REPRESENTATIVE FOR THE PETITIONERS: David & Nichelle Gertz, *pro se*

REPRESENTATIVES FOR THE RESPONDENT: Nicholas Brady, Lewis Wagner & Trimble
Mark GiaQuinta, GiaQuinta Law Office, LLC

BEFORE THE INDIANA BOARD OF TAX REVIEW

David & Nichelle Gertz,	)	Petition No.: 64-001-23-1-5-00640-23
	)	64-001-24-1-5-00609-25
Petitioners,	)	
	)	Parcel No.: 64-15-09-451-002.000-001
v.	)	
	)	County: Porter
Porter County Assessor,	)	
	)	Assessment Years: 2023 and 2024
Respondent.	)	

APRIL 29, 2026

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. David & Nichelle Gertz ("Petitioners") appealed the 2023 and 2024 assessments of their property in Porter County. The Assessor had the burden of proof for each assessment year and neither party presented any reliable evidence of value. Because the totality of the evidence is insufficient to support any value, the prior years' assessments are presumed to equal the true tax value.

PROCEDURAL HISTORY

2. The Petitioners appealed the 2023 and 2024 assessments of their property located at 775 South 250 West in Hebron on May 5, 2023, and May 3, 2024, respectively. The Porter County Property Tax Assessment Board of Appeals ("PTABOA") failed to hold hearings within 180 days. The Petitioners appealed the 2023 assessment directly to the Board on November 4, 2023, followed by the 2024 assessment on September 4, 2025. The assessments under appeal are:

Year	Land	Improvements	Total
2023	$48,100	$463,900	$512,000
2024	$53,200	$477,400	$530,600

3. On November 4, 2025, Andrew Howell, the Board's Administrative Law Judge ("ALJ"), held a telephonic hearing. Neither the Board nor the ALJ inspected the property. David Gertz, Nichelle Gertz, Porter County Assessor Sue Neff, Deputy Assessor Peggy Hendron, Appraiser Frank Krakowski, and Property Tax Consultant Frank Kelly all testified under oath.

4. The Petitioners offered the following exhibits:

Petitioners' Ex. 2:	2023 Cover letter, Form 134, and Tax Bill
Petitioners' Ex. 3:	January 15, 2017 Appraisal Report of Subject Property prepared by William Eenhuistra
Petitioners' Ex. 4:	2017 Form 130
Petitioners' Ex. 5:	2017 Form 134
Petitioners' Ex. 6:	2017 Form 115
Petitioners' Ex. 7:	Appeal Submission Record
Petitioners' Ex. 8:	E-mail correspondence between David Gertz and Assessor's Office
Petitioners' Ex. 9:	2018 Form 134
Petitioners' Ex. 10:	2018 Form 115
Petitioners' Ex. 11:	Letter from Jon Snyder dated October 11, 2019
Petitioners' Ex. 12:	E-mail correspondence between David Gertz and Assessor's Office
Petitioners' Ex. 13:	2019 Form 114
Petitioners' Ex. 14:	2019 Form 115
Petitioners' Ex. 15:	2019 Form 131

