

REPRESENTATIVE FOR THE PETITIONER: Dave VanBaalén, *pro se*

REPRESENTATIVE FOR THE RESPONDENT: Karen LeMaster, Miami County Assessor

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**BEFORE THE  
INDIANA BOARD OF TAX REVIEW**

Dave VanBaalén – TDV2, LLC <sup>1</sup> ,	)	Petition No.:	52-016-21-1-4-00640-21
	)		
Petitioner,	)	Parcel No.:	52-08-27-302-257.000-016
	)		
v.	)	County:	Miami
	)		
Miami County Assessor,	)	Township:	Peru
	)		
Respondent.	)	Assessment Year:	2021

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April 13, 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 sought a reduction in the assessment of an approximately 100 year old church building in Miami County. Because he failed to provide reliable evidence of the value of the property as of the valuation date, January 1, 2021, we order no change in the assessment.

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<sup>1</sup> Mr. VanBaalén owns TDV2, LLC. Although TDV2 owns the subject property, Mr. VanBaalén listed himself as the Petitioner on the Form 131. For that reason, we refer to Mr. VanBaalén as the Petitioner for purposes of this determination.

## PROCEDURAL HISTORY

2. The Petitioner appealed the 2021 assessment of an old church and rectory located at 34 West Main in Peru, Indiana on May 28, 2021. The Miami County Property Tax Assessment Board of Appeals (“PTABOA”) issued its determination reducing the assessment to \$22,800 for land and \$156,100 for improvements for a total of \$178,900. The Petitioner timely appealed to the Board.
3. On January 13, 2022, Dalene McMillen, the Board’s Administrative Law Judge (“ALJ”), held a telephonic hearing. Neither the Board nor the ALJ inspected the property.
4. Dave VanBaalen, owner of TDV2, LLC appeared *pro se*. Miami County Assessor Karen LeMaster appeared for the Respondent. Brian Thomas testified as a witness for the Respondent. All were sworn.
5. The Petitioner did not offer any exhibits.
6. The Respondent offered the following exhibits:
  - Respondent Exhibit A: Respondent written summary,
  - Respondent Exhibit B: Peru Tribune article “OLD BUILDING, NEW LIFE: Dave VanBaalen hopes to host weddings in the old Holy Trinity Anglican Catholic Church building by this summer,”
  - Respondent Exhibit C: Dave VanBaalen interrogatories,
  - Respondent Exhibit D: Information and photographs of two comparable properties; The Sanctuary in Wabash, Indiana and The North Church Venue in Muncie, Indiana,
  - Respondent Exhibit E: Seven exterior photographs of the subject property.
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) a digital recording of the hearing.

### PETITIONER'S CONTENTIONS

8. The subject property is a "100 year old church" building that was going to be "torn down." Seeking to prevent this, Mr. VanBaalen acquired the subject property in March of 2020 for \$25,000. He testified that when he acquired it the property suffered from "fatal structural flaws." He made numerous repairs to the property including electric work, HVAC, and plumbing. Altogether, he spent approximately \$100,000 on the repairs. *VanBaalen testimony.*
9. Mr. VanBaalen testified he never intended to make any revenue off the church, but after some improvements were made, there was some interest in the church as a wedding venue. As of the hearing, one wedding has been conducted at the church. He has also tried to rent the church out for Sunday services, but has been unable to find a tenant. He noted that it costs approximately \$1,000 per month for utilities and insurance and that for that reason the subject property is not generating a profit. *VanBaalen testimony.*

### RESPONDENT'S CONTENTIONS

10. The Respondent claimed the subject property's assessment is correct. Brian Thomas, local government representative for the Assessor, testified that the March 2020 purchase of the subject property for \$25,000, combined with the \$100,000 in repairs, showed that the current assessment of \$178,900 "makes a lot of sense." *LeMaster & Thomas testimony; Resp't Exs. A, C & E.*
11. Mr. Thomas also testified that an article from the Peru Tribune discusses the subject property's potential use as a wedding venue. Mr. Thomas also pointed to two other church properties in Wabash and Muncie that had been repurposed as wedding venues. *Thomas testimony; Resp't Ex. B, D.*

### BURDEN OF PROOF

12. Generally, a taxpayer seeking review of an assessing official's determination has the

burden of proof. Indiana Code § 6-1.1-15-17.2<sup>2</sup> 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 or where it is above the level determined in a taxpayer's successful appeal of the prior year's assessment. Ind. Code § 6-1.1-15-17.2 (b) and (d).

13. Here, the parties agreed the assessed value of the subject property did not increase by more than 5% from 2020 to 2021, nor was there a successful appeal in the prior year. The Petitioner did not offer any argument that the burden should shift to the Respondent. Accordingly, the burden shifting provisions of I.C. § 6-1.1-15-17.2 do not apply and the burden remains with the Petitioner.

#### ANALYSIS

14. Real property is assessed based on its market value-in-use. I.C. § 6-1.1-31-6(c); 2021 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.4-1-2). 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. *Eckerling v. Wayne Twp. Ass'r*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006). 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* I.C. § 6-1.1-2-1.5.

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<sup>2</sup> I.C. § 6-1.1-15-17.2 was repealed by H.E.A 1260 (2022) on March 21, 2022. We analyze the law as it existed at the time of the evidentiary hearing.

15. Although Mr. VanBaalen alleged the subject property suffered from a number of defects, he did little to show how those defects impacted the value. To successfully make a case for a lower assessment, taxpayers must use market-based evidence to "demonstrate that their suggested value accurately reflects the property's true market value-in-use." *Eckerling* 841 N.E.2d at 674, 678. The only market-based evidence the Petitioner offered was the March 2020 purchase of the subject property for \$25,000. Although the sale of the subject property can be good evidence of value, in this case we do not find it to be reliable. The evidence shows that extensive repairs were made to the subject property after the purchase. Thus, the subject property was not in the same condition on the valuation date of January 1, 2021, as it was on the date of sale. For that reason, we cannot conclude that the sale price is representative of the value of the subject property as of January 1, 2021.<sup>3</sup>
16. Also, the Petitioner made numerous repairs, which cost approximately \$100,000 to the subject property from the date of purchase to the January 1, 2021, assessment date. As such the property was not in the same condition as it was on the purchase date. Consequently, the purchase price is not probative evidence of the property's market value-in-use. Thus, the Petitioner failed to provide any probative market-based evidence to establish the value of the subject property on the assessment date.
17. The Petitioner failed to make a prima facie case for any change in the assessment. Where a petitioner has not supported their claim with probative evidence, the Assessor's duty to support the current assessment is not triggered. *Lacy Diversified Indus. v. Dep't of Local Gov't Fin.*, 799 N.E.2d 1215, 1222 (Ind. Tax Ct. 2003).

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<sup>3</sup> We are likewise unable to conclude that the sale price plus the cost of repairs is a reliable estimate of value because there is little in the record to show how those repairs affected the market value-in-use of the subject property or precisely what repairs were complete as of the valuation date.

**SUMMARY OF FINAL DETERMINATION**

18. Because the Petitioner failed to provide reliable evidence supporting a different value, we order no change in the assessment.

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

  
\_\_\_\_\_  
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>.