that homes in the area sell regularly and sellers typically market them for six months or less. Even if Brummett had used a more precise trending methodology, her conclusions would be a stretch. As it is, those conclusions lack any probative value.

18. But that does not mean we find the underlying sale price useless. Despite the flaws in Brummett's trending methodology, her data concerning median sale prices over time support an inference that the Irwins' property likely did not depreciate between July 2007 when they bought it and January 1, 2016.[1] Mr. Irwin essentially admitted as much when he testified that he would want at least what the Irwins paid for the property if he were to sell it and that he thought a fair price would be about $225,000.

19. Against that admittedly slender evidence, we must weigh Hamilton's appraisal. Hamilton used a generally accepted methodology—the sales-comparison approach—and his analysis at least facially appears to comply with generally accepted appraisal principles.

20. The Assessor sought to impeach Hamilton's appraisal on grounds that he used incomparable properties from other sections of Heartland Crossing and ignored the sales from the Settlement that Brummett used in her adjustment grid. He may not have ignored the Settlement sales intentionally, as Brummett suggested. Instead, it appears that his decision to appraise the property as of the date he inspected it, rather than retroactively as of the relevant valuation date, may have been the reason for their exclusion. All of his comparable sales occurred within one year before the appraisal's effective date, making it likely that he looked for sales within that one-year window when researching the market. The sales from the Settlement were all outside that window.

21. Whatever the reason for excluding the Settlement sales, we agree that Hamilton's appraisal would have been more credible had he used sales from the Settlement. The Settlement properties appear to be better substitutes for the Irwins' property than the ones

[1] There is no evidence of significant physical changes to the property between the sale and valuation dates.

Hamilton used. More importantly, we have serious concerns about Hamilton's analysis of the sales he did use. The Assessor offered evidence showing that homes from the Settlement, including the Irwins' home, had more attractive and expensive exteriors than Hamilton's comparable homes and that the Settlement generally had higher-end homes than the other sections of Heartland Crossing. Given those disparities, one would have expected Hamilton to adjust the sale prices for differences in location and construction quality, or at least explain why adjustments were unnecessary.

22. In light of those concerns, Hamilton's appraisal does not persuade us that the property was worth less than the $217,500 that the Irwins paid for it. Based on the record as a whole, we find that the property's true tax value was at least $217,500. While it might have been worth more, it was the Assessor's burden to prove how much, and she failed to do so.

Final Determination

In accordance with the above findings and conclusions, we find that the assessment must be changed to $217,500.

ISSUED: January 16, 2018

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Chairman, Indiana Board of Tax Review

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Commissioner, Indiana Board of Tax Review

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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>.