

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

Petition Nos.: **59-004-16-1-5-01486-17**
Petitioner: **James and Elmer Pruitt**
Respondent: **Orange County Assessor**
Parcel Nos.: **59-11-35-300-035.000-004**
Assessment Yrs.: **2016**

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

Procedural History

1. James and Elmer Pruitt appealed their assessment to the Orange County Property Tax Assessment Board of Appeals (“PTABOA”). On August 8, 2017, the PTABOA issued a determination lowering the assessment to the following values:

Land: \$12,000 Improvements: \$38,600 Total: \$50,600

2. The Pruitts filed a Form 131 petition with the Board. On October 23, 2018, our designated administrative law judge, Jeremy Owens (“ALJ”), held a hearing on the Pruitt’s petition. Neither he nor the Board inspected the property.
3. Kirk Reller appeared as the Assessor’s local government representative. The Pruitts represented themselves. The Pruitts, Reller, and Orange County Assessor Linda Reynolds were sworn and testified.

Record

4. The parties offered the following exhibits:

Petitioner’s Exhibit 1:	Google Earth image and assessment information for subject property and three other properties
Respondent’s Exhibit 1:	2016 property record card
Respondent’s Exhibit 2:	Photograph of subject property
Respondent’s Exhibit 3:	Form 115 determination
Respondent’s Exhibit 4:	Chart entitled “Inverse Relationship Between Size and Base Square Foot Cost”
Respondent’s Exhibit 5:	Excerpt from 2011 Real Property Assessment Guidelines, Appendix C (2 pages)

5. The record also includes the following: (1) all petitions, motions, briefs, and other documents filed in these appeals, (2) all orders and notices issued by the Board or our ALJ, and (3) a digital recording of the hearing.

Parties' Contentions

The Pruitts' Contentions

6. The subject property is a 1.33-acre hillside lot located at 1790 W. County Rd. 560 S, in Paoli. It contains a 972-square-foot modular home built in 1996. The Pruitts bought the property for \$25,000 in September 2016.
7. The home has been vacant for approximately 16 years and has nothing but junk in it. It therefore should have depreciated over time. Yet its assessment has increased, going from \$41,000 in 2005 up to as much as \$50,600 before the PTABOA reduced it to \$48,600. Banks will not let them borrow money against the home because modular homes do not hold their value. *J. Pruitt testimony; see also Resp't Ex. 1.*
8. According to the Pruitts, they could buy a new modular home for \$28,000-\$30,000, but they could not sell their home for \$30,000. They also claimed that two homes around the corner from theirs sold for \$15,000 and \$20,000. James Pruitt testified that those homes had been repossessed. *J. Pruitt testimony.*
9. The Pruitts also pointed to the assessments for three other properties on the same hillside. They had modular homes that were between 2,106 and 3,140 square feet and were assessed at values ranging from \$31/sq. ft. to \$35/sq. ft. of living area. By contrast, the subject property was assessed at \$52/sq. ft. The Pruitts believe that discrepancy is unfair. *Pet'r's Ex. 1; J. Pruitt testimony.*
10. Finally, the Pruitts claimed that the Assessor valued their deck and barn too high. When the Pruitts bought the property, the deck was in such poor condition that nobody could walk on it. They had to tear it down after they bought the property. Similarly, the doors had been taken off the barn. *J. Pruitt testimony.*

The Assessor's Contentions

11. The Assessor argued that we must presume the assessment accurately reflects the property's market value-in-use and that the Pruitts had the burden to show otherwise. As part of that burden, they needed to walk the Board through their evidence. They failed to do so. Their evidence was conclusory and lacked probative value. *Reller argument.*
12. According to the Assessor, the three properties from Pruitts' hillside have homes that are too large to be comparable to the subject home. And simply pointing to price per square foot of living area is not a valid comparison. As shown by the 2011 Real Property Assessment Guidelines, there is an inverse relationship between size and price per square foot. Similarly, the Pruitts offered no information about other modular homes they

claimed they could buy for \$28,000-\$30,000 or about the two nearby properties that supposedly sold for \$15,000 and \$20,000. In any case, the Assessor's witness and tax representative, Kirk Reller, testified that distressed sales, such as foreclosures and sheriff's sales, are not arm's length transactions and are therefore invalid to show market value-in-use. He did not say that the sale in which the Pruitts bought the subject property was a distressed sale. The property record card indicates that the sale was "CODED VALID FOR TREND." *Reller testimony and argument; Resp't Exs. 1, 4-5.*

Conclusions of Law

Burden of Proof

13. Generally, a taxpayer seeking review of an assessing official's determination has the burden of proof. Indiana Code § 6-1.1-15-17.2 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's assessment, 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), (d). The ALJ preliminarily ruled that the Pruitts had the burden. We agree. The Pruitts' assessment actually decreased between 2015 and 2016, dropping from \$50,400 down to \$48,600.

Discussion

14. Indiana assesses property based on its "true tax value," which is determined under the rules of the Department of Local Government Finance ("DLGF"). I.C. § 6-1.1-31-5(a); I.C. § 6-1.1-31-6(f). 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) and (e). 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." 2011 REAL PROPERTY ASSESSMENT MANUAL 2. Evidence in an assessment appeal should be consistent with that standard. For example, market-value-in-use appraisals prepared in conformity 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). Parties may also offer actual construction costs or 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); *see also* I.C. § 6-1.1-15-18 (allowing parties to offer evidence of comparable properties' assessments to determine an appealed property's market value-in-use).
15. Regardless of the method used to prove true tax value, a party must explain how its evidence relates to the property's value as of the relevant valuation date. *O'Donnell v. Dep't of Local Gov't Fin.*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006). Otherwise, the evidence lacks probative value. *Id.* The valuation date for 2016 assessments was January 1, 2016.

16. With these principals, we turn to the weight of the party's evidence. As the Assessor pointed out, most of the Pruitts' evidence is conclusory and lacks probative value. For example, they did little to compare their property to the other three properties on the hillside or to adjust their assessments to account for relevant differences. And they offered almost no information about the two nearby properties that sold.
17. But the Pruitts did show they bought the subject property for only \$25,000 roughly nine months after the relevant valuation date for 2016 assessments. While Reller testified that distressed sales are not valid indicators of market value, he did not claim the transaction in which the Pruitts bought their property qualified as a distressed sale. Indeed, the Assessor apparently believed the sale was a valid indicator of market value, as shown by her notation on the property record card. We infer that "VALID FOR TREND" means valid to use in preparing ratio studies for use in the annual adjustment process. Under the DLGF's rules governing those ratio studies, "[e]very arm's length, open market sale that appears to meet the conditions of a market value-in-use transaction shall be included in the ratio study," unless (1) data for the sale is "incomplete, unverifiable, or suspect," or (2) the sale fails to pass specific tests for acceptability under the Standard on Ratio Studies prepared by the International Association of Assessing Officers. 50 IAC 27-4-7(e).
18. Under those circumstances, we find that the September 2016 sale where the Pruitts bought the subject property was a valid indicator of its market value-in-use. And the sale was sufficiently close to the January 1, 2016 valuation date to relate to the property's value as of that date. The Assessor offered no evidence of her own to show a different value.

Final Determination

19. We find for the Pruitts and order that their 2016 assessment must be changed to \$25,000.

Date: January 18, 2019

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>>.