PETITIONER APPEARING PRO SE:
ANDY YOUNG
Wadsworth, IL

ATTORNEY FOR RESPONDENT:
RICARDO A. HALL
KOPKA PINKUS DOLIN PC
Crown Point, IN

IN THE INDIANA TAX COURT

ANDY YOUNG,	)	
	)	
Petitioner,	)	
	)	
v.	)	Case No. 22T-TA-00002
	)	
LAKE COUNTY ASSESSOR,	)	
	)	
Respondent.	)	

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

FOR PUBLICATION
August 31, 2022

WENTWORTH, J.

Andy Young appeals the Indiana Board of Tax Review's final determinations that reduced one of his four residential real property assessments for the 2017 tax year. Upon review, the Court affirms the Indiana Board's final determinations.

FACTS AND PROCEDURAL HISTORY

Between August 2003 and October 2006, Young purchased the four residential properties that are the subject of this appeal: (1) Parcel No. 45-08-18-427-031.000-003 ("Parcel 1"), (2) Parcel No. 45-08-18-427-034.000-003 ("Parcel 2"); (3) Parcel No. 45-08-19-126-014.000-003 ("Parcel 3"), and (4) Parcel No. 45-08-18-428-020.000-003 ("Parcel

4").[1] (See Cert. Admin. R. Vol. 1 at 105-09; Cert. Admin. R. Vol. 2 at 23-25; Cert. Admin. R. Vol. 3 at 23-28; Cert. Admin. R. Vol. 4 at 23-26.) Each of the 11,700 square foot parcels were located in Gary, Calumet Township, Lake County, Indiana. (Cert. Admin. R. Vol. 1 at 105-06; Cert. Admin. R. Vol. 3 at 23-24; Cert. Admin. R. Vols. 2 and 4 at 23.) Parcel 1 had a 1,032 square foot residence and Parcel 3 had a 777 square foot residence with a 20' x 22' detached garage; Parcels 2 and 4 had no improvements. (Cert. Admin. R. Vol. 1 at 105-06; Cert. Admin. R. Vol. 3 at 23-24; Cert. Admin. R. Vols. 2 and 4 at 23.)

For the 2017 tax year, the Calumet Township Assessor valued Parcel 1 at $8,500; Parcel 3 at $6,100; and Parcels 2 and 4 at $4,300 each. (Cert. Admin. R. Vol. 1 at 105-06; Cert. Admin. R. Vol. 3 at 23-24; Cert. Admin. R. Vols. 2 and 4 at 23.) Believing those values to be too high, Young sought review with the Lake County Property Tax Assessment Board of Appeals (the "PTABOA") in May of 2018. (See, e.g., Cert. Admin. R. Vol. 1 at 9-19.) On November 19, 2020, the PTABOA notified Young that while it had reduced the assessment of Parcel 1 from $8,500 to $7,400, it made no changes to the assessments of Parcels 2, 3, and 4. (Cert. Admin. R. Vols. 1 to 4 at 6-8.)

Unsatisfied with the PTABOA's decisions, Young filed four appeals with the Indiana Board on January 5, 2021, electing to have each heard under the Indiana Board's small claims procedures. (See, e.g., Cert. Admin. R. Vol. 1 at Summ. Proc. Before Ind. Bd. Tax Rev., 1-5.) On September 27, 2021, the Indiana Board held back-to-back

[1] The Indiana Board held separate hearings on each of the four appeals and, thus, prepared four separate certified administrative records. The Court refers to the certified administrative records as "Cert. Admin. R. Vol. 1," "Cert. Admin. R. Vol. 2," and so forth.

hearings on the four separate appeals.[2]

Young's Evidentiary Presentation to the Indiana Board

During the Indiana Board hearings, Young claimed that his properties' assessments failed to reflect their market values. (See, e.g., Cert. Admin. R. Vol. 1 at 131-38.) Young explained that this was the case because the assessed values of properties in Calumet Township, particularly the base rates used to determine the assessed value of land, had not reflected actual market values for years. (See, e.g., Cert. Admin. R. Vol. 1 at 131-38; Cert. Admin. R. Vol. 2 at 126-27; Cert. Admin. R. Vol. 4 at 122-23.) Moreover, Young claimed that the assessed value assigned to Parcel 3's improvements should be removed because the Assessor's records had not been updated to reflect that the buildings had been removed as early as 2007.[3] (See Cert. Admin. R. Vol. 3 at 137-40.) As evidence to support his claims, Young presented, among other things, a set of documents for each parcel that contained: copies of emails, a page from a newspaper, a request for proposals, excerpts from five appraisals of other properties, a land comparison chart, and a settlement agreement. (See, e.g., Cert. Admin. R. Vol. 1 at 37-100, 139-40, 145-46.)