Petitioners' Ex. 16:	January 1, 2019 Appraisal Report of Subject Property prepared by Jeff Sands
Petitioners' Ex. 17:	E-mail correspondence between David Gertz and Assessor's Office
Petitioners' Ex. 18:	2020 Pay 2021 Tax Bill with Cover Letter, notations, and refund check
Petitioners' Ex. 19:	2020 Form 133
Petitioners' Ex. 20:	January 1, 2022 Appraisal Report of Subject Property prepared by Patrick Troy
Petitioners' Ex. 21:	Refund Check Dated July 3, 2024
Petitioners' Ex. 22:	January 1, 2023 Appraisal Report of Subject Property prepared by William Eenhuistra
Petitioners' Ex. 23:	2023 Subject Property Record Card with notations
Petitioners' Ex. 25:	2023 Property Record Card with notations for 9085 E, 165th Ave.
Petitioners' Ex. 26:	2022 Subject Property Record Card with highlights
Petitioners' Ex. 27:	2024 Subject Property Record Card with notations
Petitioners' Ex. 28:	2025 Subject Property Record Card with notations
Petitioners' Ex. 29:	2026 Subject Property Record Card
Petitioners' Ex. 30:	2007 Subject Property Record Card
Petitioners' Ex. 31:	Assessment History
Petitioners' Ex. 32:	Various Form 11s for Subject Property
Petitioners' Ex. 33:	Survey of Subject Property with notations
Petitioners' Ex. 34:	Pictures of Subject Property
Petitioners' Ex. 35:	Signed statement from farmer
Petitioners' Ex. 36:	Pictures of apiaries and honey
Petitioners' Ex. 37:	Various documents with comments from David Gertz
Petitioners' Ex. 38:	Soil resource report, survey, photographs, and aerial maps
Petitioners' Ex. 44:	Documents related to *David A Gertz V. Porter Cnty. Ass'r* Case # 75C01-2404-CT-000012 from Starke Circuit Court
Petitioners' Ex. 46:	Department of Local Government Finance ("DLGF") Ratio Study and related documents with annotations[1]
Petitioners' Ex. 47:	DLGF Ratio Study and related documents with annotations[2]
Petitioners' Ex. 49:	E-mail correspondence between David Gertz and Barry Wood
Petitioners' Ex. 50:	Excerpt from DLGF Guidelines with highlights
Petitioners' Ex. 51:	2024 Property Record Card with notations for 9085 E, 165th Ave.

[1] The Petitioners offered both original and "revised" versions of this exhibit.
[2] The Petitioners offered both original and "revised" versions of this exhibit.

Petitioners' Ex. 52:	Excerpt from IBTR Rehearing Order for 2022 assessment year with highlights
Petitioners' Ex. 53:	Excerpt from Krakowski review with annotations from David Gertz
Petitioner's Ex. 55:	Transcript from IBTR Hearing on 2019 Assessment
Petitioners' Ex. 56:	Transcript from IBTR Hearing on 2022 Assessment

5. The Assessor offered the following exhibits:

Respondent's Ex. A:	Warranty Deed for Subject Property,
Respondent's Ex. B:	2023 Subject Property Record Card
Respondent's Ex. C:	2024 Subject Property Record Card
Respondent's Ex. D:	Aeriel Photograph of Subject Property
Respondent's Ex. E:	Subject Property Assessment History
Respondent's Ex. F:	Subject Property Appeal History
Respondent's Ex. G:	DLGF Memorandum dated June 25, 2023
Respondent's Ex. H:	Response to Interrogatories
Respondent's Ex. J:	July 3, 2023 Appraisal Report prepared by Dave Johnson
Respondent's Ex. K:	January 1, 2019 Appraisal Report of Subject Property prepared by Jeff Sands
Respondent's Ex. L:	January 1, 2022 Appraisal Report of Subject Property prepared by Patrick Troy
Respondent's Ex. N:	January 1, 2023 Appraisal Report of Subject Property prepared by William Eenhuistra
Respondent's Ex. N:	Revised January 1, 2023 Appraisal Report of Subject Property prepared by William Eenhuistra
Respondent's Ex. O:	Appraisal Review of Eenhuistra Appraisal prepared by Frank Krakowski

6. 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.

OBJECTIONS

7. The Petitioners objected to Respondent's Ex. F, the appeal history, on the grounds that it contained a record of a conversation with Mr. Gertz that did not happen and was hearsay. The Assessor argued that it was a government record and thus met an exception for hearsay. We agree with the Assessor that this document meets the public records exception to the hearsay rule. As to the Petitioners other ground for objection, we find it

goes to the weight the evidence should be given rather than its admissibility. Thus, we overrule the objections and admit the exhibit.

