

REPRESENTATIVE FOR PETITIONER: Ovidiu Ciceu, Taxpayer

REPRESENTATIVE FOR RESPONDENT: Robert Woodward, Knox County Assessor

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

Ovidiu Ciceu,)	Petition No.: 42-022-22-1-5-00940-22
)	
Petitioner,)	
)	Parcel No.: 42-12-21-115-014.000-022
v.)	
)	
Knox County Assessor,)	County: Knox
)	
Respondent.)	Assessment Year: 2022

Appeal from the Final Determination of the
Knox County Property Tax Assessment Board of Appeals

FINAL DETERMINATION

The Indiana Board of Tax Review, having reviewed the facts and evidence, and having considered the issues, now finds and concludes the following:

Findings of Fact and Conclusions of Law

Introduction

1. The subject property’s assessment increased by more than 5% between 2021 and 2022, and neither party offered probative evidence to show the property’s true tax value. Under those circumstances, Ind. Code § 6-1.1-15-20(f) requires us to presume that the prior year’s assessment of \$111,000 equals the property’s true tax value. We therefore order the 2022 assessment to be reduced to \$111,000.

Procedural History

2. On May 18, 2022, Ovidiu Ciceu filed a Form 130 petition contesting the 2022 assessment of his property located at 602 North 6th Street in Vincennes. The Knox County Property Tax Assessment Board of Appeals (“PTABOA”) issued a Form 115 determination valuing Ciceu’s property at \$137,100 (\$4,500 for land and \$132,600 for improvements).

3. Ciceu filed a Form 131 petition with us. On May 25, 2023, our designated administrative law judge, Joseph Stanford (“ALJ”), held a telephonic hearing on Ciceu’s petition. Neither he nor the Board inspected the property. Ciceu and Knox County Assessor Robert Woodward testified under oath.

4. Ciceu submitted the following exhibits:

Petitioner Exhibit 1:	Contentions and description of exhibits,
Petitioner Exhibit 2:	2016 assessment determination,
Petitioner Exhibit 3:	Form 130,
Petitioner Exhibit 4:	Property record card (“PRC”) for 608 North 6 th Street with photograph, tax payment history, tax bill history, and assessment history,
Petitioner Exhibit 5:	PRC for 424 North 6 th Street with photographs, tax payment history, tax bill history, and assessment history,
Petitioner Exhibit 6:	PRC for 504 Hart Street with photographs, tax payment history, tax bill history, and assessment history,
Petitioner Exhibit 7:	2023 Form 11,
Petitioner Exhibit 8:	Social media post from David Shelton.

5. The Assessor submitted the following exhibits:

Respondent Exhibit 1:	Contentions and description of exhibits,
Respondent Exhibit 2:	Appraisal completed by Kim R. Murray,
Respondent Exhibit 3:	Screenshots of the subject property’s garage and carport pricing,
Respondent Exhibit 4:	2017-2023 subject PRCs.

6. The record also includes the following: (1) all petitions or other documents filed in this appeal, (2) all notices and orders issued by the Board or the ALJ, and (3) an audio recording of the hearing.

Findings of Fact

7. Ciceu bought the subject property out of foreclosure in 2016. The Assessor's office had applied a 60% obsolescence factor to the home, which it later reduced to 50%. The property was assessed for \$55,400 in 2020. *Ciceu testimony; Woodward testimony; Resp't Ex. 4.*
8. The assessment increased to \$111,000 in 2021 after the Assessor removed the obsolescence adjustment. The Assessor initially valued the property at \$124,900 for 2022, but he increased that value to \$131,000 based on an aerial photograph and the results of a field visit. The PTABOA found that several changes should be made to the assessment, such as changing the home's quality grade from "B-1" to "B" and correcting the attic size. The PTABOA also determined that a garage and open-framed porch that had been excluded from the assessment should be included. With the specified changes, the PTABOA determined an assessment of \$137,100. *Ciceu testimony; Woodward testimony; Form 115 determination; Resp't Exs. 3-4.*

