

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

Petition No.: 49-300-20-1-4-00351-22
Petitioner: Terry Johnson
Respondent: Marion County Assessor
Parcel No.: 3024602
Assessment Year: 2020

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

PROCEDURAL HISTORY

1. On June 15, 2021, Terry Johnson filed a Form 130 notice contesting the 2020 assessment of his property located at 8815 Atlantis Drive, Indianapolis, Indiana. On March 25, 2022, the Marion County Property Tax Assessment Board of Appeals (“PTABOA”) issued a final determination valuing the property at \$310,700 (land at \$310,700 and improvements at \$0).
2. Johnson timely filed a Form 131 petition with the Board and elected to proceed under our small claims procedures. The Board scheduled an administrative hearing to address the petition on April, 27, 2023, but neither Johnson nor an appointed representative appeared. On May 25, 2023, the Board issued a Final Determination denying Johnson’s petition due to his failure to appear. Johnson subsequently filed a request for rehearing which the Board granted. On August 18, 2023, Tammy Sierp, our designated administrative law judge (“ALJ”) held a telephonic hearing on Johnson’s petition. Neither she nor the Board inspected the property.
3. Johnson appeared pro se. The Assessor appeared by Benjamin Jecker, Commercial and Industrial Analyst and Level III Certified Indiana Assessor-Appraiser. Both were sworn as witnesses.

RECORD

4. Johnson submitted the following exhibits:

Petitioner Exhibit 1:	April 10, 2023 Letter to Marion County Assessor and IBTR
Petitioner Exhibit 2:	Affidavit from Matt McFarland with attached farm lease
Petitioner Exhibit 3:	Map of 3939 S. Franklin Rd and 8815 Atlantis Dr.
Petitioner Exhibit 4:	Property Record Cards for comparable properties

5. The Assessor submitted the following exhibits:

- Respondent Exhibit 1: Form 130 notice with farm lease attached
- Respondent Exhibit 2: Form 115 notice
- Respondent Exhibit 3: Form 131 petition
- Respondent Exhibit 4: Respondent's Intentions
- Respondent Exhibit 5: Property Record Cards for subject property (2012 to 2020)
- Respondent Exhibit 6: Aerials of subject property
- Respondent Exhibit 7: Google Maps Street View of subject property
- Respondent Exhibit 8: BLC Listing of Subject Property on April 26, 2020
- Respondent Exhibit 9: Sales Disclosure Form ("SDF") for March 17, 2021 sale of subject property

6. The official record for this matter also includes the following: (1) all pleadings, briefs, motions, and documents filed in this appeal; (2) all orders, and notices issued by the Board or our ALJ; and (3) an audio recording of the hearing.

FINDINGS OF FACT

7. The subject property is located at 8815 Atlantis Drive, Indianapolis, Indiana. It consists of approximately 5.5 acres of vacant land zoned C-5 Commercial. Johnson purchased the property on or about February 3, 2020 for \$275,000. On June 20, 2020, he entered into a Farm Lease Agreement with Matt McFarland, who leased approximately 5 acres of the property through December 31, 2020 for agricultural purposes. On or about December 10, 2020, Johnson transferred his interest in the property to Terrys 1031 LLC. And on March 17, 2021, Terrys 1031 LLC sold the property to STNL Indianapolis, LLC for \$635,000 for development of a Tractor Supply Company store. *Johnson testimony; Jecker testimony; Pet'r Ex. 2; Resp't Exs. 5, 8, 9.*

SUMMARY OF CONTENTIONS

8. Johnson's case:

- a) Johnson contends that the subject property should be assessed as agricultural land. He thinks that the land was farmed at some point in the past because he found corn stalks on the property. And on June 20, 2020, Johnson leased 5 acres of the property to Matt McFarland, who farmed the land. *Johnson testimony; Pet'r Ex. 2.*

9. The Assessor's case:

- a) The Assessor contends that Johnson purchased the subject property with the intent to sell it as commercial vacant land. The subject property has been assessed as commercial land since 2012, and its assessment did not change between 2012 and 2020. Aerial photos of the property from March/April 2012, March/May 2020, and March/April 2021 show no crops. *Jecker testimony; Resp't Ex. 6.*

