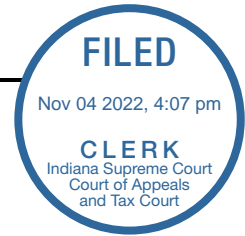


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**IN THE
INDIANA TAX COURT**



GOLD COAST RAND DEVELOPMENT)
CORP.,)
)
Petitioner,)
)
v.)
)
LAKE COUNTY ASSESSOR,)
)
Respondent.)

Cause No. 22T-TA-00010

ON APPEAL FROM FIVE FINAL DETERMINATIONS OF
THE INDIANA BOARD OF TAX REVIEW

**FOR PUBLICATION
November 4, 2022**

WENTWORTH, J.

Gold Coast Rand Development Corp. appeals the Indiana Board of Tax Review’s final determinations that upheld the 2017 tax assessments of its five residential properties. Upon review, the Court affirms the Indiana Board’s final determinations.

FACTS AND PROCEDURAL HISTORY

During the 2017 tax year, Gold Coast owned five residential properties that are the subject of this appeal identified by the property class code of 500 and the following parcel numbers: (1) Parcel No. 45-08-15-352-003.000-004 (“Parcel 1”), (2) Parcel No. 45-08-16-152-031.000-004 (“Parcel 2”), (3) Parcel No. 45-08-16-152-032.000-004 (“Parcel 3”),

(4) Parcel No. 45-08-16-177-020.000-004 (“Parcel 4”), and (5) Parcel No. 45-08-16-177-021.000-004 (“Parcel 5”).¹ (See Cert. Admin. R. Pets. 306 to 310 at 3-5.) See also 2011 REAL PROPERTY ASSESSMENT MANUAL (incorporated by reference at 50 IND. ADMIN. CODE 2.4-1-2 (2011) (amended 2020)), App. A at 16 (classifying a property as residential when its property class code begins with the number five). Each of the vacant parcels was located in Gary, Calumet Township, Lake County, Indiana. (See Cert. Admin. R. Pets. 306 to 310 at 3-5.)

On May 20, 2018, Andy Young, in his capacity as Gold Coast’s President, sought review of the five parcels’ 2017 assessments with the Lake County Property Tax Assessment Board of Appeals (the “PTABOA”), claiming that they were incorrect because they exceeded the valuation set forth in a 2012 settlement agreement. (See, e.g., Cert. Admin. R. Pet. 306 at 6-11, 24.) On March 12, 2020, after conducting a hearing, the PTABOA determined that Gold Coast had not “submit[ted] sufficient evidence to warrant a change in [any of the] assessment[s.]” (See Cert. Admin. R. Pets. 306 to 310 at 3-5.) As a result, the PTABOA valued Parcel 1 at \$3,200 and Parcels 2, 3, 4, and 5 at \$1,200 each. (See Cert. Admin. R. Pets. 306 to 310 at 3-5.)

Unsatisfied with the PTABOA’s valuations, Gold Coast filed five appeals with the Indiana Board on April 22, 2022, electing to have each heard under the Indiana Board’s small claims procedures. (See, e.g., Cert. Admin. R. Pet. 306 at 1-2.) On February 28, 2022, the Indiana Board held back-to-back telephonic hearings on the five separate appeals, during which Gold Coast claimed that holding telephonic hearings rather than

¹ The Indiana Board held separate telephonic hearings on each of the five appeals, and thus, prepared five separate certified administrative records. The Court, in accordance with the Indiana Board petition numbers, refers to the certified administrative records as “Cert. Admin. R. Pet. 306,” “Cert. Admin. R. Pet. 307,” and so forth.

in-person or video hearings stymied its ability to present certain GIS information and thus were unduly prejudicial.² (See Cert. Admin. R. Pet. 307 at 31, 36; Cert. Admin. R. Pet. 308 at 39; Cert. Admin. R. Pet. 310 at 31.) In addition, Gold Coast attacked the methodology the Lake County assessing officials had used to establish the neighborhood base rates³ throughout Calumet Township. (See, e.g., Cert. Admin. R. Pet. 306 at 26-30, 36-37.) Gold Coast asserted that the “shoddy” methodology produced “arbitrary” land assessments because Lake County assessing officials ignored the assessment laws and guidelines in developing the base rates, as evidenced by the following:

- (1) the neighborhood boundaries for Calumet Township had not been updated since the 1980s and were based on an “antiquated” map from the same decade;
- (2) Calumet Township had 92 exceedingly redundant neighborhoods and had modified only seven of them since 2007;
- (3) the “representative parcels” that were to be used to adjust the values of parcels in each neighborhood were not established;

² Gold Coast also claimed that the Indiana Board was not conducting a true de novo review. (See Cert. Admin. R. Pet. 306 at 30.)