Parties' Contentions

A. The Assessor's Contentions

9. Although Ciceu claims that he did not receive a Form 11 notice for 2022, the Assessor testified that the notice was mailed to the address on file, which was the same address to which previous notices had been mailed. *Woodward testimony.*
10. The Assessor believes that an obsolescence adjustment for any property should be reviewed annually and removed if it no longer exists. Because an obsolescence adjustment had been applied to the subject property for four years and the open frame

porch and garage had been omitted, the Assessor believes that the property had been incorrectly valued. *Woodward argument and testimony; Resp't Exs. 1, 3-4.*

11. The Assessor hired Kim R. Murray, a certified residential appraiser, to appraise the property. Based on her exterior-only inspection, she determined that the home was in average condition. Murray relied on the sales-comparison approach to estimate the property's value at \$95,000, as of April 18, 2023. *Woodward testimony; Resp't Ex. 2.*

B. Ciceu's Contentions

12. Ciceu believes that the Assessor's office has targeted him because of his relationship with a previous assessor. As a result, he has seen large increases in his assessment while other properties' assessments have increased much less, or even decreased. He believes that his 2022 assessment is too high, and he contends that it was determined by a previous assessor who did not have the required credentials to hold the office. Ciceu also claims he did not receive a Form 11 notice in 2022. *Ciceu testimony and argument; Pet'r Exs. 1, 4-8.*
13. Ciceu disagrees with the obsolescence adjustment being removed from his property. The home was in very bad shape when he bought it, and he has made few repairs. It lacks central heat, air conditioning, and insulation. Ciceu heats the entire house with a small stove. The roof leaks and needs to be replaced. And the chimney is falling in. *Ciceu testimony and argument; Pet'r Exs. 1-2.*
14. According to Ciceu, properties that are otherwise similar to the subject property but that are in better condition are assessed for less than the subject property. Ciceu's neighbor, located at 608 North 6th Street, has "the same house" with air conditioning and heating, and his 2022 assessment is only \$91,800. A property at 424 North 6th Street is "the same property." The previous owner won a 2021 appeal, reducing her assessment from

\$110,600 to \$87,000. She then sold the property for \$70,000 on December 15, 2021.¹ Finally, a property at 504 Hart Street is larger than the subject home, has central heat, and a new roof, yet that property was assessed at “about \$90,000.” It sold for \$69,000 on December 27, 2022. *Ciceu testimony and argument; Pet’r Exs. 4-6.*

Conclusions of Law and Analysis

A. Because the assessment increased by more than 5% between 2021 and 2022, the Assessor had the burden of proof.

15. Generally, the taxpayer has the burden of proof when challenging a property’s 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.” I.C. § 6-1.1-15-20(a) (effective March 21, 2022).
16. 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.* Those exceptions apply where the assessment under appeal is based on “(1) substantial renovations or new improvements; (2) zoning; or (3) uses” that were not considered in the prior year’s assessment. I.C. § 6-1.1-15-20(d).
17. 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). Here, the subject property’s assessment increased by more than 5% between 2021 and 2022, and the Assessor did not argue that any of the exceptions under subsection (d) apply. The Assessor therefore has the burden of proof.

¹ Ciceu testified that the sale price for this property was \$60,000, but the PRC indicates that the sale price was \$70,000. *Pet’r Ex. 5.*

B. Because neither party offered probative evidence to show the property's true tax value, the assessment must revert to its 2021 level.

18. 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).
19. 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 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.
20. In order 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.” *P/A 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 DLGF'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.
21. 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 2022 assessments, the valuation date was January 1, 2022. See I.C. § 6- 1.1-2-1.5(a).

22. The Assessor attempted to meet his burden of proof through Murray’s appraisal. But Murray estimated the property’s value as of April 18, 2023, which is nearly 17 months after the January 1, 2022, valuation date at issue in this appeal. The Assessor failed to offer any evidence to show how Murray’s valuation opinion relates to the valuation date. Her appraisal therefore lacks probative value.
23. Ciceu similarly failed to offer any probative market-based evidence to show the property’s value. He mainly offered assessment and sales information for properties he considers comparable or superior to his own. While he compared a few of the relevant characteristics of those properties to the subject property’s characteristics, he offered no evidence to show how relevant differences affected the properties’ relative market values-in-use. His comparative data therefore lacks probative weight. See *Long v. Wayne Twp. Ass’r*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005) (finding that the taxpayers’ comparable sales data lacked probative value where they failed to explain how their property’s characteristics compared to those of purportedly comparable properties, and how differences affected market value-in-use).
24. Because neither party’s evidence suffices to establish the subject property’s market value-in-use for 2022, we must presume that its value equals the previous year’s assessment of \$111,000.