[2] The Indiana Board determined that Young bore the burden of proof under Indiana Code § 6-1.1-15-17.2 because he had not successfully appealed the parcels' assessments in 2016, and none of assessments had increased by more than 5% from 2016 to 2017. (See Cert. Admin. R. Vol. 1 at 130-31; Cert. Admin. R. Vol. 3 at 136; Cert. Admin. R. Vols. 2 and 4 at 122.)

[3] Young also claimed that Lake County assessing officials arbitrarily applied negative influence factors to vacant land in Calumet Township and failed to adjust the value of properties in "blighted" areas. (See, e.g., Cert. Admin. R. Vol. 3 at 139, 142; Cert. Admin. R. Vol. 4 at 122-27.) Moreover, Young questioned whether the use of the word "sound" on the property record cards for Parcels 1 and 3 was intended to reflect the condition of the improvements on those parcels. (See Cert. Admin. R. Vol. 1 at 150-51; Cert. Admin. R. Vol. 3 at 136-37.)

The Emails

Young offered a copy of a 2006 email exchange between himself and certain Lake County assessing officials regarding approximately 1,700 properties in Gary that were sold for approximately $10.00 each during an October 2004 tax sale. (See, e.g., Cert. Admin. R. Vol. 1 at 102-04.) Young asked the assessing officials to adjust the properties' assessed values to coincide with their lower sales prices to avoid "throw[ing] off" Gary's annual budgeting process. (See, e.g., Cert. Admin. R. Vol. 1 at 103-04.) In response, one of the assessing officials sent an email both to his colleagues and to Young that acknowledged that "[s]ome of the [properties'] assessed values [were] waaay above" their sales prices and suggested that "[s]omeone need[ed] to do a little math and reduce those values." (See, e.g., Cert. Admin. R. Vol. 1 at 102 (emphasis added).) Young maintained, however, that nothing was ever done. (See Cert. Admin. R. Vol. 1 at 149-50.)

The Newspaper Page

The newspaper page, dated October 27, 2008, contained a list of approximately 80 residential properties that were to be offered for sale in "as is" condition by Gary's Redevelopment Commission (the "Commission"). (See, e.g., Cert. Admin. R. Vol. 1 at 37.) The list of properties included columns that provided each property's key number, address, legal description, assessed value, zoning code, lot size, and appraised value. (See, e.g., Cert. Admin. R. Vol. 1 at 37.) The lot sizes of the properties ranged from 1,800 to 5,625 square feet (with the majority being 3,750 square feet), the assessed values of the properties ranged from $90 to $45,900, and the appraised values ranged from $125 to $225 (with the majority being at $150). (See, e.g., Cert. Admin. R. Vol. 1 at 37.) Young maintained that this "background information" illustrated the historical disparities between

the assessments and market values of properties in Calumet Township. (See Cert. Admin. R. Vol. 1 at 136-37.)

The Request for Proposals

Young provided a copy of the Commission's request for proposals document that solicited sealed bids for developing 138 "[s]cattered site parcels generally bounded north and south by 25th Avenue and I80/94 (Borman Expressway) and east and west between Chase Street and Burr Street" during the month of October 2019. (See, e.g., Cert. Admin. R. Vol. 1 at 38-53 (emphasis omitted).) The request for proposals simply listed the 138 properties, their parcel numbers, and their addresses. (See, e.g., Cert. Admin. R. Vol. 1 at 44-50.) Young explained that because the Commission was required to have the properties appraised before offering them for sale, the minimum sales price of $275,000 reflected their collective market value. (See Cert. Admin. R. Vol. 1 at 132.) Young went on to compute the individual value of the 138 properties as follows:

> Out of th[e] 138 parcels[,] we know one parcel is 35 acres. If you took the very minimum, minimum, minimum acreage value for [these] 35 acres[,] which would be $2,000 for undeveloped unusable, that would be $70,000 off the top. You would have $205,000, which you would then divide [by] the other 137 [parcels], $205,000 divided by 137 equals $1,496. So . . . we have to assume [that] their appraisal came in at approximately $1,496 for a similar lot. Now we also know that some of these [parcels] are double and triple lots[,] so that would even bring that amount down.

