

REPRESENTATIVE FOR PETITIONER: Todd R. Barron, Certified Tax Representative

REPRESENTATIVE FOR RESPONDENT: Frank J. Agostino, Attorney

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

Polygon Company,)	Petition Nos.: 71-015-19-1-3-00675-20
)	71-015-20-1-3-00676-20
Petitioner,)	
)	Parcel No.: 71-16-23-401-001.000-015
v.)	
)	
St. Joseph County Assessor,)	County: St. Joseph
)	
Respondent.)	Assessment Years: 2019 and 2020

Appeal from the Final Determination of the
St. Joseph County Property Tax Assessment Board of Appeals

September 7th, 2022

FINAL DETERMINATION

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

Findings of Fact and Conclusions of Law

I. Introduction

1. To support its assessment appeals, Polygon Company offered a valuation opinion from its certified tax representative, Todd Barron. Barron, however, failed to show that his analyses complied with generally accepted appraisal or assessment principles. Polygon therefore failed to make a prima facie case for changing its assessments.

II. Procedural History

2. Polygon contested the 2019 and 2020 assessments of its industrial property located at 103 Industrial Park Drive in Walkerton. The St. Joseph County Property Tax Assessment Board of Appeals (“PTABOA”) issued Form 115 determinations denying Polygon’s request for relief for both years and valuing the property as follows:

Year	Land	Improvements	Total
2019	\$91,700	\$1,953,200	\$2,044,900
2020	\$91,700	\$1,938,300	\$2,030,000

3. On June 9, 2022, our designated administrative law judge, Joseph Stanford (“ALJ”), held a telephonic hearing on Polygon’s petitions. Neither he nor the Board inspected the property. Barron and Deputy Assessor Patricia St. Clair testified under oath.
4. Polygon submitted the following exhibits:

Petitioner Exhibit A:	Summary of evidence, Attachment I – Property record card (“PRC”) for 61483 Bremen Hwy; PRC and sale information for 2920 W Sample; PRC and sale information with aerial photograph for 606 W Center St.; PRC and sale information for 1722 W Dewey St.; PRC and sale information for 9702 W Hwy 30, Attachment II – Map showing location of 2019 comparables, 2019 sales-comparison analysis, Attachment III – Map showing location of 2020 comparables, 2020 sales-comparison analysis, Attachment IV – Page 7 and Schedule A.2 from Real Property Assessment Guidelines, “CoStar Sales Trends” for “Outlying St. Joseph County Industrial” and “South Bend Industrial,” Attachment V – Map showing location of “uniformity comps,” Attachment VI – 2019 and 2020 assessment-comparison analysis,
Petitioner Exhibit B:	Photographs of the subject property and the properties used as comparables in the sales-comparison and assessment-comparison analyses,
Petitioner Exhibit C:	PRCs for the subject property and the properties used as comparables.

5. The Assessor submitted the following exhibits:

For 2019:

Respondent Exhibit 1:	Form 131 petition,
Respondent Exhibit 2:	Form 115 determination,
Respondent Exhibit 3:	Form 130 petition,
Respondent Exhibit 4:	Form 134 report,
Respondent Exhibit 5:	Subject PRC,
Respondent Exhibit 6:	The Assessor's response,
Respondent Exhibit 7:	Email correspondence between Barron and St. Clair,
Respondent Exhibit 8:	Valuation history and "memo list,"
Respondent Exhibit 9:	Photographs of the subject property.

For 2020:

Respondent Exhibit 1:	Form 131 petition,
Respondent Exhibit 2:	Form 115 determination,
Respondent Exhibit 3:	Form 130 petition,
Respondent Exhibit 4:	Subject PRC,
Respondent Exhibit 5:	The Assessor's response,
Respondent Exhibit 6:	Email correspondence between Barron and St. Clair,
Respondent Exhibit 7:	Valuation history and "memo list,"
Respondent Exhibit 8:	Photographs of the subject property.

6. The record also includes the following: (1) all petitions or other documents filed in these appeals, (2) all notices and orders issued by the Board or ALJ, and (3) an audio recording of the hearing.

