

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

Petition: 45-004-19-1-5-00841-20
Petitioner: Joseph Scott Jordan
Respondent: Lake County Assessor
Parcel: 45-08-16-426-016.000-004
Assessment Year: 2019

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

PROCEDURAL HISTORY

1. Jordan contested the 2019 assessment of his property located at 2573 Madison Street in Gary. The Lake County Assessor valued the property at \$20,500 (\$1,500 for land and \$19,000 for improvements).
2. On December 15, 2020, Jordan filed a Form 131 petition with the Board and elected to proceed under our small claims procedures.¹ On June 9, 2021, Ellen Yuhan, our designated Administrative Law Judge (“ALJ”), held a hearing on Jordan’s petition. Neither she nor the Board inspected the property.
3. Jordan appeared pro se. The Assessor appeared by Hearing Officer Robert Metz. Both were sworn as witnesses.

RECORD

4. The official record for this matter contains the following:
 - a. Petitioner Exhibits 1-4: Central exterior pictures
 - Petitioner Exhibits 5-9: Exterior front porch pictures
 - Petitioner Exhibits 10-16: Exterior back porch pictures
 - Petitioner Exhibits 17-20: Garage pictures
 - Petitioner Exhibits 21-24: Basement pictures
 - Petitioner Exhibits 25-30: First floor apartment pictures
 - Petitioner Exhibits 31-40: Second floor apartment pictures
 - Petitioner Exhibit 41: Repair estimate

¹ Jordan elected to appeal the 2019 assessment directly to us after the Lake County Property Tax Assessment Board of Appeals (“PTABOA”) failed to issue a determination within 180 days of when Jordan filed his Form 130 notice of appeal. See Ind. Code § 6-1.1-15-1.2(k) (allowing taxpayers to appeal to the Board if the county board has not issued a determination within 180 days of the date the notice of appeal was filed).

Respondent Exhibit 1: Property record card

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

BURDEN OF PROOF

5. 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's assessment, or where it is above the level determined in a taxpayer's successful appeal of the prior year's assessment. I.C. § 6-1.1-15-17.2 (b) and (d).
6. Here, the property's assessment increased by more than 5% from 2018 to 2019. The Assessor therefore bears the burden of proof.

SUMMARY OF CONTENTIONS

7. The Assessor's case:
 - a. The Assessor reached out to the Calumet Township Assessor's Office. They told the Assessor that the subject property's dwelling was changed from very poor to fair condition during the 2019 cyclical reassessment. On June 4, 2021, two Calumet Township employees inspected the property and noted that the grounds and the exterior of the dwelling were adequately maintained and in fair condition. They also noted that the property was unoccupied, its 1st floor windows were boarded up, there were security gates on the doors, and the property had electric service but no gas or water service. The employees recommended no change to the assessment. *Metz testimony; Resp't Ex. 1.*
 - b. Earlier this week, Jordan submitted a repair estimate for \$31,900 to the Assessor. It appears that the property's interior requires significant work, but without an interior inspection the Assessor had no way of knowing that. *Metz testimony.*
8. Jordan's case:
 - a. The property's assessed value was \$6,500 for a number of years. Then, in 2019, it increased to \$20,500. The condition has not changed and there have been no improvements to the property. Jordan does keep the grass mowed so it will look like someone is there, but the property has been unoccupied for many years. *Jordan testimony.*

- b. The property suffers from its location. Jordan tried to sell it 25 years ago, but buyers were afraid to get out of their car because men congregated in the neighborhood and sat around drinking. Now the men camp out in abandoned houses, which need to be torn down but that is not happening. *Jordan testimony.*
- c. Repairs are needed to the exterior of the property. The windows are boarded up and new ones are needed. The front steps were stolen and need to be replaced. The porches in the back are falling down and need to be rebuilt. New doors are also needed on the house and garage. *Jordan testimony; Pet'r Exs. 1-21, 41.*
- d. The garage needs to be secured because, in that area, it is a popular thing to set garages on fire. Jordan worries about liability because he has lost his State Farm Insurance on this property. He is supposed to have an inspection by Hanover Insurance, but Jordan is not sure if he will be eligible for coverage. *Jordan testimony.*
- e. A few years back, the furnace went out and the pipes froze. The furnace needs to be replaced, as well as the pipes, hot water heaters, and electric. The bathrooms and kitchens need to be redone and both apartments need painted. The cost for all the repairs, excluding the roof, is \$31,900, but it could be more as material costs have increased since the pandemic. *Jordan testimony; Pet'r Exs. 22-41.*
- f. The cost to renovate is more for this two-story house than it would be for a one-story bungalow because with a bungalow everything can be done from the basement. Further, the house suffers from an obsolete layout. The downstairs apartment is a two-bedroom and not suitable for a large family. The upstairs apartment has only one bedroom. The layout limits the rental market. The rent is also affected by the fact that tenants must pay their own utilities. *Jordan testimony.*
- g. Jordan talked to two realtors about selling the property. According to them, he would not even recoup the amount of the repairs if they were done. Without the repairs, they were not sure he could even get \$5,000 because there are too many properties available in Gary. But if somebody offered Jordan \$5,000 to buy it as is, one of the realtors, Mr. Delano, advised him to take it. *Jordan testimony.*
- h. Given the limited market for rental and selling and the expenses of renovation, he does not have many choices. If the taxes get too high and if he cannot get insurance, the liability risk may lead him to just walk away from the property. *Jordan testimony.*
- i. Jordan filed this appeal in June 2020. He went to the township office several times, but it was locked. He would have been happy to allow an interior inspection, but he never heard from anyone at the township. *Jordan testimony.*

ANALYSIS

9. The Assessor failed to make a prima facie case supporting the assessment, and Jordan failed to make a prima facie case for a reduction below its reversionary value. 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." 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.
 - 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). So may 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.*; *see also* I.C. § 6-1.1-15-18 (allowing parties to offer evidence of comparable properties' assessments in property tax appeals but explaining that the determination of comparability must be made in accordance with generally accepted appraisal and assessment practices). 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, 2019. Ind. Code § 6-1.1-2-1.5(a).
 - c. As discussed above, the Assessor has the burden of proof. The Assessor pointed to the Calumet Township Assessor's decision to change the property's condition rating from very poor to fair condition during the 2019 cyclical reassessment as the reason for the large year-over-year increase, but she failed to present any probative market-based evidence in support of the 2019 assessment. Jordan is therefore entitled to have his 2019 assessment reverted to its 2018 assessed value of \$6,500.
 - d. That does not end our inquiry, however, because Jordan contends the value should be lower. Although he argued that the property is worth less than \$6,500, he never advanced a specific valuation. To the extent Jordan was claiming that his property should be valued at \$5,000, he failed to present any probative market-based evidence to support that value. While his evidence shows that the property is in very poor condition, a hearsay statement from a realtor is not market-based evidence. Jordan therefore failed to make a prima facie case for a further reduction.

FINAL DETERMINATION

In accordance with the above findings of fact and conclusions of law, we order the 2019 assessment reduced to its 2018 assessed value of \$6,500.

ISSUED: 8-13-21

Chairman, Indiana Board of Tax Review

Betsy J. Brand

Commissioner, Indiana Board of Tax Review

Matthew R. Clark

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>>.