

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

Petition No.: 83-002-22-1-5-01121-22
Petitioner: Penny Minks-Kite
Respondent: Vermillion County Assessor
Parcel No.: 83-13-09-410-023.000-002
Assessment Year: 2022

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 8, 2022, Penny Minks-Kite filed a Form 130 notice challenging the 2022 assessment of her property located at 1105 Miller Street in Clinton, Indiana. The Assessor valued the subject property at \$89,300 (\$26,300 for land and \$63,000 for improvements).
2. Minks-Kite filed a Form 131 petition directly with the Board after the Vermillion County Property Tax Assessment Board of Appeals (“PTABOA”) failed to issue a determination within 180 days as required by Indiana Code § 6-1.1-15-1.2(k), and she elected to proceed under our small claims procedures. On October 19, 2023, our designated administrative law judge, David Smith (“ALJ”) held a telephonic hearing on Minks-Kite’s petition. Neither he nor the Board inspected the subject property.
3. Minks-Kite and Vermillion County Assessor Paige Kilgore appeared pro se and testified under oath.

RECORD

4. Minks-Kite did not submit any exhibits.¹
5. The Assessor submitted the following exhibits:

Respondent Exhibit A:	Emails between Taxpayer and Assessor
Respondent Exhibit B:	Emails between Taxpayer and Assessor
Respondent Exhibit C:	Assessor’s notes from preliminary hearing

¹ Minks-Kite’s exhibits were delivered to our office via US Mail at 10:22 A.M. on October 19, 2023—about an hour after the hearing had concluded. Minks-Kite also sent an email to the Board at approximately 12:00 P.M. on October 18, 2023 with an attachment alleged to contain pictures of the subject property, but our staff was unable to open it.

Respondent Exhibit D: 2023 Property Record Card (“PRC”) showing notes regarding tax cap correction
Respondent Exhibit E: Photo of subject property
Respondent Exhibit F: Photo 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 notices and orders 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 1105 Miller Street in Clinton, Indiana. It consists of a one-story home and detached garage situated on approximately 0.20 acres. *Resp’t Exs. D, E, F.*

SUMMARY OF CONTENTIONS

8. **Minks-Kite’s case:**

- a) Minks-Kite’s parents, who are now deceased, originally owned the subject property. Minks-Kite became the sole owner after her brother and sister removed their names from the property. Although the property is a rental, she did not have it rented at the time of the preliminary hearing with the Assessor. Minks-Kite began receiving rent in April 2023, but she was unable to provide the income and expense statements the Assessor requested due to time constraints caused by her job. The exhibits Minks-Kite intended to offer in this hearing included MLS information for similar properties with market values ranging from \$30,000 to \$48,000. Minks-Kite just wants a fair tax amount. She has a lot of work to do to the property, and the excessive tax amount makes that less achievable. *Minks-Kite testimony.*

9. **The Assessor’s case:**

- a) The Assessor removed the Gross Rent Multiplier (“GRM”) from the subject property when calculating the 2022 assessment because there had been an ownership change. When the Assessor and Minks-Kite met for the preliminary hearing, Minks-Kite asked that the rental information be added back to the property, but Minks-Kite also indicated that her son was living in the property rent free. The Assessor requested income and expense statements from Minks-Kite so she could consider treating the property as a rental again. However, Minks-Kite did not provide the Assessor with any evidence to support her claim. *Kilgore testimony; Resp’t Exs. A, C.*

BURDEN OF PROOF

10. Generally, the taxpayer has the burden of proof when challenging a property's tax assessment. Accordingly, the assessment on appeal, "as last determined by an assessing official or the county board," will be presumed to equal "the property's true tax value." Ind. Code § 6-1.1-15-20(a) (effective March 21, 2022).
11. However, the burden of proof shifts if the property's assessment "increased more than five percent (5%) over the property's assessment for the prior tax year." I.C. § 6-1.1-15-20(b). Subject to certain exceptions, the assessment "is no longer presumed to be equal to the property's true tax value, and the assessing official has the burden of proof." *Id.*
12. If the burden has shifted, and "the totality of the evidence presented to the Indiana board is insufficient to determine the property's true tax value," then the "property's prior year assessment is presumed to be equal to the property's true tax value." I.C. § 6-1.1-15-20(f).
13. Here, the current assessment of \$89,300 was an increase of more than 5% over the previous year's assessment of \$32,400. The Assessor agreed that she therefore has the burden of proof.

