REPRESENTATIVE FOR THE PETITIONER: Ovidiu Ciceu, *Pro Se*

REPRESENTATIVE FOR THE RESPONDENT: Sarah Schreiber, Haller & Colvin, P.C
Hannah Alderks, Haller & Colvin, P.C

BEFORE THE INDIANA BOARD OF TAX REVIEW

Ovidiu Ciceu,	)	Petition Nos.: 42-022-23-1-5-00110-24
	)	
Petitioner,	)	Parcel Nos.: 42-12-21-115-014.000-022
	)	
v.	)	County: Knox
	)	
Knox County Assessor,	)	Assessment Year: 2023
	)	
Respondent.	)	

October 1, 2024

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. Ovidiu Ciceu appealed the 2023 assessment of a house in Vincennes. Because the burden of proof has shifted and neither party offered reliable evidence of value, we must presume that the prior year's assessment of $111,000 is correct.

PROCEDURAL HISTORY

2. On June 1, 2023, Ovidiu Ciceu filed a Form 130 Petition contesting the 2023 assessment of property located at 602 North 6th Street in Vincennes. On December 29, 2023, the Knox County Property Tax Assessment Board of Appeals ("PTABOA") issued its Form 115 determination valuing the property at $153,600 ($4,500 for land and $149,100 for

improvements).

3. On February 22, 2024, Ciceu filed a Form 131 Petition with the Board. On July 9, 2024, Natasha Marie Ivancevich, the Board's Administrative Law Judge ("ALJ"), held a telephonic hearing. Neither the Board nor the ALJ inspected the subject property. Ciceu and Knox County Assessor Robert Woodward were sworn and testified under oath.

4. Ciceu offered the following exhibits[1]:

Petitioner Ex. 1:	Letter from Ciceu to ALJ
Petitioner Ex. 2:	Letter from Ciceu to Public Access Counselor
Petitioner Ex. 3:	Petitioner's Reply Brief in *Ciceu v. Knox Cnty. Assessor*, 232 N.E.3d 662 (Ind. Tax Ct. 2024)
Petitioner Ex. 4:	Photographs, listing information, property record cards, and Page 1 of IBTR decision.
Petitioner Ex. 5:	Screenshots of text messages

5. The Assessor offered the following exhibits.

Respondent Ex. A:	Summary of sales comparison report
Respondent Ex. B:	Property Record Card and information on Comparables
Respondent Ex. C:	*Ciceu v. Knox Cnty. Assessor*, 232 N.E.3d 662 (Ind. Tax Ct. 2024)
Respondent Ex. D:	Letter from Assessor to Ciceu
Respondent Ex. E:	Opinion of Public Access Counselor
Respondent Ex. F:	Screenshot from Assessor's website

6. The record also includes the following: (1) all pleadings, briefs, and documents filed in these appeals, (2) all orders, and notices issued by the Board or ALJ; and (3) a digital recording of the hearing.

OBJECTIONS

7. The Assessor objected to Petitioner's Ex. 1, a letter from Ciceu to the ALJ, on the grounds of hearsay and relevance. The Assessor also objected to Petitioner's Ex. 2, the

[1] Ciceu submitted Petitioner's Ex. 6, an excerpt from an IBTR determination, on July 9 after the hearing had concluded. Ciceu stated at the end of the hearing he would be sending the exhibit for the Board's consideration. The Assessor objected on the grounds that it was not timely exchanged. 52 IAC 4-6-15 provides that no post-hearing evidence will be accepted unless requested by the Board or ALJ. Thus, the request to admit this exhibit is denied. But we note that prior IBTR determinations need not be admitted into evidence in order for us to consider them.

letter to the Public Access Counselor, on the same grounds. We may admit hearsay with the caveat that if such evidence is properly objected to and does not fall within a recognized exception to the hearsay rule, we cannot base our determination solely on that evidence. 52 IAC 4-6-9. The exhibits contain both irrelevant and relevant information, but we find they meet the minimal standard for relevance. Thus, we overrule the relevance objections and admit the exhibits.

8. The Assessor objected to a portion of Petitioner's Ex. 4, namely the first page of an IBTR decision, on the grounds that the exhibit was incomplete, and it was unclear whether it involved the subject property. We note that IBTR decisions are not required to be submitted into evidence for us to consider them, and that the full decision is available on our website. Thus, we overrule the objection and admit the exhibit.

9. The Assessor objected to Petitioner's Ex. 5, screenshots of the text messages, on the grounds that they were not relevant. We find they meet the minimal standard for relevance and overrule the objection and admit the exhibit.

10. The Assessor objected to some of Ciceu's testimony regarding an appraisal or assessment that was previously performed on the subject property because the Assessor's counsel had not seen the document in question. We interpret this as a hearsay objection. As discussed above, we may admit hearsay provided we do not solely base our determination on it. Thus, we overrule the objection but do not solely rely on the testimony in reaching our decision.