³ Indiana’s assessment guidelines provide that assessing officials must establish specific “neighborhoods” within each township for purposes of assessment. REAL PROPERTY ASSESSMENT GUIDELINES FOR 2011 (incorporated by reference at 50 IND. ADMIN. CODE 2.4-1-2 (2011) (amended 2020)), Ch. 2 at 7-8, Glossary at 16 (defining a “neighborhood” as “[a] geographical area exhibiting a high degree of homogeneity in residential amenities, land use, economic and social trends, and housing characteristics”). In establishing these neighborhoods, assessing officials must consider:

- (1) common development characteristics;
- (2) the average age of the majority of the improvements;
- (3) the size of lots or tracts;
- (4) subdivision plats and zoning maps;
- (5) school and other taxing district boundaries;
- (6) distinctive geographic boundaries;
- (7) any manmade improvements that significantly disrupt the cohesion of adjacent properties;
- (8) sales statistics;
- and (9) other characteristics deemed appropriate to assure equitable determinations.

Id., Ch. 2 at 7-8. In turn, base rates are used to establish the value of land within each neighborhood. Id. at 8.

- (4) Lake County assessing officials have no proof that the base rates were derived from sales data for at least 3% of the total number of parcels within each neighborhood;
- (5) the Calumet Township Assessor rather than the Lake County Assessor (the “Assessor”) developed all of the base rates in violation of Indiana Code § 6-1.1-4-13.6;
- (6) the valuations of certain parcels exceeded the 20% maximum allowable percentage variance;
- (7) the base rates had not changed between 2007 and 2017 even though land values were to be trended annually;⁴
- (8) the 2017 assessments of its five parcels were substantially higher than those of various nearby comparable properties;⁵ and
- (9) its parcels experienced large assessment fluctuations between 2005 and 2017 despite the fact that the market did not improve or change.

(See Cert. Admin. R. Pet. 306 at 26-30; Cert. Admin. R. Pet. 307 at 31-38; Cert. Admin. R. Pet. 308 at 30-31, 35-36; Cert. Admin. R. Pet. 309 at 30-34; Cert. Admin. R. Pet. 310 at 31-34.) See also REAL PROPERTY ASSESSMENT GUIDELINES FOR 2011 (incorporated by reference at 50 I.A.C. 2.4-1-2), Ch. 2 at 6-9 (discussing representative parcels, neighborhoods, maps, base rates, base lots, and the maximum allowable percentage variance). To illustrate the poor quality of the market, Gold Coast explained that Lake County may have to reduce several parcels’ sales prices from \$500 to \$100 each to

⁴ “Trending” is the process that applies an adjustment factor to the value of real property to estimate its value on a specific date. See 50 IND. ADMIN. CODE 27-5-1 (2022). In determining the adjustment factor, assessing officials typically use sales of properties in certain neighborhoods, areas, or classes that “ideally [occurred] not more than twelve (12) months before the January 1 assessment and valuation date.” 50 IND. ADMIN. CODE 27-5-2(a) (2022).

⁵ Gold Coast explained that the valuation differences between Parcel 1 and a few properties were troubling because 50% of Parcel 1 was wetlands and it had no street access, but the other properties with lower valuations were not wetlands and they all had street access. (See Cert. Admin. R. Pet. 306 at 26, 29.)

facilitate their sale, and it also urged the Indiana Board to review evidence from another case that revealed certain properties in Calumet Township were worthless. (See Cert. Admin. R. Pet. 306 at 28; Cert. Admin. R. Pet. 307 at 36.) Finally, Gold Coast explained that the valuations from the 2012 settlement agreement, the post-2006 trending factors, and information from certain assessing officials supported its claim that Parcel 1 should only be valued at \$600 and Parcels 2, 3, 4, and 5 should be valued at \$1,000 each. (See Cert. Admin. R. Pet. 307 at 34-35; Cert. Admin. R. Pet. 310 at 38.) (See also Cert. Admin. R. Pets. 306 to 310 at 1-2.)