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

25. Finally, Ciceu claims that the Assessor targeted him for a higher assessment because of his relationship with a previous assessor. But Ciceu offered no probative evidence to show that was the case. He instead simply speculated that the significant increases beginning in 2021 stemmed from improper motives rather than from (1) the Assessor's policy to annually re-examine obsolescence, and (2) other corrections the Assessor made in applying the DLGF's mass-appraisal guidelines.
26. As part of a general claim of unfairness, Ciceu also pointed to properties that he claimed were assessed more favorably than his. To the extent Ciceu was attempting to argue a lack of uniformity and equality in assessments, that claim likewise fails.
27. As the Tax Court has explained, "[o]ne way to measure uniformity and equality in property assessment is through an assessment ratio study." *Thorsness v. Porter Cnty. Ass'r*, 3 N.E.3d 49, 51 (Ind. Tax Ct. 2014). Such a study "compare[s] the assessed values of properties within an assessing jurisdiction with objectively verifiable data, such as sales prices or market value-in-use appraisals." *Id.* at 51 (citation omitted). Where a ratio study shows an actionable lack of uniformity, a taxpayer may be entitled to an equalization adjustment bringing its assessment to the common level shown by the study. *Id.*
28. In providing guidance about how to compile and evaluate the data necessary for a ratio study, the DLGF has incorporated the International Association of Assessing Officers' ("IAAO") Standard on Ratio Studies (April 2013). *See* 50 IAC 27-1-4; 50 IAC 27-4-5(a); *see also*, *Thorsness*, 3 N.E.2d at 53-54 (citing to a previous version of 50 IAC 27-1-4). In *Thorsness*, the taxpayer offered evidence showing that while his property was assessed at 99.9% of its sale price, six other properties in his subdivision were assessed at an average of 79.5% of their recent sale prices. *Thorsness*, 3 N.E.3d at 50. At the administrative level, we rejected the taxpayer's claim on grounds that it neither

conformed to professionally accepted standards, nor was based on a statistically reliable sample of properties. *Id.* Although the Tax Court recognized that the taxpayer's evidence was relevant, it affirmed our conclusion that the evidence failed to show that his assessment exceeded the common level of assessment for the township. *Id.* at 54.

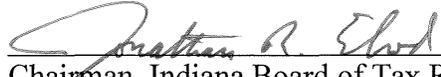
29. Ciceu failed to make a case for any adjustment. Because he did not offer any probative market-based evidence to show the subject property's market value-in-use, we cannot compare its ratio to the ratios for the two properties for which he provided sales data from within a year of the valuation date. *See Westfield Golf Practice Ctr., LLC v. Washington Twp. Ass'r*, 859 N.E.2d 396, 399 (Ind. Tax Ct. 2007) (rejecting a claim of lack of uniformity and equality where taxpayer failed to show the market value-in-use of its property or any of the comparable properties on which it based its claim). Even if Ciceu had offered probative valuation evidence for the subject property, he did not analyze his data in accordance with the IAAO Standard or show that he used a statistically reliable sample. As in *Thorsness*, Ciceu's data does not suffice to show that his assessment exceeded the common level of assessment.²

Conclusion

30. Because the subject property's assessment increased by more than 5% between 2021 and 2022 and neither party offered probative evidence that sufficed to show its true tax value for 2022, we must presume that the 2021 assessment of \$111,000 equals the property's true tax value. We therefore order that the 2022 assessment be reduced to \$111,000.

² Ciceu's claim that he did not receive a Form 11 notice for 2022 is moot. At some point, Ciceu received notice of his assessment, alerting him of the need to appeal. Nobody argues that Ciceu's appeal was untimely.

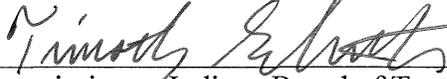
Date: AUGUST 22, 2023



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 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>.