11. Ciceu objected to the admission of Respondent's Ex. A, the summary of the sales comparison report, on the grounds that the comparables were not similar to the subject property in several respects. He also objected to Respondent's Ex. B on similar grounds. These objections go more to the weight the evidence should be given rather than their admissibility. Thus, we overrule the objections and admit the exhibits.

12. Ciceu objected to the admission of Respondent's Ex. D, the Assessor's letter to Ciceu, on the grounds that he never received it. We take this to mean that he did not receive the

letter when it was originally mailed, not that he did not receive the letter when evidence was exchanged. We find the objection goes more to the weight the evidence should be given rather than its admissibility. Thus, we overrule the objection and admit the exhibit.

13. Ciceu objected to the admission of Respondent's Ex. F, the screenshot from the Assessor's website, but did not cite to any specific authority for its exclusion. Thus, we overrule the objection and admit the exhibit.

FINDINGS OF FACT

14. The subject property consists of a 1,294 square foot, two-story Victorian style brick residence and associated land in Vincennes. It has 1.5 bathrooms and 5 bedrooms. It has no air conditioning and is heated with a coal or wood-burning stove. *Ciceu testimony; Woodward testimony; Respondent Ex. B.*

15. The 2023 assessment under appeal of $153,600 is an approximately 38% increase above the prior year's assessment of $111,000. *Resp't Ex. D.*

CONTENTIONS

A. The Assessor's Contentions

16. To support the assessment, the Assessor offered his own sales-comparison analysis. The Assessor is a Level III Assessor-Appraiser and has been employed by the Knox County Assessor's Office since 2016. He selected five comparables and adjusted the sale prices for factors such as above grade area, HVAC, basement, attic, garage, and grade. He quantified the adjustments using data from "Indiana's cost table as applied within XSoft's computer assisted mass appraisal (CAMA) software." After adjustment, the sale prices ranged from $127,880 to $202,108, with an average of $150,698 and a median of $134,540. He reconciled this to a value of $153,600. *Woodward Testimony; Resp't. Ex. B.*

17. The Assessor also argued that Ciceu failed to make a case for a lower assessment. Instead, the Assessor argued that Ciceu simply made serious, although unfounded, allegations about corruption, prejudice, and discrimination. The Assessor also noted that Ciceu's notices were mailed to the address on file. *Woodward testimony.*

B. Ciceu's Contentions

18. Ciceu argued the Assessor is unfairly assessing his property because of his past romantic involvement with the prior assessor. In particular, he argued that the subject property's assessment has significantly increased while other properties' assessments have decreased or nominally increased. He also claimed that the Assessor was not mailing him documents related to his assessments. He requested the Board order the Assessor to send all documents via certified mail going forward. *Ciceu testimony.*

19. Ciceu also made some reference to an appraisal commissioned by the Assessor that valued the property at $95,000. He questioned why the Assessor was not using that figure for the assessment. *Ciceu testimony.*

BURDEN OF PROOF

20. Generally, the taxpayer has the burden of proof when challenging a property tax assessment. Accordingly, the assessment on appeal, "as last determined by an assessing official or the county board," will be presumed to equal "the property's true tax value." Indiana Code § 6-1.1-15-20(a) (effective March 21, 2022).

21. However, the burden of proof shifts if the property's assessment "increased more than five percent (5%) over the property's assessment for the prior tax year." I.C.§ 6-1.1-15-20(b). Subject to certain exceptions, the assessment "is no longer presumed to be equal to the property's true tax value, and the assessing official has the burden of proof." *Id.*

22. If the burden has shifted, and "the totality of the evidence presented to the Indiana board is insufficient to determine the property's true tax value," then the "property's prior year

assessment is presumed to be equal to the property's true tax value." I.C.§ 6-1.1-15-20(f).

23. Here, the assessment under appeal is an approximately 38% increase over the prior year's assessment. Thus, the Assessor has the burden of proof.

CONCLUSIONS OF LAW AND ANALYSIS

A. Because the totality of the evidence does not suffice to show the property's true tax value, we must presume that its value equals the previous year's assessment of $111,000.

24. The Indiana Board of Tax Review is the trier of fact in property tax appeals, and our charge is to "weigh the evidence and decide the true tax value of the property as compelled by the totality of the probative evidence before us." I.C. § 6-1.1-15-20(f). Our conclusion of a property's true tax value "may be higher or lower than the assessment or the value proposed by a party or witness." *Id.* Regardless of which party has the initial burden of proof, either party "may present evidence of the true tax value of the property seeking to decrease or increase the assessment." I.C. § 6-1.1-15-20(e).

25. 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, true tax value is found 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). 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 by a similar user, from the property." 2021 REAL PROPERTY ASSESSMENT MANUAL at 2.

