

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

Petition No.: 45-004-18-1-5-00458-21
45-004-21-1-5-00054-23
Petitioner: James Nowacki
Respondent: Lake County Assessor
Parcel No.: 45-08-16-426-009.000-004
Assessment Year: 2018 and 2021

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

PROCEDURAL HISTORY

1. James Nowacki¹ (“Nowacki”) appealed the 2018 and 2021 assessments of his property located at 2545 Madison Street in Gary on August 1, 2019, and October 21, 2020, respectively. The Lake County Property Tax Assessment Board of Appeals (“PTABOA”) issued its determinations on April 7, 2021, and December 1, 2022, concluding to values of \$1,500 for land, and \$2,000 for improvements, for a total assessment of \$3,500 for each of the years under appeal.
2. Nowacki filed his Form 131 Petitions with the Board on May 21, 2021, and January 17, 2023, electing to proceed under our small claims procedures. On March 17, 2025, Natasha Marie Ivancevich, our designated administrative law judge (“ALJ”), held an in-person hearing. Neither she nor the Board inspected the property.
3. Nowacki appeared *pro se* and testified under oath. Matthew Ingram, an employee from the Assessor’s office, appeared on behalf of the Lake County Assessor and testified under oath.

RECORD

4. Neither party submitted any exhibits. The official record 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.

¹ Nowacki filed Petition No. 45-004-21-1-5-00054-23 as Jim Nowacki and Petition No. 45004-18-1-5-00458-21 as James Nowacki.

FINDINGS OF FACT

5. Nowacki purchased the subject property at tax sale in 2002 for a “nominal” amount. It consists of a small lot with a “dilapidated” brick structure. *Nowacki testimony; Ingram testimony.*
6. The 2017 assessment under appeal of \$3,500 is identical to the prior year’s assessment. There is no evidence in the record regarding whether the 2021 assessment under appeal of \$3,500 was an increase, decrease, or identical to the prior year’s assessment. *Nowacki testimony; Ingram testimony.*

PARTIES’ CONTENTIONS

A. Nowacki’s Contentions

7. Nowacki argued that the property is over-assessed. In support of this, he claimed that due to its condition, the building is a liability and should be valued at \$0 or \$100. Nowacki also argued that the subject property should receive a negative influence factor due to the size of the lot and the condition of the building. He claimed the subject property should be assessed at \$900 for both assessment years under appeal. *Nowacki testimony.*
8. In addition, Nowacki objected to these appeals being heard “out of order” with his 2019 and 2020 appeals. He claimed the Calumet Township Assessor is refusing to hold an informal meeting on those appeals and send them on to the PTABOA. *Nowacki testimony.*

B. Assessor’s Contentions

9. The Assessor argued the subject property’s assessment was correct because the building, while dilapidated, is large and still holds some value. In addition, the Assessor argued there should be no influence factor because there is a building on the subject property. *Ingram testimony.*

BURDEN OF PROOF

10. Generally, the taxpayer seeking review of an assessing official’s determination has the burden of proof. I.C. § 6-1.1-15-17.2² 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 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).

² I.C. § 6-1.1-15-17.2 was repealed by P.L. 174-2022 on March 21, 2022. In *Elkhart Cty. Assessor v. Lexington Square, LLC*, 219 N.E.3d 236 (Ind. Tax Ct. 2023) the Tax Court held that I.C. § 6-1.1-15-17.2 continues to apply to appeals filed before that date.

11. If the assessor has the initial burden to prove the original assessment was correct and fails to meet it, the burden shifts to the taxpayer to prove the correct assessment. If neither party meets its burden, the assessment reverts to the prior year's level. I.C. § 6-1.1-15-17.2 (b); *Southlake Ind., LLC v. Lake County Assessor*, 174 N.E.3d 177, 179 (Ind. 2021). Furthermore, the statutory term "correct assessment" referenced in I.C. § 6-1.1-15-17.2 refers to "an accurate, exact, precise assessment." *Southlake Ind., LLC v. Lake County Assessor*, 181 N.E.3d 484, 489 (Ind. Tax Ct. 2021). Thus, to meet the burden under I.C. § 6-1.1-15-17.2, an assessor must provide probative, market-based evidence that the assessment is "*exactly and precisely*" correct. *Id.* (emphasis in original).
12. Here, Nowacki argued the Assessor should have the burden of proof because the property is over-assessed not in accordance with fair market value. The Assessor argued that Nowacki bears the burden of proof for 2018 because the assessment under appeal is identical to the prior year's assessment. Nowacki has pointed to no authority for his argument, nor are we aware of any. We find that Nowacki bears the burden of proof for the 2018 assessment year because the assessment under appeal is identical to the prior year's assessment. For 2021, there is no evidence in the record regarding the prior year's assessment. As the party seeking to take advantage of the burden-shifting statute, it was Nowacki's responsibility to provide evidence that one of the burden shifting provisions of I.C. § 6-1.1-15-17.2 has triggered. Because he has failed to do that, we find Nowacki has the burden of proof for 2021 as well.

