

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

Petitions: 45-003-17-1-5-01181-19 and 45-003-18-1-5-00751-20
Petitioner: Jim Nowacki
Respondent: Lake County Assessor
Parcel: 45-08-19-126-004.000-003
Assessment Years: 2017 and 2018

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

Procedural History

1. Jim Nowacki contested the 2017 and 2018 assessments of his property. The Lake County Property Tax Assessment Board of Appeals issued Form 115 determinations valuing the property at \$5,500 for both years.
2. Nowacki then filed Form 131 petitions with the Board and elected to proceed under our small claims procedures. On November 15, 2022, our designated administrative law judge, Joseph Stanford (“ALJ”), held a hearing on Nowacki’s petitions. Neither he nor the Board inspected the property.
3. Nowacki represented himself. The Lake County Assessor appeared through her hearing officer, Jessica Rios. Nowacki, Rios, and Matthew Ingram from the Lake County Assessor’s office, testified under oath.

Record

4. The official record for this matter includes the following:
 - Petitioner Exhibit A: Two GIS maps,
 - Petitioner Exhibit B: Subject property record card showing 2017-2021 assessed values,
 - Petitioner Exhibit C: Valuation history.
5. The record also includes: (1) all petitions and other documents filed in this appeal, (2) all notices and orders issued by the Board or the ALJ, and (3) an audio recording of the hearing.

Findings of Fact

6. The subject property is a platted lot located at 3847 West 29th Avenue in Gary. The parties agreed that the improvements’ assessment should be lowered from \$2,000 to \$100 for both 2017 and 2018. *Nowacki, Rios testimony.*

Contentions

A. Nowacki's Contentions

7. Nowacki contends that his land assessment should be reduced from \$3,500 to \$2,800, which matches the 2021 assessment. Nowacki has been appealing the property's assessment since he bought it. He has always believed that its market value is \$2,800 even though its assessment has fluctuated significantly through the years. *Nowacki testimony and argument; Pet'r Ex. B-C.*
8. According to Nowacki, we should not automatically presume that the assessments are correct. That presumption only applies where an assessment is created in accordance with the manual issued by the Department of Local Government Finance ("DLGF"). In this instance, there was no "land-value survey" gathered and applied to a land order. The "land-value survey" was submitted five years late. Therefore, the assessments do not comply with the Manual. *Nowacki testimony and argument.*
9. Nowacki alleges that the Assessor does not correct properties' assessments until after those properties churn through the tax sale process for years with nobody interested in buying them. He also claims that a "blue ribbon" panel reached the same conclusion. As a result, the properties' ownership often ultimately transfers from Gary residents to non-residents. According to Nowacki, that violates the Thirteenth through Fifteenth Amendments to the United States Constitution. *Nowacki testimony and argument.*

B. The Assessor's Contentions

10. The land assessment should remain at \$3,500, making the total assessment \$3,600 for both years. In 2021, the land value was lowered from \$3,500 to \$2,800 because the improvements were entirely removed, and the Calumet Township Assessor has a policy of applying a 20% negative influence factor to vacant land. There was no change in the base rate. *Rios, Ingram testimony and argument.*

Analysis

11. Generally, an assessment determined by an assessing official is presumed to be correct. 2021 REAL PROPERTY ASSESSMENT MANUAL at 3. A petitioner has the burden of proving the assessment is incorrect and what the correct assessment should be. *Piotrowski v. Shelby Cty. Ass'r*, 177 N.E.3d 127, 131-32 (Ind. Tax Ct. 2021).
12. The goal of Indiana's real property assessment system is to arrive at an assessment reflecting a property's true tax value. 50 IAC 2.4-1-1(c); 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). 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 MANUAL at 2.¹

13. Evidence in an assessment appeal should be consistent with that standard. For example, a market-value-in-use appraisal prepared in accordance with the Uniform Standards of Professional Appraisal Practice often will be probative. *See id.*; *see also, Kooshtard Property VI, LLC v. White River Twp. Ass’r*, 836 N.E.2d 501, 506 n.6 (Ind. Tax Ct. 2005). A party may also offer actual construction costs, sales information for the property under appeal or comparable properties, and any other information compiled according to generally accepted appraisal principles. *See Eckerling v. Wayne Twp. Ass’r*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006). 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). The valuation dates for the years under appeal were January 1, 2017, and January 1, 2018, respectively. *See* I.C. § 6-1.1-2-1.5(a).
14. We accept the parties’ agreement that the 2017 and 2018 assessments should be reduced to \$3,600. Nowacki, however, seeks a further reduction based on his argument that a delinquent land-value survey resulted in assessments that do not comply with the Manual. But Nowacki did not offer any evidence to support his bare allegation about the land-value survey. Even if we were to assume that his allegation is true, Nowacki did not explain why it would relieve him of the need to offer market-based evidence to support his request for a reduced assessment. The Tax Court has repeatedly explained that a taxpayer cannot make a prima facie case merely by pointing to an assessor’s incorrect application of assessment regulations but must instead offer market-based evidence to show that the assessment does not reflect its property’s market value-in-use. *Piotrowski*, 177 N.E.3d at 132.
15. Nowacki’s reliance on his 2021 assessment to prove the correct 2017 and 2018 values is misplaced. As the Tax Court has explained, “each tax year—and each appeal process—stands alone.” *Fisher v. Carroll Cty. Ass’r*, 74 N.E.3d 582, 588 (Ind. Tax Ct. 2017). Evidence of a property’s assessment in one year therefore has little bearing on its true tax value in another. *Fleet Supply, Inc. v. State Bd. of Tax Comm’rs*, 747 N.E.2d 645, 650 (Ind. Tax Ct. 2001)².

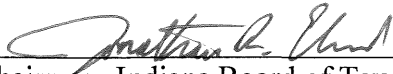
Conclusion

16. We accept the parties’ agreement that the 2017 and 2018 assessments should be reduced to \$3,600. Nowacki failed to offer any market-based evidence to show that his assessments should be reduced any further. We therefore order the 2017 and 2018 assessments to be reduced to \$3,600.

¹ The 2011 Real Property Assessment Manual, which applied to assessments determined in 2017 and 2018, used the same definition. 2011 REAL PROPERTY ASSESSMENT MANUAL at 2.


² Nowacki did not make a cogent argument or cite to any authority regarding his claims under the Thirteenth through Fifteenth Amendments. We will not make his case for him.

Date: 2/13/2023



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>.