

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

Petition: 49-800-12-1-5-00351-15
Petitioner: Robert W. & Lois M. Jay
Respondent: Marion County Assessor
Parcel: 49-03-24-103-001.000-800
Assessment Year: 2012

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

PROCEDURAL HISTORY

1. The Jays' property is located at 1103 Iron Springs Court in Indianapolis. They filed an appeal with the Marion County Assessor challenging their 2012 assessment. On October 30, 2015, the Marion County Property Tax Assessment Board of Appeals ("PTABOA") issued its determination, valuing the property as follows:

2012: Land: \$113,800 Improvements: \$322,000 Total: \$435,800

2. The Jays then filed a Form 131 petition with the Board and elected to proceed under our small claims procedures. On September 20, 2017, Kyle C. Fletcher, our designated administrative law judge ("ALJ"), held a hearing. Neither he nor the Board inspected the property.
3. Robert Jay appeared pro se. Gabe Deaton, Director of Assessment for Marion County, appeared for the Assessor. They 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 A: December 16, 2009 appraisal of the Jays' property
 - c. Respondent's Exhibit A: 2012 Property Record Card
Respondent's Exhibit B: CMA 1 - Line for January 1, 2010 to March 1, 2012
Respondent's Exhibit C: CMA 1 - Line for January 1, 2009 to March 1, 2013
Respondent's Exhibit D: CMA 1 - Line for January 1, 2008 to December 31, 2013
 - d. Board Exhibit A: Form 131 petition
Board Exhibit B: Hearing notice

Board Exhibit C: Sign-in sheet

- e. These Findings and Conclusions

SUMMARY OF CONTENTIONS

5. The Assessor's case:

- a. The property is located in Iron Springs at 82nd St. and Westfield Blvd. The neighborhood enjoys quick resales and low turnover, which contribute to the high neighborhood factor applied to the Jays' property. *Deaton testimony; Resp't Ex. A.*
- b. The Assessor offered information for six Iron Springs properties that sold between December 2008 and May 2013. The Assessor's witness and representative, Gabe Deaton, focused on the two sales that were from the year leading up to the assessment date: 8126 Meadowbrook Drive and 1127 Iron Springs Ct. Because the neighborhood has only 21 homes, those two sales represent a sample size of almost 10%. They sold for an average of \$143.31 per square foot. By comparison, the Jays' property was assessed at only \$139.32 per square foot. The homes all have fairly similar construction quality. *Deaton testimony; Resp't Exs. A-B.*
- c. The Jays' home has 3,128 square feet of finished living area and 2.5 bathrooms. The Assessor assigned it a "B" grade for construction quality. 8126 Meadowbrook Drive is similar in size, with 2,738 square feet and 2.5 bathrooms. 1127 Iron Springs Ct. is noticeably larger, with 4,642 square feet, and it has an "A" grade. According to Deaton, the replacement costs used to determine the assessments reflect the differences between the Jays' home and the other two homes. *Deaton testimony; Resp't Exs. A-B.*
- d. No property in Iron Springs has ever sold for less than \$422,000. All the homes in the neighborhood were built within two years of the Jays' home and have similar construction. *Deaton testimony; Resp't Exs. A, C-D.*
- e. Although the Jays offered an appraisal, it is not probative of their property's value. The appraisal valued the home as of December 16, 2009, more than two years before the March 1, 2012 valuation date at issue in this appeal. And it was prepared for refinancing purposes rather than in connection with the home's purchase. *Deaton testimony; Pet'rs Ex. A.*

6. The Jays' case:

- a. Cynthia Higgins appraised the property at \$365,000 as of December 16, 2009. Mr. Jay argued with her about the value because none of her comparable sales came from his neighborhood. She told him that she did not use other homes from his neighborhood because they were larger and fancier. *Jay testimony; Pet'rs Ex. A.*