(Cert. Admin. R. Vol. 1 at 133.) Young explained that the request for proposals showed that several properties located near his four appealed parcels that had identical characteristics were over-assessed just like his four parcels. (See Cert. Admin. R. Vol. 1 at 132-33, 138-39; Cert. Admin. R. Vol. 2 at 123-24.)

The Appraisals

Young also offered excerpts from five appraisals that valued vacant parcels in Calumet Township for either the year at issue or February 15, 2020.[4] (See, e.g., Cert. Admin. R. Vol. 1 at 54-89, 91-100.) More specifically, the valuations in the three appraisals for the year at issue ranged from $50 to $1,000 for vacant land totaling between 4,375 to 10,050 square feet. (See, e.g., Cert. Admin. R. Vol. 1 at 54-89.) In turn, the other two appraisals for the valuation date of February 15, 2020, provided that the land value of a 4,120 square foot vacant parcel was $300, and the land value of a vacant parcel totaling 4,675 square feet was $350. (See, e.g., Cert. Admin. R. Vol. 1 at 91-100.) Young explained that the appraisals were further evidence of the disparity between the assessed values and market values of land in Calumet Township. (See Cert. Admin. R. Vol. 1 at 140-49.)

The Land Comparison Chart

Young also provided a one-page land comparison chart derived from one of the five appraisals. (See, e.g., Cert. Admin. R. Vol. 1 at 90, 146.) It contained sales data (i.e., the addresses, list prices, sale dates, sale prices, lot sizes, and sale prices per square foot) for 30 vacant lots in Hammond and East Chicago that were sold between 2014 and 2017. (See, e.g., Cert. Admin. R. Vol. 1 at 146.) Young explained that the sales data, which he found to be reliable because it accurately depicted what he had paid for one of the 30 properties, was used to develop one of the appraisals for the year at issue thus further exemplifying the chronic land assessment problem in Calumet

[4] Two of the appraisals, one for the year at issue and the other for the valuation date of February 15, 2020, valued multiple vacant parcels as if they were one property. (See, e.g., Cert. Admin. R. Vol. 1 at 54-69, 96-100.)

Township. (See Cert. Admin. R. Vol. 1 at 146.)

The Settlement Agreement

Finally, Young presented an eight-page "Settlement Agreement Concerning Complaint to Determine the Validity, Priority and Extent of Liens and Interests Together with Motion to Dismiss" related to his 2012 Chapter 11 bankruptcy proceeding. (See, e.g., Cert. Admin. R. Vol. 1 at 29-36.) The Settlement Agreement, which applied to approximately 120 of Young's properties located in Gary, Lake Station, and Dyer, Indiana, indicated that he and the Lake County assessing officials "agreed upon [the assessed valuation] for the taxable years involved in each property to and including 2010 taxes, payable in 2011" as $6,200 for Parcel 1, $2,100 for Parcel 3, and $2,700 each for Parcels 2 and 4. (See, e.g., Cert. Admin. R. Vol. 1 at 30 ¶ 1, 34-36.) The Settlement Agreement also provided that

> the property classification and assessed valuations used herein on each and every parcel of land are accepted . . . as the basis upon which any tax increases or decreases [shall] occur and that these properties will be treated in the exact same manner as any other properties in Lake County, using the same methodologies as any other properties in Lake County based on the agreed property classification assessment valuation found herein. . . . [T]here will be a general reassessment of all real estate in Lake County, Indiana in 2013 and [] these properties will be treated in the same manner using the same methodologies as all other properties in Lake County, Indiana for said reassessment.

(See, e.g., Cert. Admin. R. Vol. 1 at 32 ¶¶ 5-6.) Young claimed the Settlement Agreement had not been followed because the agreed upon assessed values for his four parcels were not entered into Lake County's computerized property assessment system. (See Cert. Admin. R. Vol. 2 at 122-24; Cert. Admin. R. Vol. 3 at 143.) Furthermore, Young argued that his parcels' assessments should be reduced to reflect either half or the entire

amount of the agreed upon settlement values, i.e., $3,100 for Parcel 1, $2,100 for Parcel 3, and $2,700 each for Parcels 2 and 4, because those values were the best indications of the parcels' values during the year at issue. (See Cert. Admin. R. Vol. 1 at 138; Cert. Admin. R. Vol. 2 at 124; Cert. Admin. R. Vol. 3 at 143-45; Cert. Admin. R. Vol. 4 at 127.)