In response, the Assessor implied that Gold Coast's critiques were meaningless because Young was not certified as a Level III Assessor-Appraiser. (See Cert. Admin. R. Pet. 306 at 30-31.) Also, the Assessor claimed that Gold Coast was not entitled to any assessment reductions because it offered as evidence only its own unsupported valuation opinions rather than reliable, probative market-based evidence. (See, e.g., Cert. Admin. R. Pet. 306 at 31-32, 37; Cert. Admin. R. Pets. 307 and 310 at 42; Cert. Admin. R. Pet. 308 at 33-34, 41; Cert. Admin. R. Pet. 309 at 40.)

On May 31, 2022, the Indiana Board issued five separate final determinations. (See Cert. Admin. R. Pet. 306 at 14-18; Cert. Admin. R. Pets. 307 and 310 at 19-24; Cert. Admin. R. Pets. 308 and 309 at 19-23.) The Indiana Board rejected Gold Coast's claims of undue prejudice, finding the telephonic hearings did not pose any hardship:

On January 13, 2022, we sent Gold Coast a second hearing notice, rescheduling the telephonic hearing for February 28, 2022. Our hearing notice states, "[i]f you believe a telephonic conference would cause a hardship, you may request a continuance and explain why it should be granted." Again, Gold Coast neither claimed that a telephonic hearing would cause hardship nor requested an in-person or Zoom hearing. Although our hearing notice contains detailed instructions as to how and where to send copies of documentary

evidence before the hearing, Gold Coast did not send any evidence. [Moreover, during the telephonic hearings,] Young did not explain why Gold Coast could not identify, offer, and exchange printouts of the GIS images it claim[ed] were so crucial to its presentation[s].

(See, e.g., Cert. Admin. R. Pet. 307 at 22 ¶ 13.) Regarding the claims that the 2017 land assessments should be lowered, the Indiana Board determined that Gold Coast failed to make a prima facie case for reducing any of the five parcels' assessments because it did not offer any market-based evidence that established the correct values of each. (See Cert. Admin. R. Pet. 306 at 16-18 ¶¶ 11-17; Cert. Admin. R. Pet. 307 at 22-23 ¶¶ 14-20; Cert. Admin. R. Pet. 308 at 22-23 ¶¶ 13-18; Cert. Admin. R. Pet. 309 at 21-23 ¶¶ 11-17; Cert. Admin. R. Pet. 310 at 22-23 ¶¶ 14-20.)

On June 17, 2022, Gold Coast filed five identical Petitions for Rehearing, arguing that it was entitled to a rehearing in each appeal because the Indiana Board's final determinations failed to address all of the issues that it raised during each telephonic hearing. (See, e.g., Cert. Admin. R. Pet. 306 at 19-21.) In the alternative, Gold Coast asked the Indiana Board to hold its rehearing decisions in abeyance because other cases were pending before both the Department of Local Government Finance and this Court that addressed the same issues. (See, e.g., Cert. Admin. R. Pet. 306 at 20.) On June 21, 2022, however, the Indiana Board denied each of the Petitions for Rehearing. (See, e.g., Cert. Admin. R. Pet. 306 at 22.)

On July 15, 2022, Gold Coast filed one small tax case for Parcels 1 through 5. On September 27, 2022, Gold Coast filed both its brief and the certified administrative record pursuant to Tax Court Rules 3(F) and 3(G). The Assessor did not file a brief in response

before the period prescribed by Tax Court Rule 3(G) lapsed.⁶ As a result, the Court took the case under advisement on November 2, 2022. Additional facts will be supplied if necessary.

STANDARD OF REVIEW

The party seeking to reverse an Indiana Board final determination bears the burden of demonstrating its invalidity. Lowe's Home Ctrs., Inc. v. Monroe Cnty. Assessor, 160 N.E.3d 263, 268 (Ind. Tax Ct. 2020). Consequently, Gold Coast must demonstrate to the Court that all of the Indiana Board's final determinations in this matter are arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; contrary to constitutional right, power, privilege, or immunity; in excess of or short of statutory jurisdiction, authority, or limitations; without observance of the procedure required by law; or unsupported by substantial or reliable evidence. IND. CODE § 33-26-6-6(e)(1)-(5) (2022).