- b. Mr. Jay works with mortgage loans for Wells Fargo and sold real estate for 20 years. He did not believe that property values increased between the appraisal and assessment dates. He thought they actually might have decreased. *Jay testimony*.
- c. The sales the Assessor relied on were for homes that were not comparable to the Jays' home. The other homes in Iron Springs are larger and nicer. By contrast, the Jays' home has a smaller garage, double hung (instead of thermal pane or casement) windows, a fiberglass bathtub, no hardwood floors, and no fancy bathrooms or extensive woodwork. *Jay testimony; Pet'rs Ex. A; Resp't Ex. B*.
- d. The home at 8126 Meadowbrook Drive, which sold for the lowest price of the Assessor's comparable sales, is still nicer than the Jays' home. Unlike the Jays' home, that home has a three-car garage, a finished basement, casement windows, and a master bedroom on the main level. It is all brick as compared to the Jays' home, which has exterior siding. Also, the Meadowbrook Drive home is a ranch, which is more expensive to build. *Jay testimony; Pet'rs Ex. A; Resp't Ex. B*.

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, regardless of the amount. I.C. § 6-1.1-15-17.2(a)-(b), (d). But the burden-shifting statute does not apply if the assessment under appeal was based on structural improvements, zoning, or uses that were not considered in the prior year's assessment. I.C. § 6-1.1-15-17.2(b). If the assessor has the burden of proof and fails to meet it, the assessment reverts to the prior year's level or to another amount shown by probative evidence. *See* I.C. § 6-1.1-15-17.2(c).
9. The parties did not address the burden of proof at the hearing's outset, and the ALJ had the Jays present their case first. Even so, the undisputed evidence shows that the assessment increased by more than 5% between 2011 and 2012, going from \$364,500 to \$435,800. And there is no evidence to show that any of the exceptions to the burden-shifting rule apply. The Assessor therefore has 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 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 the Uniform Standards of Professional Appraisal Practice 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).

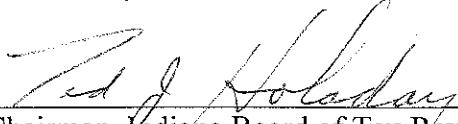
11. Regardless of the type of evidence a party offers, he must explain how that evidence relates to the relevant valuation date. *Long v. Wayne Twp. Ass'r*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). Otherwise, the evidence lacks probative value. *Id.* The valuation date for 2012 assessments was March 1, 2012.
12. The Assessor offered information about six sales from the Jays' neighborhood, but only three of those sales happened within a year of the assessment date. The Assessor did nothing to relate the other three sale prices to the assessment date. Thus, we give those sales no weight.
13. As for the three remaining sales, the Assessor needed to (1) identify the relevant characteristics of the Jays' property, (2) explain how those characteristics compared to those of his three purportedly comparable properties, and (3) explain how any relevant differences affected the properties' market value-in-use. *Long*, 821 N.E.2d at 471. But the Assessor's witness, Deaton, did little either to show comparability or to address relevant differences. Instead, he simply described properties as being "fairly similar" in construction quality and said that the homes' respective replacement costs accounted for any differences. Those statements do not even approach the level of analysis contemplated by *Long* and by generally accepted appraisal principles. The Assessor's sales data therefore lacks probative value.
14. The Jays similarly failed to offer probative evidence of their property's value. Higgins' appraisal valued the property as of a date more than two years before the relevant March 1, 2012 valuation date. And Mr. Jay's general testimony that property values had not increased, without pointing to some basis for that conclusion, did little to relate Higgins' appraisal to the valuation date.¹
15. Because the Assessor failed to meet his burden that the assessment was correct and there is no probative evidence to show a different value, the assessment must revert to the prior year's level of \$364,500.

¹ Rejecting the appraisal makes little difference. It valued the property for only \$500 more than the prior year's assessment

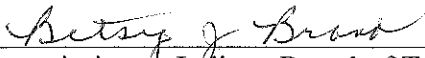
FINAL DETERMINATION

The Assessor failed to meet his burden of proving the assessment is correct. We therefore find for the Jays and order the 2012 assessment to be changed to \$364,500

ISSUED: 12-18-17



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>.