ANALYSIS

13. Nowacki failed to make a case for reducing the assessment.
 - a) Before turning to the merits of the above-captioned appeals, we note that Nowacki objected to the fact that these were heard "out of order" with his 2019 and 2020 appeals for the same parcel. No appeals have been filed with the Board for those years. Nowacki has pointed to no authority, nor are we aware of any, that requires appeals to be heard in chronological order. In addition, "each tax year and appeal process stands alone." *Fisher v. Carroll Cnty. Ass'r*, 74 N.E.3d 583, 588 (Ind. Tax Ct. 2017). To the extent Nowacki is seeking relief for assessment years not before us, his remedy is and was to follow the statutory appeal process for those years.
 - b) We now address the 2018 and 2021 assessment years. Generally, an assessment determined by an assessing official is presumed to be correct. 2011 REAL PROPERTY ASSESSMENT MANUAL at 3.³ The petitioner has the burden of proving the assessment is incorrect and what the correct assessment should be. *Piotrowski v. Shelby County Assessor*, 177 N.E.3d 127, 131-32 (Ind. Tax Ct. 2022).

³ The Department of Local Government Finance has adopted a new assessment manual and guidelines that apply to assessments for 2021 forward. 52 IAC 2.4-1-2 (filed Nov. 20, 2020) (incorporating 2021 Real Property Assessment Manual and Real Property Assessment Guidelines for 2021 by reference).

- c) Real property is assessed based on its true tax value. I.C. § 6-1.1-31-5. 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). Instead, it is determined under the DLGF’s rules. 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.” 2021 REAL PROPERTY ASSESSMENT MANUAL at 2.
- d) To meet its burden of proof, a party “must present objectively verifiable, market-based evidence” of the value of the property. *Piotrowski v. Shelby Cty. Assessor*, 177 N.E.3d 127, 132 (Ind. Tax Ct. 2021) (citing *Eckerling v. Wayne Twp. Assessor*, 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 County Assessor*, 842 N.E.2d 899, 900 (Ind. Tax Ct. 2006). This is because the “formalistic application of the Guidelines’ procedures and schedules” lacks the market-based evidence necessary to establish the market value-in-use of a specific property. *Piotrowski*, 177 N.E.3d at 133.
- e) 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. Assessor*, 119 N.E.3d 1152, 1156 (Ind. Tax Ct. 2019). 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).
- f) Here, Nowacki argued that the subject property should be assessed at \$900 for each of the years under appeal, but he failed to present any probative, market-based evidence to support that value. Nowacki offered some argument and testimony about the dilapidated condition of the building and the small lot size, but he did not offer any reliable evidence quantifying the effect these had on the subject property’s market value-in-use. Statements that are unsupported by probative evidence are conclusory and of no value to the Board in making its determination. *Whitley Products, Inc. v. State Bd. of Tax Comm’rs*, 704 N.E.2d 1113, 1118 (Ind. Tax Ct. 1998). To successfully make a case for lowering an assessment, taxpayers must use market-based evidence to “demonstrate that their suggested value accurately reflects the property’s true market value-in-use.” *Eckerling*, 841 N.E.2d 674, 678.
- g) Nowacki also argued that the subject property should receive a negative influence factor. As discussed above, simply relying on the mass appraisal methodology is insufficient to establish a value for a specific property on appeal. Instead, Nowacki needed to use market-based evidence to “demonstrate that the suggested value accurately reflects the property’s true market value-in-use.” *Eckerling*, 841 N.E.2d

674, 678. But he did not provide any market-based evidence of value that supported his requested assessment of \$900.

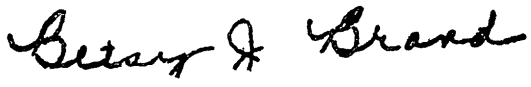
- h) The Assessor did not request a change in the assessments or offer any market-based evidence of value.

FINAL DETERMINATION

14. Nowacki had the burden of proof for each year but failed to present reliable evidence supporting a change in the assessments. The Assessor did not request a change in the assessments or present any evidence of value. For these reasons, we order no change to the 2018 and 2021 assessments.

ISSUED: JUNE 16, 2025


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>.