LAW AND ANALYSIS

On appeal, Gold Coast contends that the Indiana Board's final determinations must be reversed because they are erroneous. (See Pet'r Br. at 3-30.) More specifically, Gold Coast claims that the Indiana Board erred in upholding its 2017 land assessments because Lake County assessing officials did not follow the statutes and regulations that prescribed specific steps to develop the base rates for land assessments. (See Pet'r Br. at 6-11, 28-30, Exs. A to L at 32-66.) Gold Coast maintains that the Lake County assessing officials committed a litany of assessment irregularities, as corroborated by the

⁶ The Assessor filed her response brief after the deadline for doing so had elapsed, and she did not request that the belated filing be considered for good cause. Accordingly, the Tax Court will not consider the Assessor's response brief in resolving this case.

twelve exhibits it attached to its brief to this Court, which demonstrated that they failed to establish reassessment plans for the 2018 and 2022 assessment cycles in accordance with statutory deadlines, to use base rates from obsolete land orders to value the land in Calumet Township, to update the map that delineates the boundaries of Calumet Township's 92 neighborhoods, to consider the extreme variations in comparable vacant land assessments, to establish legitimate base rates by using a sample of no less than 3% of the sales in neighborhoods, and to permit the assessed values of Calumet Township land to exceed the 20% maximum allowable percentage variance. (See Pet'r Br. at 12-27.)

At the outset, the Court notes that Gold Coast has chosen to proceed pro se. Litigants are not given special consideration by virtue of their pro se status. Kelley v. State, 166 N.E.3d 936, 937 (Ind. Ct. App. 2021) (citing Sidener v. State, 446 N.E.2d 965, 966 (Ind. 1983)). To the contrary, “[i]t is well settled that pro se litigants are held to the same legal standards as licensed attorneys.” Id. (citation omitted and emphasis added). Consequently, this means that Gold Coast must follow the established rules of procedure and must be prepared to accept the consequences of its failure to do so. See id. See also Bedree v. DeGroote, 799 N.E.2d 1167, 1171 (Ind. Ct. App. 2003) (cautioning that invoking the rules of appellate procedure and appealing decisions made by small claims tribunals “are beyond the ken of the average person who has no legal training, and that is true whether the litigant is in small claims court or in a regular trial court”), trans. denied.

Gold Coast has implored the Court to conduct a de novo review in this case and consider the twelve exhibits attached to its brief, which are not included in the certified administrative record. (See Pet'r Br. at 5-7). It is well settled, however, that in challenges

to the final determinations of the Indiana Board, the Tax Court is a record-reviewing court – an intermediate reviewer – not the trier of fact. See, e.g., North Park Cinemas, Inc. v. State Bd. of Tax Comm’rs, 689 N.E.2d 765, 767-68 (Ind. Tax Ct. 1997); State Bd. of Tax Comm’rs v. Gatling Gun Club, Inc., 420 N.E.2d 1324, 1326-29 (Ind. Ct. App. 1981) (collectively indicating that record review is the norm for the Tax Court, not the exception). But see IND. CODE §§ 6-1.1-15-5(g), -6 (2022) (allowing for de novo review in the Tax Court in limited instances that do not apply here). As such, the Court’s “review of disputed issues of fact must be confined to . . . the record of the proceeding before the [Indiana Board] and . . . any additional evidence” received only as permitted under Indiana Code § 33-26-6-5. IND. CODE § 33-26-6-3 (2022). See also, e.g., Idris v. Marion Cnty. Assessor, 12 N.E.3d 331, 333 n.7 (Ind. Tax Ct. 2014) (declining to consider newly presented evidence); Gatling Gun Club, 420 N.E.2d at 1326-29 (discussing the limited nature of the scope of judicial review of administrative agency decisions in general). Indiana Code § 33-26-6-5 provides that the Court

may receive evidence in addition to that contained in the record of the determination of the [Indiana Board] only if the evidence relates to the validity of the determination at the time it was taken and is needed to decide disputed issues regarding one (1) or both of the following:

- (1) Improper constitution as a decision[-]making body or grounds for disqualification of those taking the agency action.
- (2) Unlawfulness of procedure or decision[-]making process.

This subsection applies only if the additional evidence could not, by due diligence, have been discovered and raised in the administrative proceeding giving rise to a proceeding for judicial review.

IND. CODE § 33-26-6-5(b) (2022).