The Assessor's Evidentiary Presentation to the Indiana Board

The Lake County Assessor objected to the set of exhibits that Young offered as evidence, claiming that they were not relevant. (See, e.g., Cert. Admin. R. Vol. 1 at 136-39, 141-42, 145-47.) Rather than offering documentary evidence to support her assessments of Young's four parcels, the Assessor merely asserted that each assessment must stand because Young failed to present relevant market-based evidence in support of his requested assessment reductions. (See, e.g., Cert. Admin. R. Vols. 1 to 4 at R. Contents; Cert. Admin. R. Vol. 2 at 128; Cert. Admin. R. Vol. 3 at 144.)

The Indiana Board's Final Determinations

On December 27, 2021, the Indiana Board issued four separate final determinations overruling each of the Assessor's objections to admitting Young's exhibits. (See, e.g., Cert. Admin. R. Vol. 1 at 110, 112-13 ¶¶ 7-8.) With respect to Parcel 3, the Indiana Board determined that Young had made a prima facie case for an assessment reduction because his "unrebutted testimony established that [Parcel 3] was unimproved" during the year at issue. (See Cert. Admin. R. Vol. 3 at 121-22 ¶ 11.) The Indiana Board declined, however, to reduce the assessments for Parcels 1, 2, and 4, explaining that Young "offered no probative market-based evidence to demonstrate [each] property's correct market value-in-use" and that he "failed to demonstrate that [Parcel 1 was] assessed above the common level of assessment" during the year at issue. (See Cert.

Admin. R. Vol. 1 at 115-17 ¶ 11; Cert. Admin. R. Vols. 2 and 4 at 106-08 ¶ 11.) Accordingly, the Indiana Board concluded on values of $7,400 for Parcel 1, $3,500 for Parcel 3, and $4,300 each for Parcels 2 and 4. (See Cert. Admin. R. Vol. 1 at 111 ¶ 1, 117; Cert. Admin. R. Vol. 3 at 118 ¶ 1, 122; Cert. Admin. R. Vols. 2 and 4 at 104 ¶ 1, 108.)

On January 14, 2022, Young filed four identical Petitions for Rehearing, arguing that he was entitled to a rehearing because the Indiana Board's final determination was based on improper hearsay and the proceedings before the PTABOA were biased. (See, e.g., Cert. Admin. R. Vol. 1 at 118-27.) Young also claimed the Indiana Board had "ignore[d] the glaring evidence that [shows] something is terribly wrong with the assessments of vacant property in Calumet Township[,]" failed to conduct a de novo review of his appeals, and issued four final determinations that "consisted of a stack of excuses with a bunch of mumbo jumbo backing up [each of the] decision[s]." (See, e.g., Cert. Admin. R. Vol. 1 at 120-21, 123.) On January 18, 2022, the Indiana Board denied each of the Petitions for Rehearing. (See, e.g., Cert. Admin. R. Vol. 1 at 128.)

On February 8, 2022, Young filed one original tax appeal for Parcels 1 through 4.[5] On July 11, 2022, the Court took the appeal under advisement. 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, Young must demonstrate to the

[5] While the parties' briefs indicate that Young filed a small tax case pursuant to Tax Court Rule 16, his documentation initiating his appeal made no reference to Tax Court Rule 16. (Compare Pet'r Br. and Resp't Br. at Title Page with Pet'r Pet. Original Tax Appeal Fin. Determination [Ind. Bd. Tax Rev. or Dep't Local Gov't Fin.].)

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

In his brief to the Court, Young states that

> [Lake County's assessing officials] have failed to use any rational and consistent methodology in establishing the base rates for land in Calumet Township[.] . . . The failure to follow State Law, and the failure to follow the rules and procedures regarding the determination of base rates for land according to [Indiana's assessment guidelines], has resulted in real property assessments in Calumet Township that are arbitrary and capricious.
>
> * * * * *
>
> The Calumet Township Assessor would have you believe that the[] base rates which are the foundational basis for every [land] assessment [in Calumet Township], have been brought down from Mount Sinai by Moses himself on a tablet; and that they are literally etched in unalterable stone; and that their creation is beyond any possible reproach and that their accuracy (or inaccuracy in nearly all cases) is completely unassailable. . . . But do not fall for it! Nothing could be further from the truth. There was no method followed. [Lake County's assessing officials] did not follow any statutory process as Indiana law required them to follow. They completely ignore[d] most, if not all[,] of the instructions in [Indiana's assessment guidelines]. In sum, there was not a chance that they could have gotten anything right when they went about everything all wrong.

