

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

Petition: 75-002-20-1-5-00483-20
Petitioner: Cynthia Layer
Respondent: Starke County Assessor
Parcel: 75-10-24-301-021.000-002
Assessment Year: 2020

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

PROCEDURAL HISTORY

1. Cynthia Layer contested the 2020 assessment of her residential property located at 6815 S. State Road 10 in Knox. The Starke County Property Tax Assessment Board of Appeals (“PTABOA”) issued a determination valuing the property at \$314,200 (land at \$121,700 and improvements at \$192,500).
2. Layer timely filed a Form 131 petition with the Board and elected to proceed under our small claims procedures. On December 1, 2020, Ellen Yuhan, our designated administrative law judge (“ALJ”), held a telephonic hearing on Layer’s petition. Neither she nor the Board inspected the property.
3. Layer and Starke County Assessor Michelle Schouten appeared pro se. Layer, Schouten, and Starke County Deputy Assessor Tori Schessor testified under oath.

RECORD

4. The official record for this matter contains the following:
 - a. Respondent Exhibit A: 2020 trending data for Starke County Neighborhood 201
 - Respondent Exhibit B: 2020 property record card
 - Respondent Exhibit C: 2018 building permit for dwelling with attached garage
 - b. The record 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 assessment increased from \$288,400 in 2019 to \$314,200 in 2020—an increase of more than 5%. The Assessor conceded that she therefore bears the burden of proof.

SUMMARY OF CONTENTIONS

7. The Assessor's case:
 - a. The Assessor contends that Layer's property went up in value solely because of the trending factors applied to the structure. The neighborhood trending data shows how her office came up with the increase to stay within the Department of Local Government Finance's ("DLGF") acceptable level for the ratio study. *Schouten testimony; Resp't Ex A.*
 - b. Layer is not questioning the assessed value of the improvements. That portion of the assessment did increase from 2019 to 2020, but the improvements were still assessed for less than the \$210,000 construction cost estimate shown on Layer's building permit. Layer is only contesting the value of the land due to the seawall erosion. The Assessor is not assessing the full depth of the land because of that erosion, and she is willing to stipulate to the 2019 land value of \$119,400. But to be fair and equitable to the other lakefront properties that have a seawall erosion problem, she cannot go any lower. *Schouten testimony; Resp't Exs. B, C.*
8. Layer's case:
 - a. Layer claims the amount shown on the construction permit included the teardown and removal of an old structure. However, she is not contesting the value of the improvements. She instead contends that the configuration of her water frontage and the condition of her seawall negatively affect the market value of her land. Layer's property technically has 55 linear feet of lake frontage, but it is not continuous. Twenty-five feet of the property follows the shape of the lake. It then comes back into the property for about 175 feet in what she calls the channel before going across again for another 25 feet. The channel is unusable water that cannot support a boat. It is musty and has all kinds of vegetation in it. There is also tremendous deterioration of the seawall. *Layer testimony.*

ANALYSIS

9. The Assessor failed to make a prima facie case supporting the 2020 assessment, and Layer failed to make a prima facie case for reducing her land assessment 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 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. All three standard appraisal approaches—the cost, sales-comparison, and income approaches—are “appropriate for determining true tax value.” MANUAL at 2. In an assessment appeal, parties may offer any evidence relevant to a property’s true tax value, including appraisals prepared in accordance with generally recognized appraisal principles. *Id.* at 3; *see also Eckerling v. Wayne Twp. Ass’r*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006) (reiterating that a market value-in-use appraisal that complies with USPAP is the most effective method for rebutting the presumption that an assessment is correct). 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).
 - c. As discussed above, the Assessor has the burden of proving that the 2020 assessment is correct. However, she failed to offer any probative market-based evidence to support the overall assessment, and she agreed that we should revert the 2020 land assessment to its 2019 assessed value of \$119,400. Layer is therefore entitled to have her 2020 assessment reverted to its assessed value from 2019. However, because Layer conceded that the 2020 assessment of her improvements was correct, we conclude that that portion of the assessment should not revert.
 - d. That does not end our inquiry, however, because Layer requested a lower assessed value for the land than its reversionary value of \$119,400. Although Layer argued that the market value of her land was negatively affected by the configuration of the property and the deterioration of the seawall, she failed to present any probative market-based evidence to support a specific valuation. Layer 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 2020 land assessment reduced to its 2019 assessed value of \$119,400.

ISSUED: February 26, 2021

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>>.