26. To meet its burden of proof, a party "must present objectively verifiable, market-based evidence" of the property's value. *Piotrowski v Shelby Cty. Ass'r*, 177 N.E.3d 127, 132 (Ind. Tax Ct. 2021) (*citing Eckerling v. Wayne Twp. Ass'r*, 841 N.E.2d 674, 677-78 (Ind. Tax Ct. 2006)). For most real property types, neither the taxpayer nor the assessor may rely on the mass appraisal "methodology" of the "assessment regulations." *PIA Builders*

& Developers, LLC v. Jennings Cty. Ass'r, 842 N.E.2d 899, 900 (Ind. Tax Ct. 2006). This is because the "formalistic application" of the procedures and schedules from the DLFG's assessment guidelines lacks the market-based evidence necessary to establish a specific property's market value-in-use. *Piotrowski*, 177 N.E.3d at 133.

27. Market-based evidence may include "sales data, appraisals, or other information compiled in accordance with generally accepted appraisal principles." *Peters v. Garoffolo*, 32 N.E.3d 847, 849 (Ind. Tax Ct. 2015). Relevant assessments are also admissible, but arguments that "another property is 'similar' or 'comparable' simply because it is on the same street are nothing more than conclusions . . . [and] do not constitute probative evidence." *Marinov v. Tippecanoe Cty. Ass'r*, 119 N.E.3d 1152, 1156 (Ind. Tax Ct. 2019). Finally, the evidence must reliably indicate the property's value as of the valuation date. *O'Donnell v. Dep't of Local Gov't Fin.*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006). For 2023 assessments, the valuation date was January 1, 2023. I.C. § 6-1.1-2-1.5(a).

28. Under the sales-comparison approach, "an opinion of market value is developed by comparing properties similar to the subject property that have recently sold, are listed for sale, or are under contract . . ." THE APPRAISAL INSTITUTE, THE APPRAISAL OF REAL ESTATE 351 (15th Ed. 2020.) The approach is premised on the notion that an opinion of market value can be supported by studying the market's reaction to comparable and competitive properties. *Id.* Appraisers applying the approach examine market evidence using "paired data analysis, trend analysis, statistics, and other recognized and accepted techniques to identify which elements of comparison within the data set of comparable sales are responsible for value differences." *Id.* They then use qualitive and quantitative techniques to adjust for any differences in relevant elements of comparison that affect the comparable properties' sales prices. *Id.* at 361-65, 372-96.

29. Here, the Assessor had the burden of proof. To meet that burden, the Assessor relied on his own valuation opinion that mirrors the sales comparison approach. But he did not

show that he complied with generally accepted appraisal principles in completing his analysis.

30. Several techniques are available to quantify adjustments, including paired- grouped-and secondary-data analysis, statistical analysis, and capitalization of income differences. *Id.* at 371-72. Appraisers may also make cost-related adjustments. *Id.* But the value added or lost by the presence or absence of an item may not equal the cost of installing or removing it. Instead, "the market dictates the value contribution of individual components to the value of the whole." *Id.* at 392-93.

31. Here, the Assessor is a certified Level III Assessor-Appraiser. This certification shows expertise in mass appraisal and assessment regulations. It does not necessarily show an expertise in the use of market-based evidence to value a specific property. Although the Assessor made adjustments to the comparables using figures from mass appraisal cost tables, he did not show that using those cost tables was an appropriate way of adjusting comparables when appraising a single property. While his analysis superficially mirrors the sales-comparison approach in form, it lacks the necessary substance to carry probative weight. And he did little to show he adhered to generally accepted appraisal principals. We do not mean to imply that an appraisal by a licensed appraiser is required to prove a property's market value-in-use. Instead, we simply find a lack of market-based support for his adjustments, particularly in the absence of an appraiser's credentialed expertise. The Assessor offered no other evidence to establish the property's market value-in-use. As such, the Assessor failed to meet his burden of proof.

32. As discussed above, Ciceu primarily argued that he was being unfairly treated by the Assessor. He did not offer any reliable, market-based evidence that supported any value for the subject property. Although he did offer some purportedly comparable properties, a party offering sales or assessment data must use generally accepted appraisal or assessment practices to show that the purportedly comparable properties are comparable to the property under appeal. *Long v Wayne Twp. Ass'r*, 821 N.E.2d 466, 470-71 (Ind. Tax. Ct. 2005). Conclusory statements that properties are "similar" or "comparable" do

not suffice. Instead, parties must explain how the properties compare to each other in terms of characteristics that affect market value-in-use. *Id.* at 471. They must similarly explain how relevant differences affect values. *Id.* Opinions that are unsupported by probative evidence are conclusory and of no value to the Board in making its determination. *Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1118 (Ind. Tax Ct. 1998). Ciceu did not offer the type of analysis contemplated by *Long*. Without such an analysis, this evidence is insufficient to support a reduction in value.