III. Findings of Fact

A. The property

7. The subject building was built in the 1980s, although some areas were remodeled in 2006. Polygon also built a small office addition in 2016. The building is L-shaped and includes 126,686 square feet, 10,978 square feet of which is contained in two mezzanines. It has wall heights of 12'-16' throughout the building. According to the assessment records, the construction is C-grade, or average quality, and the building is in average condition. The property's 2019 assessment translates to \$16.14/sf of building

area, while its 2020 assessment translates to \$16.02/sf. *Barron testimony; Pet'r Ex. A; Pet'r Ex. C at 1-11.*

B. Barron's valuation opinion

8. Barron prepared a written valuation opinion. Although Barron is certified by the Department of Local Government Finance ("DLGF") as a Level III Assessor-Appraiser, he acknowledged that he is not an appraiser and that his value estimate is not an appraisal. In forming his opinion, Barron analyzed sales and assessments of properties that he believed were comparable to the subject property. *Barron testimony; Pet'r Ex. A.*

1. Sales comparison

9. For 2019, Barron identified four sales of industrial properties. He then adjusted the sale prices to account for differences between those properties and the subject property:

	Subject	Sale 1	Sale 2	Sale 3	Sale 4
Buyer		Beacon Health Systems, Inc.	SWGS Properties, LLC	Manufacturing Technology, Inc	Continental Holdings
City	Walkerton	Mishawaka	South Bend	South Bend	Wanatah
Building Type	340-Indust. Lt. Mfg. & Assembly	340-Indust. Lt. Mfg. & Assembly	340-Indust. Lt Mfg. & Assembly	340-Indust. Lt. Mfg. & Assembly	399-Other Indust. Structure
Land Size (Acres)	8.000	16.240	5.780	15.003	15.570
Building Size (SF)	126,686	72,000	74,120	116,177	187,692
Land to Bldg. Ratio	2.75:1	9.83:1	3.4:1	5.63:1	3.61:1
Weighted Eff. Age	1997	1990	1954	1972	1956
Quality Grade	C	C	C	C	C
Condition	Average	Average	Average	Average	Fair
Ceiling/Wall Ht.	12'-16'	28'	17'	16' - 18'	16'
Sale Date		June-18	Feb-19	Nov.-15	May-17
Sale Price		\$2,000,000	\$765,000	\$900,000	\$1,313,250
Sale Price/SF		\$27.77	\$10.46	\$7.66	\$7.00
Adjustments					
Time of Sale		n/a	n/a	26%	8%
Location		-3%	-7%	-7%	n/a
LTB Ratio		-7%	n/a	-2%	n/a
Bldg. Size		-5%	-5%	-1%	6%
Quality Grade		n/a	n/a	n/a	n/a
Age and Condition		3%	10%	10%	15%
Ceiling/Wall Ht.		-12%	n/a	n/a	n/a
Mezzanine & Other		2%	2%	2%	n/a
Net Adjustments		-22%	0%	28%	29%
Adjusted Price (SF)		\$21.66	\$10.46	\$9.80	\$9.03

Pet'r Ex. A at 1-4, 30; Barron Testimony.

10. Barron offered varying degrees of detail in explaining how he arrived at his adjustments. He based his “time of sale” adjustment on trends that CoStar projected from average sale prices of specialized industrial properties in South Bend. For his location adjustment, Barron “looked at demographics . . . at access to highway, vehicle counts, and that sort of thing.” He did not specify what demographics he examined. And he acknowledged that vehicle counts were less important for an industrial property than for a retail property or fast-food restaurant. For land size, Barron used a “1% adjustment per 1 difference in land-to-building ratio.” But he did not explain what, if any, market data he based that adjustment on. Turning to building size, Barron adjusted 1% for every 10,000 square feet of difference, explaining that due to economies of scale, unit sale prices tend to be lower when buildings are larger. Again, he did not say what, if any, market data he used in quantifying that adjustment. *Pet’r Ex. A at 1-4, 30, 38-39; Barron testimony.*

11. Turning to age and condition, Barron used data from the subject property’s record card to calculate a “weighted effective age” of 1997. He adjusted each sale price by roughly 0.5% per year of age difference with the subject property. Once more, he did not identify what, if any, market data informed his adjustment, other than to say that he capped the adjustment at 10% because he did not “think the market responds that dramatically on age of property.” He adjusted the sale price for the Continental Holdings property (Sale 5) by an additional 5% to account for its inferior condition rating. *Pet’r Ex. A at 1-4, 30; Barron testimony.*

12. Barron pointed to the Real Property Assessment Guidelines and accompanying cost tables from the DLGF as a source for his adjustments for differences in wall/ceiling height. Those tables recognize a cost difference of roughly 1% per foot of wall height, which is the number that Barron used. But he did not adjust the sale prices for the three buildings that had wall heights in the 16-to-17-foot range because he did not think the market differentiated much between those heights. *Pet’r Ex. A at 1-4, 30, 36-37; Barron testimony.*

13. Finally, Barron offered a confusing explanation of his adjustment to the sale prices of properties without mezzanines:

The subject property has two small mezzanines that total about 11,000 square feet. That was roughly in the assessment because mezzanine space doesn't usually garner the same value, if you will, per square foot in the marketplace and even in the assessment records. We looked at the assessment record, and that mezzanine was about 2%. So comparable 1, 2, and 3 did not have mezzanine space, so we increased those 2% to make them similar to the subject. The fourth comparable in Wanatah did have some mezzanine space, so we did not make an adjustment there.

