

REPRESENTATIVE FOR THE PETITIONER: Walter Owens, *pro se*

REPRESENTATIVE FOR THE RESPONDENT: Scott Potts, White County Consultant

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**BEFORE THE  
INDIANA BOARD OF TAX REVIEW**

Walter Owens,	)	Petition No.: 91-018-21-1-5-00815-21
	)	
Petitioner,	)	Parcel No.: 91-75-30-000-007.300-018
	)	
v.	)	County: White
	)	
White County Assessor,	)	Assessment Year: 2021
	)	
Respondent.	)	

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November 2, 2022

**FINAL DETERMINATION**

The Indiana Board of Tax Review (Board) having reviewed the facts and evidence, and having considered the issues, now finds, and concludes the following:

**INTRODUCTION**

1. The Petitioner appealed the 2021 assessment of his residential property in White County. But he failed to present any reliable evidence supporting his requested value. The Assessor offered a USPAP-compliant appraisal that we find to be credible. Thus, we order the 2021 assessment changed to reflect the appraised value.

## PROCEDURAL HISTORY

2. The Petitioner appealed the 2021 assessment of a single-family home located at 312 East North Street in Wolcott, IN with the White County Assessor. On October 6, 2021, the White County Property Tax Assessment Board of Appeals (“PTABOA”) issued its determination sustaining the assessment at \$12,900 for land and \$167,300 for improvements for a total of \$180,200. The Petitioner timely filed an appeal with the Board.
3. On August 8, 2022, Dalene McMillen, the Board’s Administrative Law Judge (“ALJ”), held a telephonic hearing. Neither the Board nor the ALJ inspected the property.
4. Walter Owens, owner appeared *pro se*. Scott Potts, a consultant for the White County Assessor, appeared for the Respondent. Both testified under oath.
5. The Petitioner offered no exhibits.
6. The Respondent offered the following exhibits:
  - Respondent Exhibit A: Department of Local Government Finance – Professional Appraisal Certification for Scott Potts and related documents,
  - Respondent Exhibit B: Residential appraisal report of the subject property prepared by Kristi Croushore and Gregory Vogel II with and effective date of January 1, 2021.
7. The record also includes the following: (1) all pleadings and documents filed in this appeal, (2) all orders, and notices issued by the Board or ALJ; and (3) the digital recording of the hearing.

## FINDINGS OF FACT

8. The subject property is a one-story, ranch-style home built in 1967 located on approximately half an acre of land in Wolcott. *Resp’t Ex. B.*

9. The Assessor engaged Kristi Croushore and Gregory D. Vogel II of Vogel Real Estate and Appraisals to appraise the market value of the subject property as of January 1, 2021. They certified that their appraisal complied with the Uniform Standards of Professional Appraisal Practice (“USPAP”). To develop their opinion of value, they chose to use the sales-comparison approach. They selected six comparable properties that sold for prices ranging from \$155,000 and \$209,000 between May 2020 and December 2021. They adjusted the comparables for a number of factors including conditions of sale, site size, gross living area, basement finish, view, condition and room count. After adjustment, the sale prices ranged from \$153,804 to \$195,865. They reconciled these sales to a value of \$180,000, giving the most weight to the most similar property. *Resp’t Ex B.*

#### **PETITIONER’S CONTENTIONS**

10. Owens argued that the subject property is over-assessed. In support of this, he testified that White County assessed values are higher than surrounding counties, even though it has less amenities. According to Owens, White County assessments increased by 30% to 35%, while assessments in surrounding counties such as Tippecanoe, Carroll and Jasper increased between 13% to 18%. *Owens testimony.*
11. Owens testified the subject property’s 2021 assessment was 35% more than its 2020 assessment. He argued that the property should instead be assessed at \$165,000 for 2021—a 15% increase. He contended that this would more accurately reflect the value of the subject property. *Owens testimony.*
12. In addition, Owens argued that the appraisal report submitted by the Assessor should not be considered because the appraiser is also a realtor. According to Owens, a realtor will appraise a property as high as possible “because that is how they make their money.” Finally, he argued that a property’s assessed value and appraised value should not be the same amount. *Owens testimony.*

