

REPRESENTATIVE FOR PETITIONER: Justin Boren, Esq.

REPRESENTATIVE FOR RESPONDENT: Julie Minton, Morgan County Assessor

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

Gary Mellady,)	
)	Petition No.: 55-021-19-1-5-01012-19
Petitioner,)	
)	Parcel No.: 55-13-09-110-001.001-021
v.)	
)	Assessment Year: 2019
Morgan County Assessor,)	
)	
Respondent)	
)	

Date: December 21, 2020

FINAL DETERMINATION

The Indiana Board of Tax Review, having reviewed the facts and evidence presented in the Parties' arguments, and having considered the issues, now finds and concludes the following:

Findings of Fact and Conclusions of Law

I. Issue

1. In this assessment appeal, Petitioner, Gary Mellady, sought to substantially lower his property's assessment based on the land assessments for other properties in the area. But his comparative data and analysis did not comply with generally accepted appraisal or assessment practices. Instead, a recent sale of the subject property and two smaller parcels was the best evidence of the parcels' combined value. Mellady was therefore entitled to have the subject property's assessment reduced by \$18,100 so that the parcels' total combined assessment matches the sale price.

II. Procedural History

2. Mellady filed a Form 130 petition disputing his vacant parcel's 2019 assessment. On September 20, 2019, the Morgan County Property Tax Assessment Board of Appeals ("PTABOA") issued a determination valuing the property at \$263,200. Mellady disagreed and filed a Form 131 petition with us.
3. On September 29, 2020, our designated administrative law judge, Erik Jones, held a hearing on Mellady's petition. Neither he nor the Board inspected the property.
4. Mellady and Morgan County Assessor Julie Minton testified under oath.
5. Mellady submitted the following exhibits:

Petitioner Exhibit 1	Petitioner's Property Purchase
Petitioner Exhibit 2	Petitioner's Plot A
Petitioner Exhibit 3	Petitioner's Plot B
Petitioner Exhibit 4	Petitioner's Plot C
Petitioner Exhibit 5	McDaniel Properties Summary Unimproved Plots as Comps
Petitioner Exhibit 6	Petitioner's Plot A Property Card
Petitioner Exhibit 7	Petitioner's Plot B Property Card
Petitioner Exhibit 8	Petitioner's Plot C Property Card
Petitioner Exhibit 9	McDaniel Plot 1 Property Card
Petitioner Exhibit 10	McDaniel Plot 2 Property Card
Petitioner Exhibit 11	Bender Lumber Property Card
Petitioner Exhibit 12	Indiana Natural Gas Property Card
Petitioner Exhibit 13	Map of Bender, McDaniel, and Petitioner's Properties
Petitioner Exhibit 14	Map of Strader and Ray Wealth CF with Petitioner
Petitioner Exhibit 15	Strader Property Card
Petitioner Exhibit 16	Ray Wealth Property Card
Petitioner Exhibit 17	Petitioner's Form 131
6. The Assessor submitted the following exhibits:

Assessor Exhibit 1	Property Record Card
Assessor Exhibit 2	AVs of properties identified as comparable on Form 131
Assessor Exhibit 3	AVs of assessor identified comparable properties
Assessor Exhibit 4	Property record cards related to Exhibit 2
Assessor Exhibit 5	Property record card showing 2020 correction from Exhibit 2
Assessor Exhibit 6	Property locations of comparable properties identified on Form 131
Assessor Exhibit 7	"Appraisal report" filed on subject property

Assessor Exhibit 8	Legal description of “appraisal report” related to Exhibit 7
Assessor Exhibit 9	Map of legal description related to Exhibits 7 & 8
Assessor Exhibit 10	Sales disclosure related to subject property
Assessor Exhibit 11	Examples of reclassification of land use after sale

III. Parties’ Contentions

A. Mellady’s Contentions

7. In July 2018, Mellady bought three vacant parcels of land in Martinsville for \$275,000. The two smaller parcels were assessed for \$16,800 and \$13,100, respectively. The largest parcel, located at 665 Morton Avenue, is the subject of this appeal. It is 2.72 acres and was assessed for \$263,200 (as determined by the PTABOA). *Mellady testimony; Pet’r Exs. 6-8.*

8. Mellady planned to build and operate a 50-unit apartment complex on the land. About two months before the Board’s hearing, however, the local planning commission denied Mellady’s proposal. Mellady therefore characterizes the property as unimproved, rather than commercial, and he argues that it is less valuable as a result. *Mellady testimony, Boren argument; Pet’r Ex. 1.*

9. Because Mellady could not develop the property, he believes it should be valued based on assessments of comparable properties. He points to three vacant parcels, all of which are closer to Interstate 69 than his property. Two are owned by McDaniel & Hahn, LP and are assessed for roughly \$8,000 per acre each, while the third is owned by Bender Lumber and is assessed at roughly \$4,500 per acre. By contrast, the subject property is assessed at \$97,000 per acre. *Mellady testimony; Pet’r Exs. 5, 7, 9-11.*

10. Mellady also points to:
 - A .31-acre improved parcel owned by Robert and Kathy Stader. It sits just north of the subject property and had a land assessment of \$22,100, or approximately \$68,000 per acre.

- A .332-acre improved parcel owned by Ray Wealth Management, LLC. It sits southwest of the subject property and had a land assessment of \$16,600, or \$50,300 per acre.

Mellady testimony; Boren argument; Pet'r Exs. 5, 9-10, 13-16.

