

REPRESENTATIVE FOR THE PETITIONER: Yonglin Gao, *pro se*

REPRESENTATIVE FOR THE RESPONDENT: Ayn Engle, Attorney

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**BEFORE THE  
INDIANA BOARD OF TAX REVIEW**

Yonglin Gao,	)	Petition No.: 10-039-23-1-5-00245-24
	)	
Petitioner,	)	Parcel No.: 10-42-00-600-345.000-039
	)	
v.	)	County: Clark
	)	
Clark County Assessor,	)	Township: Utica
	)	
Respondent.	)	Assessment Year: 2023

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**December 23, 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. The Petitioner appealed the 2023 assessment of her residential property in Clark County. The Assessor had the burden of proof and offered an appraisal prepared in accordance with the Uniform Standards of Professional Appraisal Practice (“USPAP”) that provides a reliable, market-based opinion of the subject property’s market value-in-use as of the assessment date. The Petitioner failed to offer any reliable evidence supporting a different value. Accordingly, we find in favor of the Assessor.

## PROCEDURAL HISTORY

2. The Petitioner filed a Form 130 appeal with the Clark County Assessor on June 10, 2023, appealing the 2023 assessment of her property located at 148 Bittersweet Road in Jeffersonville.
3. The Clark County Property Tax Assessment Board of Appeals (“PTABOA”) held a hearing on March 12, 2024. On March 13, 2024, the PTABOA reduced the assessment to \$35,000 for land and \$77,000 for improvements for a total of \$112,000. The Petitioner timely appealed to the Board on April 25, 2024.
4. On October 3, 2024, Dalene McMillen, the Board’s Administrative Law Judge (“ALJ”), held a telephonic hearing. Neither the Board nor the ALJ inspected the property. Yonglin Gao and Appraiser Perry Reisert both testified under oath.
5. The Petitioner offered the following exhibits:
  - Petitioner Exhibit A: Land value comparison,
  - Petitioner Exhibit A-1: Two Google maps of the subject area and industrial area,
  - Petitioner Exhibit A-2: Google map of the Utica Pike area,
  - Petitioner Exhibit A-3: Google map of the subject neighborhood area,
  - Petitioner Exhibit B: Eight photographs of the subject property.
6. The Respondent offered the following exhibits:
  - Respondent Exhibit R-1: Appraisal report of the subject property prepared by Perry Reisert and Samuel Reisert of Mills, Biggs, Haire & Reisert, Inc.,
  - Respondent Exhibit R-2: 2023 and 2024 property record cards,
  - Respondent Exhibit R-3: Google map for 147 Bittersweet Road.
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) the digital recording of the hearing.

## OBJECTION

8. The Assessor objected to all of the Petitioner's exhibits because they were exchanged the day before the hearing as opposed to five business days before the hearing as required by 52 IAC 4-8-1. Although this was originally filed in the small claims docket, we granted the Assessor's request to remove the matter from small claims on July 25, 2024, over two months before the hearing. Thus, the parties were required to comply with the normal procedural rules and exchange their exhibits five business days before the hearing. 52 IAC 4-8-1. Because the Petitioner failed to do so, we sustain the Assessor's objection and exclude the exhibits. But the Petitioner's testimony regarding the contents of those exhibits was not objected to and remains in evidence. Finally, we note that the exclusion of the exhibits does not affect the outcome of the Final Determination.

## FINDINGS OF FACT

9. The subject property is a two-story partial brick/frame condominium unit with 1,320 sq. ft. built in 2000 located on 0.112 acres in Jeffersonville. The home suffers from some deficiencies including leaking bathrooms, water damage, and a 20-year-old air conditioner. The subject property is located approximately half a mile southwest of an industrial park, with a wooded area buffer between them. *Reisert testimony; Gao testimony; Resp't Ex. R-2, R-3.*
10. The Assessor presented an appraisal report prepared by Perry Reisert, a certified general appraiser, that estimated the market value of the subject property as of January 1, 2023. Reisert has 36 years of appraisal experience and certified that his appraisal complied with USPAP. Reisert noted that the market in Jeffersonville is active, and properties are appreciating in value. He also found there was a short supply of properties available for sale. He further determined that the proximity to the industrial park had no negative effect on the subject property's value. To arrive at his opinion of value, he developed the sales-comparison approach. He selected three comparable properties located less than half mile from the subject property that sold in 2022. Reisert adjusted the comparables

for factors such as design/style, condition, square footage, number of bathrooms, porch, patio, and garage. He developed his adjustments by analyzing sales of properties with and without each component. After adjustments, the sale prices range from \$134,500 to \$141,300. He reconciled these to a value of \$135,000 as of the assessment date. *Reisert testimony; Resp't Ex. R-1.*

11. We find that Reisert demonstrated that he complied with generally accepted appraisal principles. We also find he appropriately used objectively verifiable market-based evidence in his sales-comparison approach to arrive at a credible opinion of value. For these reasons, along with Reisert's credentialed expertise and experience, we find the preponderance of the evidence shows that his concluded opinion is a reliable estimate of the market value-in-use of the subject property as of the assessment date.
12. The assessment under appeal of \$112,000 is a 28% increase over the prior year's assessment of \$87,500. *Resp't Ex. R-2.*