8. The Assessor objected to Petitioners' Ex. 2, the Cover letter, Form 134, and Tax Bill for the 2013 assessment year on the grounds that it was not relevant. We agree with the Assessor and find the exhibit is not relevant to the 2023 and 2024 assessment years. Thus, we sustain the objection and exclude the exhibit.

9. The Assessor objected to Petitioners' Ex. 33, a survey of the subject property, on the grounds that Mr. Gertz made notations on the document and he was not qualified to do so. We are able to distinguish the alterations that were made by Mr. Gertz and will give them appropriate weight. Thus, we overrule the objection and admit the exhibit.

10. The Assessor objected to Petitioners' Ex. 38, which contains a soil resource report, a survey, photographs, and aerial maps, on the grounds that Mr. Gertz made notations and drawings on some of the documents and he was not qualified to do so. The Assessor also objected to related testimony from Mr. Gertz regarding the exhibit. We are able to distinguish the alterations that were made by Mr. Gertz and will give them appropriate weight. Thus, we overrule the objections and admit the exhibit and testimony.

11. The Assessor objected to Petitioners' Ex. 44, documents from a civil case between Mr. Gertz and the Assessor, on the grounds that it was not relevant. The exhibit contains a mix of relevant and irrelevant evidence. Because the Assessor failed to support the objection with cogent argument identifying which portions of the exhibit were not relevant and why, we overrule the objection and admit the exhibit.

12. The Assessor objected to both the original and revised versions of Petitioners' Exs. 46 and 47, the DLGF ratio studies and related documents (including commentary from the Petitioners), on the grounds that they were not timely exchanged. Mr. Gertz stated that the original versions were timely exchanged and only the "revised" versions were not. A review of the record indicates this is not the case. The original versions were exchanged

via our POPLAR case management system on October 30, 2025, three business days before the hearing, while the revised versions were exchanged November 3, 2025, one business day before the hearing. We sustain the objections and exclude the exhibits because they were not timely exchanged five business days before the hearing as required by 52 IAC 4-8-1(b).

13. The Assessor objected to the highlighted portions of Petitioners' Ex. 50, an excerpt from the DLGF guidelines. We are able to distinguish the alterations that were made by Mr. Gertz and will give them appropriate weight. Thus, we overrule the objection and admit the exhibit.

14. The Assessor objected to Petitioners' Ex. 51, a property record card from a purportedly comparable property, on the grounds that it was not relevant. We find the exhibit meets the minimal standard for relevance. Thus, we overrule the objection and admit the exhibit.

15. The Assessor objected to Petitioners' Ex. 52, the excerpt from our rehearing order from the 2022 assessment year, on the grounds that the determination was pending before the Tax Court. But the Assessor failed to cite to any authority for why that would merit the exclusion of the proffered evidence. Thus, we overrule the objection and admit the exhibit.

16. The Assessor objected to Petitioners' Ex. 53, the annotated excerpt from the Krakowski review appraisal, on the grounds that Mr. Gertz was not qualified to correct an appraisal and the document was not timely exchanged. We find the exhibit was offered for rebuttal purposes and could not have been timely exchanged. Thus, the failure to exchange before the deadline is not sufficient grounds to exclude the exhibit. In addition, we are able to distinguish the notations that were made by Mr. Gertz and will give them appropriate weight. Thus, we overrule the objections and admit the exhibit.

17. The Assessor objected to Petitioners' Exs. 55 and 56, the transcripts from previous IBTR hearings, on the grounds that they do not establish facts. But the Assessor pointed to no authority for this assertion. To the extent the Assessor may have been making a hearsay objection, our procedural rules allow us to admit hearsay, with the caveat that we cannot base our final determination solely on hearsay that has been properly objected to and that does not fall within a recognized exception to the hearsay rule. 52 IAC 4-6-9(d). For these reasons, we overrule the objections and admit the exhibits.

18. The Petitioners objected to some testimony from the Assessor, Sue Neff, in which she stated that land that received an agricultural rate but was not used for agricultural purposes would create a "windfall," on the grounds that it was not true. This objection goes to the weight the evidence should be given rather than its admissibility. Thus, we overrule the objection.