11. Mellady acknowledges that the subject property should be assessed for more than the \$4,500 or \$8,000 per acre represented by his comparable unimproved parcels. But he does not believe it should be assessed for more than ten times as much as those parcels, especially since they are located closer to the interstate. Instead, Mellady argues that his land should be assessed for \$70,000 per acre—an amount he characterizes as in line with the Stader and Ray Wealth land assessments. Even if, as the Assessor points out, the subject property has some access to State Road 39 (also known as Morton Avenue), the Stader parcel has similar access through an easement. *Boren argument.*

B. The Assessor's Contentions

12. The Assessor reclassified the subject land when Mellady bought it. Before the sale, it was excess land for Miles Furniture. After the sale, it became a mix of primary and secondary commercial land with direct access to Morton Avenue. The Assessor has also reclassified other land along the Morton Avenue corridor after it sold. *Minton testimony; Resp't Ex. 11.*
13. The Assessor did not know that the planning commission had denied Mellady's plans for the property. But the denial would not affect Mellady's appeal because the commission did not bar Mellady from proceeding with his plans until several months after the January 1, 2019 assessment date. *Minton testimony and argument.*
14. Turning to Mellady's evidence, the Assessor denies that the nine vacant parcels Mellady identified in his Form 131 petition are truly comparable to the subject property. Among other things, some of those parcels are in a flood plain. While reviewing Mellady's

appeal, the Assessor found that one of those properties was incorrectly assessed. She corrected that parcel's assessment for 2020. *Minton testimony; Resp't Exs. 2, 4.*

15. As for the other properties Mellady relied on at the hearing:

- The Stader parcel has an influence factor for being technically landlocked. It can only be accessed from Morton Avenue through another property. The Assessor applied influence factors for access and visibility.
- The Ray Wealth parcel has a house that was converted for commercial use. It is part of a unique assessment neighborhood composed of similar properties.
- The McDaniel & Hahn parcel is excess land for a shopping center that was built in the 1970s.

Minton testimony; Resp't Exs. 2, 4.

16. By contrast, the Assessor points to 14 parcels located along the Morton Avenue corridor that she describes as like the subject property in location, amenities, topography, flood status, zoning, and access. Their assessments averaged close to \$140,000 per acre.

Minton testimony; Resp't Ex. 3.

17. According to the Assessor, that aligns with how three independent appraisers valued the subject property. For support, she offered a January 28, 2020 report from a condemnation action involving the taking of a .014-acre portion of the subject property. In that report, three independent appraisers valued the portion taken at \$1,985, or \$141,785 per acre. But the subject land was assessed for an average of only \$96,500 per acre. *Minton testimony; Resp't Exs. 1, 7-8.*

IV. Conclusions of Law

18. Generally, a taxpayer seeking review of an assessing official's determination has the burden of proof. Various statutes, including Ind. Code § 6-1.1-15-17.2, create exceptions to that general rule and assign the burden of proof to the assessor under specified

circumstances. Mellady expressly declined to argue that the Assessor has the burden of proof.

19. Real property is assessed based on its market value-in-use. *See* Ind. Code § 6-1.1-31-6(f); 2011 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC § 2.4-1-2). 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 the Uniform Standards of Professional Appraisal Practice is the most effective method for rebutting the presumption that an assessment is correct). Regardless of the method used, a party must explain how its evidence relates to the relevant valuation date. *Long v. Wayne Twp. Ass’r*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). For 2019 assessments, the valuation date was January 1, 2019. *See* I.C. § 6-1.1-2-1.5(a)(2).
20. Mellady has not made a prima facie case for reducing his assessment to the level he requests. Mellady bought the subject property and two other parcels in a single transaction less than six months before the January 1, 2019 valuation date. Yet he seeks an assessment that, when combined with the assessments of the other two parcels, would be roughly \$50,000 below what he paid. Given the county planning commission’s recent denial of Mellady’s proposal to develop the land for an apartment complex, he argues that the land should not be assessed based on the sale price, but rather on what comparable properties are assessed for.
21. Even if we were to accept Mellady’s underlying premise (we do not), his comparative data is not probative of the subject property’s market value-in-use. A party offering sale or assessment data must use generally accepted appraisal or assessment practices to show that the properties from which the data is drawn are comparable to the property under

appeal. *See* I.C. § 6-1.1-15-18(c); *see also Long*, 821 N.E.2d at 470-71. Conclusory statements that properties are “similar” or “comparable” do not suffice; instead, parties must explain how the properties compare to each other in terms of characteristics that affect market value-in-use. *Long*, 821 N.E.2d at 471. They must similarly explain how relevant differences affect values. *Id.*

22. Mellady did not offer the type of comparative data and analysis contemplated by the Tax Court or by generally accepted appraisal and assessment practices. Although Mellady highlighted the locations of the properties, including their relative proximity to the interstate, he did little to compare the properties in terms of other relevant characteristics that affect the market value-in-use of commercial land. And he did not attempt to quantitatively or qualitatively account for relevant differences.
23. That said, we find that the July 2018 sale offers the best evidence of the combined value of Mellady’s three parcels. The sale price of \$275,000 is \$18,100 less than the parcels’ combined assessment of \$293,100. We therefore find that the subject property’s assessment should be reduced by \$18,100 to a value of \$245,100.

V. Conclusion

24. The July 20, 2018 sale of the subject property and two other parcels for \$275,000 is the best evidence of the parcels’ combined market value-in-use. The subject property’s assessment therefore must be reduced to \$245,100, making the combined assessment for the three parcels equal to the sale price. Mellady failed to make a prima facie case for reducing the assessment any further.

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>>.