33. Ciceu did offer some testimony about an appraisal commissioned by the Assessor that valued the subject property at $95,000. This appears to be a reference to an appraisal that was submitted at the Board's hearing for the 2022 assessment year for this property. But that appraisal is not in evidence here and Ciceu's statements about the appraisal are conclusory. Had he wished to timely submit the appraisal into evidence at this hearing, he could have done so. Because the appraisal is not in the record, we cannot rely on it to reach any conclusion.

B. Ciceu failed to make a prima facie case showing the Assessor targeted him for unfair treatment or that he was entitled to an equalization adjustment.

34. Further, Ciceu claims the Assessor targeted him for a higher assessment because of his past romantic involvements with the previous assessor. Although he does not cite to any specific authority, we interpret this claim as a challenge to the uniformity and equality of his assessment. As the Tax Court has explained, "when a taxpayer challenges the uniformity and equality of his or her assessment one approach that he or she may adopt involves the presentation of assessment ratio studies, which compare the assessed values of properties within an assessing jurisdiction with objectively verifiable data, such as sales prices or market value-in-use appraisals." *Westfield Golf Practice Center v. Washington Twp. Ass'r,* 859 N.E.2d 396, 399 n.3 (Ind. Tax Ct. 2007) (emphasis in original). Such studies, however, should be prepared according to professionally acceptable standards. *Kemp v. State Bd. of Tax Comm'rs,* 726 N.E.2d 395, 404 (Ind. Tax Ct. 2000). They should also be based on a statistically reliable sample of properties that

actually sold. *Bishop v. State Bd. of Tax Comm'rs,* 743 N.E.2d 810, 813 (Ind. Tax Ct. 2001) (*citing Southern Bell Tel. and Tel. Co. v. Markham,* 632 So.2d 272, 276 (Fla. Dist. Co. App. 1994)).

35. When a ratio study shows that a given property is assessed above the common level of assessment, the property's owner may be entitled to an equalization adjustment. *See Dep't of Local Gov't Fin. v. Commonwealth Edison Co.,* 820 N.E.2d 1222, 1227 (Ind. 2005) (holding that taxpayer was entitled to seek an adjustment on grounds that its property taxes were higher than they would have been if other property in Lake County had been properly assessed). The equalization process adjusts the property assessments so "they bear the same relationship of assessed value to market value as other properties within that jurisdiction." *Thorsness v. Porter County Assessor,* 3 N.E.3d 49, 52 (Ind. Tax Ct. 2014) (citing *GTE N. Inc. v. State Bd. of Tax Comm'rs,* 634 N.E.2d 882, 886 (Ind. Tax Ct. 1994)). Article 10, Section 1 (a) of Indiana's Constitution, however, does not guarantee "absolute and precise exactitude as to the uniformity and equality of each individual assessment." *State Bd. of Tax Comm'rs v. Town of St. John,* 702 N.E.2d 1034, 1040 (Ind. 1998).

36. As discussed above, one of the requirements for a reliable ratio study is a comparison between the assessments used and objectively verifiable market data such as sale prices or appraisals. But Ciceu did not provide any market data for either the subject property or the purportedly comparable properties. Nor did he show that he presented a statistically reliable sample of properties. Allegations of disparate or discriminatory treatment cannot serve as a basis for relief without reliable evidence that shows that such disparate treatment has actually occurred. For that reason, Ciceu's claims regarding the unfairness of his assessment fail.

D. Ciceu's claims that he did not receive certain documents do not entitle him to any relief.

37. Finally, we address Ciceu's claim that he did not receive certain documents and his request for us to order the Assessor to send him notices via certified mail. We credit the Assessor's testimony that all notices were mailed to the address on file for the parcel.

And while it is possible that Ciceu did not receive those notices, he has not demonstrated why this entitles him to any relief. He has had the opportunity to appeal his assessment and present evidence on the merits. We also note that the Board is a creation of the legislature and has only those powers conferred by statute. *Whetzel v. Dep't of Local Gov't Fin.*, 761 N.E.2d 904 (Ind. Tax Ct. 2002). No statute gives us the authority to dictate how the Assessor mails out notices. Thus, we deny Ciceu's request to issue such an order. We also note that Ciceu made some references to issues with prior assessment years. We likewise have no authority to address claims regarding assessment years that are not properly before us.

CONCLUSION

38. Because the burden of proof has shifted under I.C. § 6-1.1-15-20, and the totality of the evidence is insufficient to support any value, the prior year's assessment is presumed correct. Thus, we order the 2023 assessment reduced to the prior year's value of $111,000.

The Final Determination of the above captioned matter is issued by the Indiana Board of Tax Review on the date written above.

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 of 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>.