- b) On April 26, 2020, when Johnson put the subject property on the market, the MIBOR listing described its zoning as C-5 Commercial. This listing was prior to Johnson's June 2020 lease agreement with McFarland, and it made no mention of agricultural land. Johnson paid \$275,000 to buy the property in 2020 and on March 25, 2021, he sold it on the open market for \$635,000. On the first page of the SDF documenting the transaction, the property is marked as commercial property, not agricultural property. And on the second page of the SDF, the planned use of the property is described as a Tractor Supply Company. *Jecker testimony; Resp't Exs. 4, 8, 9.*

ANALYSIS

10. Johnson failed to make a prima facie case that the subject property should be assessed as agricultural land. The Board reached this decision for the following reasons:
- a) Generally, an assessment determined by an assessing official is presumed to be correct. *See 2011 REAL PROPERTY ASSESSMENT MANUAL* at 3. The petitioner has the burden of proving the assessment is incorrect and what the correct assessment should be. *Piotrowski v. Shelby Cty. Assessor*, 177 N.E.3d 127, 131-32 (Ind. Tax Ct. 2021).
- b) 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); *MANUAL* at 3. "True tax value" does not mean "fair market value" or "the value of the property to the user." I.C. § 6-1.1-31-6(c), (e). It is instead determined under the rules of the Department of Local Government Finance ("DLGF"). I.C. § 6-1.1-31-5(a); I.C. § 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.
- c) 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). Regardless of the method used to prove true tax value, a party must explain how its evidence relates to the property's value as of the relevant valuation date. *O'Donnell v. Dep't of Local Gov't Fin.*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006). The valuation date for this appeal is January 1, 2020. Ind. Code § 6-1.1-2-1.5(a).
- d) Generally, a party may not make a case for changing an assessment simply by showing how the assessment regulations should have been applied. *See Eckerling v. Wayne Twp. Ass'r*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006) ("Strict application of the regulations is not enough to rebut the presumption that the assessment is correct."). Instead, the party must offer market-based evidence. *See Id.* However,

this general principle does not apply to land used for agricultural purposes. The DLGF promulgated guidelines for assessing agricultural land using distinctive factors, such as soil productivity, which do not apply to other types of land. *See* Ind. Code § 6-1.1-4-13. The DLGF determines a statewide base rate by taking a rolling average of capitalized net income from agricultural land. *See* 2011 REAL PROPERTY ASSESSMENT GUIDELINES, CH. 2 at 77 to 78; *see also* Ind. Code § 6-1.1-4-4.5(e). Assessors then adjust that base rate according to soil productivity factors. Depending on the type of agricultural land at issue, assessors may then apply influence factors in predetermined amounts. *See Id.* at 77, 89, 98-99.

- e) Ind. Code § 6-1.1-4-13(a) provides that “land shall be assessed as agricultural land only when it is devoted to agricultural use.” The word “devote” means “to attach the attention or center the activities of (oneself) wholly or chiefly on a specified object, field, or objective.” WEBSTER’S THIRD NEW INTERNATIONAL UNABRIDGED DICTIONARY at 620. “Agricultural use” includes but is not limited to uses such as:

the production of livestock or livestock products, commercial aquaculture, equine or equine products, land designated as a conservation reserve plan, pastureland, poultry or poultry products, horticultural or nursery stock, fruit, vegetables, forage, grains, timber, trees, bees and apiary products, tobacco, other agricultural crops, general farming operation purposes, native timber lands, or land that lays fallow.

Ind. Code § 6-1.1-4-13(b).

- f) Johnson contends that the subject property should be assessed as agricultural land because it was previously farmed and because he leased 5 acres of the property for farming during 2020. However, he offered no evidence establishing when the property was last farmed, and the farm lease he entered into with McFarland did not commence until more than six months after the January 1, 2020 assessment date. Because Johnson failed to present any evidence demonstrating that the subject property was devoted to agricultural use on January 1, 2020, we conclude that he failed to make a prima facie case that the subject property should be assessed as agricultural land.

FINAL DETERMINATION

In accordance with the above findings of fact and conclusions of law, we find for the Assessor and order no change to the 2020 assessment.

ISSUED: 10/3/23



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>>.