

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

Petitions: 03-005-12-1-4-02266-17
03-005-13-1-4-02267-17
Petitioner: Southeastern Indiana Medical
Respondent: Bartholomew County Assessor
Parcel: 03-96-20-310-000.103-005
Assessment Years: 2012 & 2013

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

PROCEDURAL HISTORY

1. Southeastern Indiana Medical contested the 2012 and 2013 assessments on its property located at 3015 10th Street in Columbus, Indiana 47201. The Bartholomew County Property Tax Assessment Board of Appeals (“PTABOA”) issued final determinations for 2012 and 2013 valuing the subject property at \$1,674,000 on November 30, 2017. The Petitioner timely filed Form 131 appeals.
2. On January 28, 2019, David Smith, our designated Administrative Law Judge (“ALJ”), held a hearing on the petitions. Neither he nor the Board inspected the subject property.
3. Milo Smith, certified tax representative, represented Southeastern. Virginia Whipple, the Bartholomew County Assessor, represented herself. Smith, Whipple, and Dean Layman testified under oath or affirmation.

RECORD

4. The official record contains the following exhibits:

Petitioner’s Exhibit 2012:	2012 Property Record Card (“PRC”),
Petitioner’s Exhibit 2013:	2013 PRC,
Petitioner’s Exhibit AOM:	Assessor’s Operations Manual, pgs. 1, 133 and 134.
Respondent’s Exhibit A:	Whipple Resume`,
Respondent’s Exhibit B:	Statement of Professionalism,
Respondent’s Exhibit C:	2011 PRC,
Respondent’s Exhibit D:	2012 PRC,
Respondent’s Exhibit E:	2013 PRC,
Respondent’s Exhibit F:	Aerial of subject.

5. The record also includes the following: (1) all pleadings and documents filed in this appeal; (2) all notices and orders issued by the Board or our ALJ; and (3) a digital recording of the hearing.

SUMMARY OF PARTIES' CONTENTIONS

a. Southeastern's case:

6. Southeastern argued that the assessment was incorrect because the total values for land and improvements were greater than the values for the individual components as shown on the property record cards. In addition, Southeastern argued that the Assessor should have the burden of proof under Ind. Code § 6-1.1-4-4.4 because the Assessor used a different "method" of assessment in 2012 than in 2011. *Pet'r Exs. 2012 and 2013; Smith testimony.*

b. Assessor's case:

7. The Assessor argued that the discrepancy was due to a "sound value" that was used to adjust the cost approach values using additional data. She admitted this sound value was not reflected on the property record cards. She also argued that Southeastern did not offer any market based evidence and was essentially contesting the methodology used in the assessment. *Whipple testimony.*

BURDEN OF PROOF

8. Generally a taxpayer seeking review of an assessment must prove the assessment is wrong and what the correct value should be. Indiana Code § 6-1.1-15-17.2 creates an exception to the general rule and assigns the burden of proof to the assessor where (1) the assessment under appeal represents an increase of more than 5% over the prior year's assessment for the same property, or (2) the taxpayer successfully appealed the prior year's assessment, and the current assessment represents an increase over what was determined in the appeal, regardless of the level of that increase. I.C. § 6-1.1-15-17.2(a), (b) and (d). If an assessor has the burden and fails to prove the assessment is correct, it reverts to the previous year's level (as last corrected by an assessing official, stipulated to, or determined by a reviewing authority) or to another amount shown by probative evidence. I.C. § 6-1.1-15-17.2(b).
9. The assessed value of the subject property in 2012 was \$1,674,000, which represented an increase of 4.9% over the 2011 assessed value of \$1,596,000. Thus, Southeastern had the burden for 2012.
10. Southeastern also claimed the burden should shift based on Ind. Code § 6-1.1-4-4.4. This statute provides that when an "assessor changes the underlying parcel characteristics, including age, grade, or condition, of a property, from the previous year's assessment date, the assessor shall document: (1) each change; and (2) the reason that each change was made," and that the assessor has the burden of proving that each change was valid.

But the evidence shows that the assessor did not change any of the underlying parcel characteristics in the years under appeal.

11. Instead, Southeastern relies on the section's title. It reads: "Documentation of change in assessment method; burden of proof of validity of change." Based on this title, Southeastern argues that the use of the "sound value" was a change in assessment method, and for that reason the assessor should bear the burden of proof. But this heading does not carry the force of law. It was not included either in the original public law or in the subsequent amendment. *P.L.113-2010, SEC.13; P.L.245-2015, SEC.4*. Thus, we find Southeastern has failed to show that the burden should shift under Ind. Code 6-1.1-4-4.4.

ANALYSIS

12. Smith failed to present probative evidence for either the 2012 or 2013 assessment years. The Board reached this decision for the following reasons:
 - a. 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 a similar user, from the property. 2011 REAL PROPERTY ASSESSMENT MANUAL 2. Evidence in an assessment appeal should be consistent with the standard. For example, USPAP-compliant market value-in-use appraisals often will be probative. *See id.; see also, Kooshtard Property VI v. White River Township Assessor*, 836 N.E.2d 501, 506 n.6 (Ind. Tax Ct. 2005).
 - b. 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). Even if the Assessor made errors, simply attacking their methodology is insufficient to rebut the presumption that the assessment is correct. *Eckerling v. Wayne Twp. Ass'r*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006). To successfully make a case for a lower assessment, a taxpayer must use market-based evidence to "demonstrate that their suggested value accurately reflects the property's true market value-in-use." *Id.*
 - c. Southeastern had the burden of proof for 2012. As the Assessor points out, Southeastern's claim that its final assessment should have been different based on the components from the property record card is essentially a challenge to the methodology used in the assessment. Although we understand Southeastern's frustration with a property record card that does not tell the whole story, it still

bore the burden to provide market-based evidence. Because it failed to do so, we can offer no relief.

- d. Because there was no change between the 2012 and 2013 assessments, Southeastern also had the burden of proof for 2013. It likewise failed to meet its burden for that year.

FINAL DETERMINATION

In accordance with the above findings of fact and conclusions of law, we find for the Assessor and order no change to the subject property's 2012 and 2013 assessments.

ISSUED: April 25, 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>>.