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

Petitions: **45-036-15-1-5-01191-18**
45-036-16-1-5-01192-18
45-036-17-1-5-01193-18
Petitioner: **William Maddocks**
Respondent: **Lake County Assessor**
Parcel: **45-11-08-176-005.000-036**
Assessment Years: **2015, 2016 and 2017**

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

PROCEDURAL HISTORY

1. Maddocks contested the 2015, 2016 and 2017 assessments of his property located at 1106 Kensington Court in Schererville. The Lake County Property Tax Assessment Board of Appeals ("PTABOA") issued final determinations valuing the residential property as follows:

Year	Land	Improvements	Total
2015	$124,500	$436,600	$561,100
2016	$124,500	$474,200	$598,700
2017	$124,500	$462,300	$586,800

2. Maddocks timely filed Form 131 petitions with the Board and elected to proceed under our small claims procedures. On July 22, 2019, Ellen Yuhan, our designated administrative Law Judge ("ALJ"), held a hearing on Maddocks' petitions. Neither she nor the Board inspected the property.

3. Maddocks appeared by tax representative Edward Krusa. The Assessor appeared by his Hearing Officers, Robert W. Metz and Joseph E. James. Krusa and Metz testified under oath.

RECORD

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

Petitioner Exhibit 1: 2015 Appraisal Report prepared by Denise Krumm
Petitioner Exhibit 2: 2016 Appraisal Report prepared by Denise Krumm

Petitioner Exhibit 3:	Revised 2017 Appraisal Report prepared by Denise Krumm
Petitioner Exhibit 4:	Property record card for subject property
Respondent Exhibit 1:	Appraisal Report prepared by Randall Raynor
Respondent Exhibit 2:	2017 Appraisal Report prepared by Denise Krumm
Respondent Exhibit 3:	Revised 2017 Appraisal Report by Denise Krumm
Respondent Exhibit 4:	Property record card for subject property

5. The record for this matter also includes (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

6. Generally, a taxpayer seeking review of an assessing official's determination has the burden of proof. Ind. 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).

7. Our ALJ preliminarily assigned the burden for 2015 and 2016 to the Assessor and the burden for 2017 to Maddocks. We agree that the Assessor bears the burden with respect to 2015 because the property's assessment increased by more than 5% from 2014 to 2015. However, determining which party bears the burden for subsequent years depends on the outcome of the preceding year's appeal. Nevertheless, in a case like this, where both parties offered appraisals prepared by qualified experts in accordance with the Uniform Standards of Professional Appraisal Practice ("USPAP"), the question of who has the burden in any given year is largely theoretical. We must weigh the evidence to determine which party presented the most credible and reliable opinion of the subject property's true tax value for each year.

SUMMARY OF CONTENTIONS

8. The Assessor's case:

   a. The Assessor offered an appraisal prepared by Randall Raynor, a certified general appraiser who holds the SRA designation from the Appraisal Institute. Raynor prepared the appraisal in accordance with USPAP and valued the property at $535,000 as of March 1, 2015, $535,000 as of January 1, 2016, and $550,000 as of January 1, 2017. The Assessor requests the Board change the assessments to reflect Raynor's opinions of value. *Metz testimony; Resp't Ex. 1.*

b. Maddocks originally submitted a 2017 Appraisal Report prepared by Denise Krumm that contained erroneous adjustments for square footage. When the Assessor brought this to Krumm's attention, she revised her appraisal to correct the adjustments but she did not change the reconciled value.[1] Given that her reconciled value is lower than the adjusted sales prices for the comparable sales, Metz believes Krumm completed the appraisal with a desired result in mind. It is also unclear how Krumm could reconcile to a value when she only completed a sales comparison approach. *Metz testimony; Resp't Exs. 2, 3.*

9. Maddocks' case:

   a. Maddocks presented three appraisals prepared by Denise Krumm, a certified residential appraiser. Krumm prepared her appraisals in accordance with USPAP and valued the property at $390,000 as of March 1, 2015, $400,000 as of March 1, 2016 and $430,000 as of January 1, 2017. *Krusa testimony; Pet'r Exs. 1-3*.