Barron testimony.

14. The average adjusted price for 2019 was \$12.74/sf. Despite the \$2 million sale price for the Beacon Health property (Sale 1), that property was assessed for only \$968,500, and it had sold for only \$1 million in 2015. Barron was unsure about the nature of the 2018 sale, other than that it was by warranty deed. He therefore gave that adjusted sale price the least weight and settled on a value of \$11.17/sf or \$1,415,000 for the subject property.

Pet'r Ex. A at 1-4, 30; Barron testimony.

15. For 2020, Barron used three of the same sales: Beacon Health, SWGS, and Continental Holdings. He added two sales of light manufacturing facilities from Marshall County: (1) a 73,780-square-foot light manufacturing facility from Bourbon that was built in 1983 and sold for \$10.17/sf in October 2019, and (2) a 57,000-square-foot facility from Bremen that was built in 1989 and sold for \$12.54/sf in December 2019. He adjusted his five sales for 2020 along the same lines as he did for 2019. *Pet'r Ex. A at 33; Barron testimony.*

16. The average adjusted price for Barron's 2020 comparable sales was \$13.19/sf. He again gave less weight to the Beacon Health sale. He also gave diminished weight to the Continental Holdings sale because that property was only in fair condition, had a different use classification (Type 399 versus Type 340), and required the greatest total adjustment. Barron did not explain why those same factors did not prompt him to give

that sale diminished weight in his analysis for 2019. He concluded a value of \$11.50/sf or \$1,460,000 for 2020 subject property. *Pet'r Ex. A at 1-4, 33; Barron testimony.*

2. Assessment comparison

17. Barron also analyzed the “in-use assessments” of five properties from what he characterized as the subject property’s immediate industrial subdivision. He explained that his analysis “isn’t really a uniformity issue” but rather an assessment comparison under Ind. Code § 6-1.1-15-18(c)(2).¹ For both 2019 and 2020, Barron used the same methodologies to adjust the properties’ assessments as he used to adjust the sale prices of his comparable properties in his other analyses. Unlike the buildings from Barron’s sales-comparison analyses, however, some of the comparable buildings from his assessment comparison had a different quality grade than the subject building. So he used the DLGF’s Guidelines to adjust for those differences. For 2019, the adjusted assessments ranged from \$5.57/sf to \$17.95/sf, with an average of \$11.20/sf and a median of \$12.58/sf. For 2020, the range was \$5.57/sf to \$16.97/sf, with an average of \$10.95/sf and a median of \$12.87/sf. *Barron testimony; Pet'r Ex. A at 4-5, 44; Pet'r Ex. C.*
18. Barron performed a similar assessment-comparison analysis using the properties from his sales-comparison analyses. For 2019, his adjusted assessments ranged from \$8.17/sf to \$10.54/sf, with an average of \$9.02/sf and a median of \$8.21/sf. For 2020, the range was \$9.55/sf to \$11.34/sf, with an average of \$10.71/sf, and a median of \$10.81/sf. *Barron testimony; Pet'r Ex. A at 4-5, 30, 33.*

3. Value conclusions

19. Based on his various analyses, Barron believed that the subject property’s market value-in-use was less than its assessment. He concluded a value of \$11.50/sf, or \$1,460,000 (rounded) for both years. *Pet'r Ex. A at 6; Barron testimony.*

¹ Indiana Code § 6-1.1-15-18(c)(2) has been repealed. 2022 Ind. Acts 174 § 33 (effective on passage).

