

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

Petitions: 45-003-17-1-5-00077-21; 45-003-18-1-5-00076-21;
45-003-17-1-5-00075-21; 45-003-18-1-5-00074-21
Petitioner: Surplus Management Systems LLC
Respondent: Lake County Assessor
Parcels: 45-07-13-483-013.000-003; 45-07-13-483-014.000-003
Assessment Years: 2017 and 2018

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

Procedural History

1. Surplus Management Systems LLC contested the 2017 and 2018 assessments of its two properties. The Lake County Property Tax Assessment Board of Appeals (“PTABOA”) issued separate Form 115 determinations valuing each property at \$1,900 for both 2017 and 2018.
2. Surplus Management then filed Form 131 petitions with the Board and elected to proceed under our small claims procedures. On October 13, 2022, our designated administrative law judge, Joseph Stanford (“ALJ”), held a telephonic hearing on Surplus Management’s petition. Neither he nor the Board inspected the properties.
3. Surplus Management’s manager, Andy Young, appeared for Surplus Management. The Lake County Assessor’s hearing officer, Jessica Rios, appeared for the Assessor. Both testified under oath.

Record

4. The official record for this matter includes:¹ (1) all petitions and other documents filed in this appeal, (2) all notices and orders issued by the Board or the ALJ, (3) an audio recording of the hearing, and (4) the audio recordings of hearings on related appeals involving the same parties and addressing properties located at 4837 West 28th Place and 4798 West 29th Avenue.²

¹ The Assessor emailed an exhibit to the Board several days before the hearing, but she did not offer that exhibit as evidence.

² The hearings on those appeals (Pet. Nos. 45-003-17-1-5-00011-21 and 45-003-17-1-5-00012-21) took place earlier the same day. The ALJ agreed to Surplus Management’s request to incorporate the testimony and arguments those hearings.

Findings of Fact

5. The subject properties are adjacent vacant lots located at approximately 4718 and 4720 West 29th Avenue in Gary.

Contentions

A. Surplus Management's Contentions

6. Surplus Management does not contest the properties' assessed values, but instead contends that the Assessor used the wrong method to determine the assessments. The Assessor used the front-foot method, while Surplus Management contends that she should have assessed the properties using the acreage method. *Young testimony and argument.*
7. The Assessor's methodology led to inaccurate and inconsistent assessments. Nearly identical parcels from the same tract of land as the subject properties were assessed at different values. Those inconsistencies were largely cured in 2017, although similar inconsistencies continue throughout Calumet Township and Lake County. *Id.*
8. Surplus Management acknowledged that it sold the larger tract of land that included the subject properties in 2022 after development had begun on a nearby casino. Because nobody could have foreseen that development in 2017 or 2018, however, Surplus Management argues that the sale was irrelevant to the subject properties' values for that year.

B. The Assessor's Contentions

9. Surplus Management offered no evidence to show that the assessments are incorrect, and it appears to now agree with the assessments. The assessments therefore should not be changed. *Rios argument.*

Analysis

10. Generally, an assessment determined by an assessing official is presumed to be correct. 2011 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. 2022).
11. Surplus Management failed to meet its burden. 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 2.³ 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 rules of the DLGF. 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

³ The 2011 version of the Real Property Assessment Manual applied to the assessment at issue.

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 MANUAL at 2.

12. 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, 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). Simply attacking the methodology used to determine an assessment, however, does not suffice; instead, a party must offer market-based evidence to show that the property’s assessed value does not reflect its market value-in-use. *Piotrowski*, 177 N.E.3d at 132; 50 IAC 2.4-1-1(c). 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). For 2017 and 2018 assessments, the valuation dates were January 1, 2017, and January 1, 2018, respectively. *See* I.C. § 6-1.1-2-1.5(a).
13. Surplus Management does not dispute the properties’ assessed values, but instead disagrees with the Assessor’s methodology in determining the assessments. As explained above, however, simply attacking the methodology used to determine an assessment does not suffice to make a prima facie case for changing the assessment.
14. Surplus Management also apparently believes that there was an historic lack of uniformity in assessments of parcels from the larger tract of land that included the subject properties and that there were similar problems with uniformity and consistency in assessments throughout the township and county. While Surplus Management acknowledged that assessments for parcels within the tract were largely made more uniform by 2017, it argues that the lack of uniformity in assessments throughout the Township and County continues. But it offered no evidence about any specific property’s assessment other than some vague testimony from Young about assessments for properties within the tract that included the subject properties. Surplus management therefore failed to make a case for adjusting the subject properties’ assessments based on a lack of uniformity or equality. *See Thorsness v. Porter Cty. Ass’r*, 3 N.E.3d 49, 53-54 (Ind. Tax Ct. 2014) (discussing guidance for measuring assessment uniformity and holding that Board did not err in finding that taxpayer’s data was not probative to show that its property was assessed above the common level of assessment).

Conclusion

15. Surplus Management failed to make a prima facie case for changing the subject properties’ 2017 and 2018 assessments. We therefore find for the Assessor and order no change.

Date: 1/11/2023


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>>.