19. The Assessor objected to some testimony from Mr. Gertz regarding the Eenhuistra appraisal on the grounds that it was mischaracterizing the evidence. In his response, Mr. Gertz adequately clarified his testimony. For that reason, we overrule the objection.

20. The Petitioners objected to a question posed to Mr. Gertz regarding a prior conviction for income tax fraud on the grounds that it was not relevant. The Assessor responded that it was relevant to show the witness's propensity to lie in order to avoid paying taxes. But the Assessor failed to show that she complied with the notice requirements of Rule 609(b) of the Indiana Rules of Evidence. Thus, we sustain the objection and exclude the testimony.

21. The Assessor objected to some testimony from Mr. Gertz regarding indictments of his prior tax attorney on the grounds that it was not relevant. The Petitioners admitted the testimony was not relevant. Thus, we sustain the objection and exclude the testimony.

ARGUMENTS REGARDING PREVIOUS ASSESSMENT YEARS

22. The Petitioners asked the Board to correct prior assessments "back to 2012" on the grounds that they were entitled to relief under Trial Rule 60(b) because there were false statements made to the Board and there were relevant documents that they did not discover until 2023. The Assessor argued that these claims were barred by claim preclusion because they were currently being litigated in an appeal of a prior assessment year at the Indiana Tax Court. The Tax Court has since ruled on that issue, finding the claims regarding Trial Rule 60(b) relief were waived because they were not made to us. *Gertz v. Porter Cnty. Ass'r*, 2026 WL 351967 (Ind. Tax Ct. Feb. 3, 2026), *review pending*. The Tax Court also noted that "[e]ven if the Court were to reach the merits, such arguments would likely fail . . ." *Id.* We agree with the Tax Court. The Board is a creation of the Legislature and has only those powers granted by statute. *Whetzel v. Dep't of Local Gov't Fin.*, 761 N.E.2d 904, 908 (Ind. Tax Ct. 2001). In this case we are presented with properly filed appeals for the 2023 and 2024 assessment years. Thus, we are limited in our jurisdiction to just those assessment years. The law is clear that "in property assessment appeals at both the administrative and judicial levels, each tax year- and each appeals process-stands alone." *Fisher v. Carroll Cnty. Ass'r*, 74 N.E.3d 582, 588 (Ind. Tax Ct. 2017). An appeal for a particular assessment year is not a vehicle to collaterally attack prior assessment years. In addition, many of those years were already settled or otherwise adjudicated here or at the Tax Court and we have no authority to revisit those dispositions. Thus, the Petitioners claims for relief for prior assessment years are denied.

OTHER MATTERS

A. 2023 Motion for Judgment on the Pleadings

23. The Petitioners filed a "Motion for Judgement (sic) on the Pleadings" in which they asked the Board to "enter judgment on the proposed stipulated record of facts" for the 2023 assessment year. But they pointed to no authority for why we should accept a unilateral "stipulated record" into evidence. In addition, Indiana Code § 6-1.1-15-20(g)

provides that "[t]he Indiana board shall hear its matters without regard to motions related to notice pleading or judgments on the evidence." Thus, the "Motion for Judgement (sic) on the Pleadings" is denied. The Petitioners' proposed stipulated record is **not** admitted into evidence.

B. 2023 Motion for Summary Judgment

24. The Petitioners filed a motion for summary judgment for the 2023 assessment year in which they asked the Board to find in their favor because the Assessor "offered nothing . . . to support a true-tax-value for their 2023 assessment of the subject property." The Assessor moved to strike the motion on the grounds that the Petitioners did not designate sufficient evidence in support of it. The Assessor was not required to introduce evidence to establish her proposed value prior to the hearing. In addition, it is the movant's duty to show there is no genuine issue of material fact. The Petitioners have failed to do so. Thus, the motion for summary judgment is denied.