(Pet'r Br. at 15-16.) Young maintains that the litany of assessment improprieties, as evidenced by eight exhibits he attached to his brief, included failing to establish reassessment plans in accordance with statutory deadlines, using base rates from obsolete land orders to value the land in Calumet Township, failing to establish legitimate

base rates by using a sample of no less than 3% of the sales in certain neighborhoods, and failing to ensure the assessed values of land in Calumet Township did not exceed the maximum allowable percentage variance of 20%. (See Pet'r Br. at 5-13, Exs. A to H at 19-40; Pet'r Reply Br. at 3-9.) Finally, Young claims that this "visible and clearly detectable system failure [in Calumet Township] needs to be fixed . . . [by] the appropriate authorities of the State of Indiana[,]" and he therefore asks the Court to "issue an order that will set that ball in motion." (Pet'r Br. at 16.)

At the outset, the Court notes that Young 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)). Indeed, "'[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, Young must follow the established rules of procedure and must be prepared to accept the consequences of any failure to do so. See id.

The Tax 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 pursuant to Indiana Code § 33-26-6-5. IND. CODE § 33-26-6-3(b) (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); State Bd. of Tax Comm'rs v. Gatling Gun Club, Inc., 420 N.E.2d 1324, 1326-29 (Ind. Ct. App. 1981) (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 eight exhibits that Young attached to his brief are copies of the following: (1) a two-page excerpt of the minutes from the PTABOA's hearing of April 6, 2022; (2) the 2018 to 2021 Lake County Cyclical Reassessment Plan; (3) the 2022 to 2025 Lake County Cyclical Reassessment Plan; (4) the cover page for and minutes of the PTABOA's hearing of April 6, 2022; (5) emails between Young and the Assessor regarding neighborhood base rates; (6) a map of Calumet Township; (7) another map of Calumet Township produced as a result of Young's request; and (8) emails between Young and certain assessing officials regarding Lake County's cyclical reassessment plans. (See Pet'r Br., Exs. A-H at 19-40.) None of these exhibits were admitted into evidence during the administrative proceedings and thus, they are not included in the certified administrative records. (See Cert. Admin. R. Vols. 1 to 4.) Moreover, Young has not established that the Court may consider the exhibits by showing that the requirements of Indiana Code § 33-26-5-5 have been satisfied. (See Pet'r Br. at 2-17; Pet'r Reply Br. at 3-9.) Consequently, the Court cannot consider these eight exhibits in resolving Young's appeal.

The Court does not have an affirmative duty to make a case on behalf of a party; rather, the party is responsible for presenting arguments and directing the Court to the record evidence and any legal authority that supports his position. See, e.g., Lowe's Home Ctrs., 160 N.E.3d at 273-74. Young has not directed the Court to any evidence in the record that shows that the Indiana Boards's final determinations are an abuse of discretion, contrary to law, without observance of the procedure required by law, or unsupported by substantial evidence.[6] Accordingly, the Court finds that Young has not shown he is entitled to the relief he seeks given that the Court cannot consider any of the evidence that he has relied upon to support his position on appeal.

CONCLUSION

For the foregoing reasons, Young has not demonstrated that the Indiana Board's final determinations are erroneous. Therefore, the Indiana Board's final determinations are AFFIRMED.

[6] Young seems to have made an equitable claim, arguing that he should not bear the burden of producing probative evidence to show that "the local assessors' proposed values are not accurate[because] the local assessors have not properly established and determined the land base rates according to law." (Pet'r Reply Br. at 8.) Although Young's complaints are troubling if valid, he failed to provide the Court with cognizable tools to permit the application of an equitable doctrine just like he failed to provide relevant evidence to show a legal infirmity. Lowe's Home Ctrs., Inc. v. Monroe Cnty. Assessor, 160 N.E.3d 263, 273-74 (Ind. Tax Ct. 2020) (explaining that the onus is on parties, not the Court, to make cogent arguments).