   b. At the time Krumm was preparing the appraisals, she was having health issues. When she realized there were errors in the 2017 appraisal, she corrected the adjustments and sent a revised appraisal to Metz and the St. John Township Assessor. *Krusa testimony; Pet'r Ex. 3*.

   c. The 2018 property record card shows a -2% influence factor applied to the land value. Krusa was unable to figure out why the Assessor applied the factor in 2018, or if he applied it in the assessment years under appeal. *Krusa testimony; Pet'r Ex. 4.*

ANALYSIS

10. The Assessor's appraisal is the most persuasive evidence of the subject property's 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. All three standard appraisal approaches—the cost, sales-comparison, and income approaches—are "appropriate for determining true tax value." MANUAL at 2. In an

[1] While the Assessor's copy of Krumm's revised appraisal shows a reconciled value of $405,000, the copy submitted by Maddocks shows a reconciled value of $430,000. *Resp't Ex. 3; Pet'r Ex. 3.*

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 appraisal method used, a party must relate its evidence 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 dates for the years under appeal were March 1, 2015, January 1, 2016, and January 1, 2017. Ind. Code § 6-1.1-2-1.5(a).

c. Both appraisers prepared their appraisals in accordance with USPAP, and we conclude that they are generally probative of the subject property's true tax value. However, determining which appraiser's opinion is more persuasive is complicated by the fact that neither appraiser appeared at the hearing to provide supporting testimony for their opinions. Moreover, neither party made much of an effort to criticize or impeach the other's appraisal(s).

d. Both appraisers primarily relied on the sales comparison approach in reaching their opinions of value. However, those approaches produced values that differ by as much as $145,000. Some of this disparity appears to stem from the comparable sales each appraiser selected, but the record offers little assistance in judging which sales are better substitutes for the subject property. After thoroughly examining the sales, we cannot say that either appraiser necessarily erred in their selection of comparable sales, or that one appraiser's sales were definitively better. We therefore turn to analyzing the appraisers' adjustments.

e. The majority of both appraisers' comparable sales received substantial adjustments, but neither appraiser explained the need for any of the particular adjustments within their respective reports in any detail. Nor did they address how they arrived at the actual dollar amounts for their adjustments. However, Krumm made a number of errors that significantly diminish her credibility. For example, in her 2015 appraisal, she did not adjust Comparable Sale No. 1 for its unfinished basement despite adjusting comps with unfinished basements in her appraisals for 2016 and 2017 upward by $25,000. The same is true with respect to Comparable Sale No. 2, but the error is even more glaring because she applied the $25,000 adjustment *to the same property* in her 2016 and 2017 appraisals.

f. Further, in Krumm's 2017 appraisal, she made an upward adjustment of $14,600 to Comparable Sale No. 3 for the size of the basement even though its basement is nearly identical in size to the subject's basement. Even if she felt a difference of 45 square feet required an adjustment, it should have been a downward adjustment for a considerably smaller dollar amount. Krumm made the same mistake in adjusting Comparable Sale No. 4, but the erroneous upward adjustment was even larger—$36,200. And while she later corrected it, we also note that Krumm originally

applied a downward adjustment of $27,900 to Comparable Sale No. 1 when she apparently intended to make an upward adjustment of $43,000.

g. The Board recognizes that Raynor and Krumm are both licensed appraisers that back their opinions with certifications, education, training and experience. But the errors Krumm made in her adjustments, coupled with her use of the wrong valuation date for 2016 leave us with little confidence in her appraisals. Consequently, we find Raynor's appraisal to be the most credible evidence of the subject's market value-in-use for the 2015, 2016 and 2017 assessment years.[2]

FINAL DETERMINATION

In accordance with the above findings of fact and conclusions of law, we find for the Assessor and order the 2015 and 2016 assessments changed to $535,000, and the 2017 assessment changed to $550,000.

ISSUED: October 16, 2019

____

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>.

[2] To the extent that Maddocks asserted that the -2% influence factor applied to his land in 2018 should have also been applied in 2015, 2016 and 2017, we note that even if the Assessor made errors, simply challenging his methodology is insufficient to rebut the presumption that the assessment is correct. *Eckerling*, 841 N.E.2d at 678. To successfully make a case for a lower assessment, a taxpayer must use market-based evidence to "demonstrate that their suggested value accurately reflects the property's true market value-in-use." *Id.*