ANALYSIS

14. The Indiana Board of Tax Review is the trier of fact in property tax appeals, and our charge is to "weigh the evidence and decide the true tax value of the property as compelled by the totality of the probative evidence" before us. I.C. § 6-1.1-15-20(f). Our conclusion of a property's true tax value "may be higher or lower than the assessment or the value proposed by a party or witness." *Id.* Regardless of which party has the initial burden of proof, either party "may present evidence of the true tax value of the property, seeking to decrease or increase the assessment." I.C. § 6-1.1-15-20(e).
15. In order to meet its burden of proof, a party "must present objectively verifiable, market-based evidence" of the property's value. *Piotrowski v. Shelby Cty. Ass'r*, 177 N.E.3d 127, 132 (Ind. Tax Ct. 2021) (citing *Eckerling v. Wayne Twp. Ass'r*, 841 N.E.2d 674, 677-78 (Ind. Tax Ct. 2006)). For most real property types, neither the taxpayer nor the assessor may rely on the mass appraisal "methodology" of the "assessment regulations." *P/A Builders & Developers, LLC v. Jennings Cty. Ass'r*, 842 N.E.2d 899, 900, (Ind. Tax Ct. 2006). This is because the "formalistic application" of the procedures and schedules from the DLGF's assessment guidelines lacks the market-based evidence necessary to establish a specific property's market value-in-use. *Piotrowski*, 177 N.E.3d at 133.
16. Market-based evidence may include "sales data, appraisals, or other information compiled in accordance with generally accepted appraisal principles." *Peters v. Garoffolo*, 32 N.E.3d 847, 849 (Ind. Tax Ct. 2015). Relevant assessments are also admissible, but arguments that "another property is 'similar' or 'comparable' simply because it is on the same street are nothing more than conclusions . . . [and] do not

constitute probative evidence.” *Marinov v. Tippecanoe Cty. Ass’r*, 119 N.E.3d 1152, 1156 (Ind. Tax Ct. 2019). However, the GRM method is the preferred method of valuing real property that has one (1) to four (4) rental units. I.C. § 6-1.1-4-39(b). Finally, the evidence must reliably indicate the property’s value as of the valuation date. *O’Donnell v. Dept. of Local Gov’t. Fin.*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006). For 2022 assessments, the valuation date was January 1, 2022. I.C. § 6-1.1-2-1.5(a).

17. As explained above, the Assessor has the burden of proof. She explained the history of this appeal and the reason she did not calculate the subject property’s 2022 assessment using the GRM method. But those explanations are insufficient to satisfy her burden. And she cannot simply rely on the mass appraisal methodology of the assessment regulations because the DLGF’s assessment guidelines lack the market-based evidence necessary to establish a specific property’s market value-in-use. *P/A Builders*, 842 N.E.2d at 900; *Piotrowski*, 177 N.E.3d at 133. Instead, the Assessor needed to provide us with objectively verifiable, market-based evidence supporting the current assessment of \$89,300. Because she failed to do so, we conclude that the Assessor failed to make a prima facie case.
18. We now turn to Minks-Kite’s case. She similarly failed to present any objectively verifiable, market-based evidence showing the subject property’s true tax value. Although Minks-Kite testified that similar properties she identified had market values ranging from \$30,000 to \$48,000, a party offering sales or assessment data must use generally accepted appraisal or assessment practices to show the purportedly comparable properties are comparable to the property under appeal. *Long v. Wayne Twp. Ass’r*, 821 N.E.2d 466, 470-71 (In. Tax Ct. 2005). 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. *Id.* They must similarly explain how relevant differences affect values. *Id.* Here, Minks-Kite did not even identify the properties she was relying on, much less provide the type of analysis contemplated by *Long*. Thus, we conclude that Minks-Kite likewise failed to make a prima facie case.
19. Because the totality of the evidence presented by the parties is insufficient to determine the property’s true tax value, the property’s 2022 assessment must revert to its assessed value from the 2021 assessment year. I.C. § 6-1.1-15-20(f).

FINAL DETERMINATION

Because neither party provided probative evidence of the subject property's true tax value, we order its 2022 assessment reduced to \$32,400.

ISSUED: 12/19/2023


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>>.