IV. Conclusions of Law and Analysis

20. Generally, an assessment determined by an assessing official is presumed to be correct. 2011 REAL PROPERTY ASSESSMENT MANUAL at 3.² A petitioner has the burden of proving the assessment is incorrect and what the correct assessment should be. *Piotrowski v. Shelby Cnty. Ass'r*, 177 N.E.3d 127, 131-32 (Ind. Tax Ct. 2022).
21. 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); 2011 REAL PROPERTY ASSESSMENT 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." MANUAL at 2.
22. Evidence in an assessment appeal should be consistent with that standard. For example, a market-value-in-use appraisal prepared in accordance with USPAP 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, sales or assessment information for 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).
23. Polygon relies on Barron's valuation opinion. Barron is a Level III Assessor-Appraiser, but he is not licensed to appraise property, nor did he appraise the subject property. He

² The DLGF 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).

based his opinion on analyses in which he considered the sale prices and assessments of several properties that he believed were generally comparable to the subject property and adjusted those sale prices and assessments to account for several differences. The Assessor argues that we have previously held that adjustments made by assessors with the same credentials as Barron (Level III Assessor-Appraiser) do not carry the same weight as those made by appraisers and do not suffice to carry the burden of proof.

24. To the extent the Assessor claims we have laid down a blanket rule that an Assessor-Appraiser cannot offer a probative value opinion, we disagree. But we do find that Polygon failed to meet its burden of proof because it did not show that Barron complied with generally accepted appraisal or assessment principles or practices in reaching his valuation opinion.
25. Barron did little to explicitly analyze the subject property or the market in which it competes, which is fundamental to credibly analyzing a property's value under any of the three generally recognized valuation approaches. And he did not bother to explain why he failed to develop two of the three generally recognized valuation approaches: the cost and income approaches.
26. As for the approach Barron did try to develop—the sales-comparison approach—he failed to show that he complied with generally accepted appraisal principles. While his analyses might superficially mirror the sales-comparison approach in form, they lack the underlying substance necessary to carry probative weight. That is particularly true for his adjustments to the purportedly comparable properties' sale prices. We have no qualms with Barron's judgment that the differences he identified between the properties might affect their relative values. But he offered little market support for those adjustments. In fact, his time-of-sale adjustment is the only one for which he offered any concrete market data.

27. Barron at least broadly referred to “demographics,” highway access, and vehicle counts to support his location adjustments. But he did not identify what those demographics were, and he acknowledged that vehicle counts are not as significant for industrial properties as they are for retail properties and fast-food restaurants. Similarly, he pointed to replacement costs to support his adjustments for differences in wall/ceiling height, although he did not explain whether that is how the market values those differences.
28. For the remaining elements of comparison—land-to-building ratio, building size, building age/condition, and lack of mezzanine—Barron did not explain how he quantified his adjustments, much less offer any market support for them. And we cannot decipher his explanation about how he determined his adjustment for the lack of a mezzanine. He seemed to indicate that the subject property’s mezzanine was 2% of something, but the identity of that something is unclear. It is not the relative percentage of mezzanine area compared to total building area. Nor is it the relative difference in base rates for calculating replacement costs for mezzanines as compared to first-floor space. In any case, Barron wholly failed to support the adjustment.
29. While Barron’s sales-comparison grid may not look too different from such a grid in an appraisal, an appraiser’s assertions are backed by his education, training, and experience. The appraiser also typically certifies that he complied with USPAP, which among other things, requires the appraiser to “correctly complete research and analyses necessary to produce a credible appraisal.” THE APPRAISAL FOUNDATION, 2020-2021 UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE 16 (Standard 1).³ Similarly, even if an appraiser’s report does not lay out all the underlying market data and other information necessary to support his opinion, USPAP requires the appraiser to keep a workfile that either contains the data and other information necessary to support his opinions or references to the location of that information. *Id.* at 10 (Recordkeeping Rule). Barron’s written materials and testimony do little to provide similar assurances.


³ We take official notice of this publication. 52 IAC 4-6-11 (allowing the Board to take official notice of publications, including any relevant edition of USPAP).

30. Most of the shortcomings of Barron's sales-comparison analyses apply with equal force to his analyses of purportedly comparable properties' assessments. Worse, Barron's underlying premise is at odds with how assessments work. Most assessments are determined using a mass-appraisal version of the cost approach. That approach assumes a buyer will pay no more for an existing property than it would cost to buy an equally desirable parcel of land and build equally desirable improvements. 2021 MANUAL at 9. The differences between the comparable properties' assessments and the subject property's assessment therefore stem from differences in land values, components of replacement cost, or depreciation applied by the Assessor. Barron, however, did not isolate those differences, much less show that they were unjustified.
31. Because Polygon failed to show that Barron's valuation opinions comply with generally accepted appraisal or assessment principles, it failed to make a prima facie case for changing its assessments.

V. Conclusion

32. Polygon failed to make a prima facie case. We find for the Assessor and order no change to the assessments.

We issue this Final Determination on the date first written above.



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 of 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>>.