The twelve exhibits Gold Coast attached to its brief are copies of the following: (1) a one-page excerpt of the final determination for Parcel 2; (2) page 3 of the 2021 Real Property Assessment Manual; (3) a two-page excerpt of the minutes from the PTABOA's hearing of April 6, 2022; (4) an undated, one-page Lake County Cyclical Reassessment Plan; (5) an undated, two-page Lake County Cyclical Reassessment Plan; (6) minutes from the PTABOA's hearing of April 20, 2022; (7) emails between Young and certain assessing officials regarding the sales data used to establish the base rates in Calumet Township; (8) an undated map of Calumet Township; (9) another undated Calumet Township map produced as a result of Young's request; (10) emails between Young and certain assessing officials regarding the provision of land orders; (11) spreadsheets of property sales with over 20 columns describing, for example, each property's state parcel number, property class code, sale date, adjusted sale price, certified assessed value of the land, and certified assessed value of the improvements; and (12) minutes from the PTABOA's hearing of July 11, 2018. (See Pet'r Br. at Exs. A to L at 32-66.) Gold Coast does not claim that the Court may consider these exhibits because the requirements of Indiana Code § 33-26-5-5 have been met; but rather, it claims the Court may consider them because they were "newly discovered." (See Pet'r Br. at 7-9.) Gold Coast explains that it attempted to obtain the exhibits from Lake County assessing officials on "multiple occasions" before the Indiana Board hearings, but they "refused to provide the information that was requested" or provided "false information" until after the Indiana Board hearings were conducted. (See Pet'r Br. at 7-9.)

The certified administrative record, however, belies Gold Coast's claims. Indeed, the record indicates that Lake County assessing officials provided Gold Coast with the

documentation it requested before the Indiana Board hearings. (See Cert. Admin. R. Pet. 307 at 35 (where Young explains that “[w]e’re still waiting for some documentation, but got plenty of documentation so far that demonstrates they’re not doing this [(i.e., developing base rates)] according to law”); Cert. Admin. R. Pet. 308 at 30 (testifying that the neighborhood-specific evidence that the Lake County assessing officials provided did not include certain sales data).) Moreover, although Gold Coast’s sole witness, Young, spent considerable time disparaging Lake County assessing officials and insinuating that they and the Indiana Board did not care about accurate assessments, (see, e.g., Cert. Admin. R. Pet. 308 at 31-33; Cert. Admin. R. Pet. 309 at 31-34), he never made the claim that Lake County assessing officials failed to produce any of the twelve exhibits. (See Cert. Admin. R. Pet. 306 at 24-37; Cert. Admin. R. Pet. 307 at 30-42; Cert. Admin. R. Pet. 308 at 29-41; Cert. Admin. R. Pet. 309 at 29-40; Cert. Admin. R. Pet. 310 at 30-42.) Consequently, there is no evidence before the Court that indicates that the twelve exhibits at issue constitute “newly discovered” evidence. See, e.g., Goshen Pub. Libr. of Elkhart Cnty. v. Dep’t of Local Gov’t Fin., 128 N.E.3d 574, 579 (Ind. Tax Ct. 2019), review denied; Freson v. Combs, 433 N.E.2d 55, 59 (Ind. Ct. App. 1982) (both indicating that the unsworn statements made by a litigant’s representative in a brief are not considered evidence). Therefore, the Court will not consider the twelve exhibits attached to Gold Coast’s brief in resolving this appeal.

Finally, even if the Tax Court were to consider Gold Coast’s twelve exhibits, they would not aid Gold Coast’s claims. First, several of the exhibits have information specific to years before or after the 2017 valuation date and thus do not constitute probative evidence because Gold Coast has not related that information to the 2017 valuation and

assessment dates. (See Pet'r Br. at 6-9.) See also Garrett LLC v. Noble Cnty. Assessor, 112 N.E.3d 1168, 1173 (Ind. Tax Ct. 2018) (explaining that when taxpayers present property values from a period different than the assessment date, they must relate that evidence to the appropriate valuation and assessment dates). Also, Gold Coast has not supported its claims that the Indiana Board's final determinations were erroneous by citing to evidence in the certified administrative record, and the Court does not have an affirmative duty to make a case on behalf of a party. See, e.g., Lowe's Home Ctrs., 160 N.E.3d at 273-74. Finally, the Indiana Board, as trier of fact, weighed the credibility and reliability of the record evidence, finding that Gold Coast had not offered probative market-based evidence to demonstrate the five parcels' correct values for the 2017 tax year, and the Tax Court does not have the statutory authority to review the evidence de novo. See Freudenberg-NOK Gen. P'ship v. State Bd. of Tax Comm'rs, 715 N.E.2d 1026, 1030 (Ind. Tax Ct. 1999) (explaining that the Tax Court may not reweigh the evidence nor judge the credibility of the witnesses), review denied. Accordingly, the Court finds that Gold Coast has not shown that it is entitled to the relief it seeks.

CONCLUSION

For the foregoing reasons, Gold Coast has not demonstrated that any of the Indiana Board's five final determinations are erroneous. Therefore, the Indiana Board's final determinations are AFFIRMED.