## RESPONDENT'S CONTENTIONS

13. The Assessor argued that the subject property is correctly assessed for 2021. In support of this, the Assessor pointed to the fact that the value from the Vogel appraisal of \$180,000 was very close to the current assessment of \$180,200. *Potts testimony; Resp't Ex. B.*

## ANALYSIS

14. Generally, an assessment determined by an assessing official is presumed to be correct. 2021 REAL PROPERTY ASSESSMENT MANUAL at 3. The petitioner has the burden of proving the assessment is incorrect and what the correct assessment should be. *Eckerling v. Wayne Twp. Ass'r*, 841 N.E.2d 674, 678 (Ind. Tax. Ct. 2006).
15. Real property is assessed based on its market value-in-use. Ind. Code § 6-1.1-31-6(c); 2021 REAL PROPERTY ASSESSMENT MANUAL at 2. The cost approach, the sales comparison approach, and the income approach are three generally accepted techniques to calculate market value-in-use. Assessing officials primarily use the cost approach, but other evidence is permitted to prove an accurate valuation. Such evidence may include actual construction costs, sales information regarding the subject property or comparable properties, appraisals, and any other information compiled in accordance with generally accepted appraisal principles.
16. Regardless of the method used, a party must explain how the evidence relates to the relevant valuation date. *O'Donnell v. Dep't of Local Gov't Fin.*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006); *see also Long v. Wayne Twp. Ass'r*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). For the 2021 assessment, the valuation date was January 1, 2021. *See* Ind. Code § 6-1.1-2-1.5.
17. Owens argued that the subject property's assessment should be reduced to \$165,000, but he offered no support for that value. 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 make a case, a taxpayer must show the current assessment does not accurately reflect the subject property's market value-in-use. *P/A Builders and Developers, LLC v. Jennings Co. Ass'r*, 842 N.E.2d 899, 900 (Ind. Tax Ct. 2006). To do that, a taxpayer must present "objectively verifiable, market-based evidence." *Piotrowski BK #5643, LLC v. Shelby Cnty Ass'r*, 177 N.E.3d 127 (Ind. Tax Ct. 2021).

18. In this case, Owens failed to offer any such evidence. He only argued that the subject property's assessment increased more than the assessments in nearby counties. But it is insufficient to simply attack the methodology used to develop the assessment. Instead, parties must use market-based evidence to "demonstrate that the suggested value accurately reflects the property's true market value-in-use." *Eckerling v. Wayne Twp. Ass'r*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006). But Owens failed to do so.
  
19. The Assessor did offer market-based evidence in the form of the Vogel appraisal. Owens made two main criticisms of the appraisal: (1) that it was unreliable because one of the appraisers was also a realtor, and (2) that appraised value should not equal the assessed value. As to the first point, there is no evidence in the record that either appraiser had any incentive to inflate the value for this particular property, nor do we find any evidence that they would. In addition, they certified that their appraisal complied with USPAP. Overall, we find their opinion reliable. Turning to Owen's second argument, we note that he is incorrect in his assertion that a value from an appraisal should not equal the assessed value. While this appraisal was for the market value, rather than the market value-in-use, in markets where properties of the same type are frequently exchanged and used by both the buyer and seller for the same general purpose, the market value-in-use will equal the market value. *Trimas Fasteners*, 923 N.E.2d 496, 497 (Ind Tax Ct. 2010.) Thus, a market value appraisal can be reliable evidence of value. In this case, we find it to be the only reliable evidence in the record. For that reason, we order the assessment changed to reflect the value from the Vogel appraisal.

**SUMMARY OF FINAL DETERMINATION**

20. We order the 2021 assessment for the subject property reduced to \$180,000.

The Final Determination of the above captioned matter is issued by the Indiana Board of Tax Review on the date written above.

  
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Chairman, Indiana Board of Tax Review

  
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Commissioner, Indiana Board of Tax Review

  
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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>.