#### **PETITIONERS' CONTENTIONS**

13. The Petitioner argued the subject property's land assessment was too high. She based this on comparables within walking distance of the subject property. In addition, she claimed that it was unfair that since 2020, some nearby land assessments have not changed, or increased by 150%, while the subject property's land assessment increased by 250%. *Gao testimony.*
14. Regarding Reisert's appraisal, the Petitioner argued that a \$6,000 adjustment to one comparable for a garage was flawed because the garage was assessed at \$9,000. In addition, she argued that Reisert failed to properly account for the subject property's condition, including the leaks and aging air conditioner. *Gao testimony; Resp't Ex. R-1.*

### ASSESSOR'S CONTENTIONS

15. The Assessor argued that Reisert presented a reliable opinion of value and asked the Board to raise the assessment to his conclusion of \$135,000. *Resp't Ex. R-1.*

### BURDEN OF PROOF

16. 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).
17. 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.*
18. 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).
19. Here, the assessment under appeal is an increase of 28% over the prior year's assessment. Thus, the Assessor has the burden of proof.

### ANALYSIS

20. The Indiana Board of Tax Review is the trier of fact in property tax appeals, and its 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 it. I.C. § 6-1.1-15-20(f). The Board's 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).

21. 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.
22. In order to meet its burden of proof, a party “must present objectively verifiable, market-based evidence” of the value of the property. *Piotrowski v. Shelby County Assessor*, 177 N.E.3d 127, 132 (Ind. Tax Ct. 2021) (citing *Eckerling v. Wayne Twp. Assessor*, 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 County Assessor*, 842 N.E.2d 899, 900 (Ind. Tax Ct. 2006). This is because the “formalistic application of the Guidelines’ procedures and schedules” lacks the market-based evidence necessary to establish the market value-in-use of a specific property. *Piotrowski*, 177 N.E.3d at 133.
23. 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 County Assessor*, 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. Dept. of Local Gov’t. Fin.*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006).

24. The Assessor presented a USPAP-compliant appraisal prepared by Perry Reisert. Using the sales-comparison approach, Reisert estimated the subject property's value at \$135,000 as of January 1, 2023. As discussed above, we find his opinion credible based on his expertise, and his use of generally accepted appraisal principles and objectively verifiable market-based evidence. The Petitioner argued that one of Reisert's adjustments for a garage was flawed because the amount of the adjustment did not match the assessment for that component. But assessments are based on the mass appraisal guidelines developed by the DLGF. When adjusting a comparable for an appraisal, an appraiser should derive an amount for the adjustment from market-based evidence rather than the assessment regulations. Here, Reisert testified that he developed adjustments from comparing sales of houses with garages to sales of houses without. We find this, coupled with Reisert's demonstrated expertise and experience, to be sufficient support for his adjustment. The Petitioner also argued that Reisert did not appropriately consider the subject property's deficiencies. But she provided no market-based evidence that supported this claim. Moreover, Reisert's appraisal report shows that he did account for these deficiencies when rating the subject property's condition. For these reasons, we find the Petitioner failed to impeach the appraisal and that Reisert presented a reliable estimate of value.
25. We now turn to the Petitioner's evidence. She testified regarding some nearby comparables and their assessments. But conclusory statements that a property is "similar" or "comparable" to another property do not constitute probative evidence of the comparability of the properties. *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 470-71 (Ind. Tax Ct. 2005). In addition, a party seeking to use sales or assessment comparables must identify the characteristics of the subject property, explain how those characteristics compare to the characteristics of the purportedly comparable properties, and explain how any differences affect the relative market values-in-use of the properties. *Id.* At 471. She did not provide any reliable evidence showing how differences between the various

comparables and the subject property affected their respective values. For these reasons, this evidence is insufficient to establish any value for the subject property.

26. The Petitioner also took issue with the subject property's change in assessment over time as compared to other properties. But "each tax year and each appeal process-stands alone." *Fisher v. Carroll Cnty. Ass'r*, 74 N.E.3d 582, 588 (Ind. Tax Ct. 2017). Absent the application of the burden-shifting statute, a change in the subject property's assessment from year to year is of little relevance. Rather, the focus is what the value should be as of the relevant assessment date.
27. Finally, the Petitioner argued that the subject property's assessment was unfair compared to other nearby properties. We take this as a challenge to the uniformity and equality of the assessment as mandated by I.C. § 6-1.1-2-2 and Article 10 of the Indiana Constitution. 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)).
28. 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).

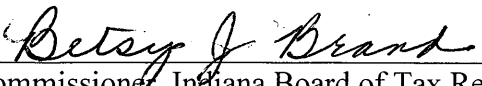
29. As discussed above, one of the requirements for a reliable ratio study is a comparison between the assessments used and objectively verifiable market data such as sale prices or appraisals. But the Petitioner did not demonstrate that she provided a statistically reliable sample of properties, nor did she provide objectively verifiable market-based evidence for the value of the purportedly comparable properties. For these reasons, the Petitioner failed to show that she is entitled to any relief on these grounds.

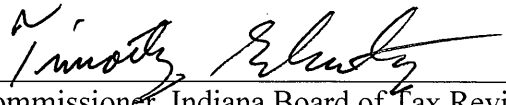
#### **SUMMARY OF FINAL DETERMINATION**

30. The burden of proof has shifted under I.C. § 6-1.1-15-20. The Assessor provided reliable evidence in the form of the Reisert appraisal showing the value to be \$135,000 as of the assessment date. The Petitioner did not provide any reliable market-based evidence that supported a different value. Because the totality of the evidence shows the true tax value of the subject property is \$135,000, we order the 2023 assessment increased to that amount.

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 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>>