FINDINGS OF FACT

25. The subject property consists of a 2,686 square foot two-story home built in 1994 and a pole barn located on 11.094 acres of land in Hebron. 10.9 acres of the property were classified as agricultural land for the years under appeal. *Resp't Ex. B, C.*

26. The 2023 assessment under appeal of $512,000 is an approximately 35% increase over the 2022 assessment of $378,700 as last corrected in our determination for that year.[3] *Resp't Ex. B*

27. This aerial photo shows the subject property within the outline:

[3] The Indiana Tax Court affirmed our determination in *Gertz v. Porter Cnty. Ass'r*, 2026 WL 351967 (Ind. Tax Ct. Feb. 3, 2026), *review pending.*

Resp't Ex. D.

28. The right portion of the property shown in the picture above, as demarcated by the mow cuts, was farmed for hay by a nearby farmer, except for a path cut to the trees in the lower right quadrant. The left half of the property consisted of grass and clover, trees, and the improvements. In addition, there are three apiaries located in the middle of the property, and the bees used the entire property to forage. Mrs. Gertz mowed the grass on the left portion of the property, as well as the path in the lower right quadrant, which she used to walk her dogs. *Resp't Ex. D; N. Gertz testimony; D. Gertz testimony.*

29. We find that the preponderance of the evidence shows that for the assessment dates at issue the portion of the property that was farmed for hay was devoted to agricultural use. We also find that the land ***directly*** supporting the apiaries was devoted to agricultural use. For the remainder of the property, including the homesite, grass and clover fields, trees, and the path used for walking dogs, we find it was not devoted to agricultural use. While there was some incidental agricultural use of this portion as forage ground for bees, this is insufficient to show that it is ***devoted*** to agricultural use. Rather, other uses, such as its residential use as an extension of the home, predominated. In addition, while there is some reference in the record to timber harvesting in the past, there is no indication that any of the trees were being grown for timber harvesting as of the assessment dates at issue.

30. Appraiser Frank Krakowski performed a review appraisal of the Eenhuistra appraisal. Krakowski determined that while the Eenhuistra appraisal contained a reasonable estimate of market value, it did not represent the subject property's market value-in-use due to the mix of land assessed as residential and agricultural. Krakowski then developed his own estimate of the value of the improvements and 1-acre homesite for each assessment year using comparable sales. After adjusting only for acreage, the adjusted sale prices were:

Year	Minimum	Maximum	Average
2023	$359,276	$399,735	$443,386
2024	$304,924	$337,692	$372,395

Krakowski testimony; Resp't Ex. O at 10.

31. Krakowski concluded to values for the improvements and 1-acre homesite of $399,735 for 2023 and $376,184 for 2024. Krakowski then added in the value of the remaining land using the agricultural rates and the data and soil types from the property record card. These were $18,052 for 2023 and $21,663 for 2024. This yielded the following total values:

Year	Total
2023	$417,787
2024	$397,847

Krakowski testimony; Resp't Ex. O at 10-12.

32. It is unclear from either the appraisal report or Krakowski's testimony as to how Eenhuistra's appraisal factored into Krakowski's conclusions in his appraisal review. There is also no explanation for why Krakowski did not adjust his comparables for any factors besides acreage. Nor is it explained why Krakowski concluded to a value for the improvements and 1-acre homesite outside the range of his adjusted comparables (and

well above the average) for the 2024 assessment year. For these reasons, we do not find Krakowski's conclusions to be a credible estimate of value for either year under appeal.

RESPONDENT'S CONTENTIONS

33. The Assessor asked the Board to adopt the values from the Krakowski appraisal review. In the alternative, the Assessor argued that while the portion of the property farmed for hay was used for agricultural purposes, the remainder was not. The Assessor asked the Board to clarify what percentage of the property should be assessed as agricultural land. *Resp't Ex. O; Neff testimony.*

PETITIONER'S CONTENTIONS

34. The Petitioners asked the Board to adopt values of $380,793 for 2023 and $407,087 for 2024. The Petitioners arrived at the 2023 value by combining the improvements value from the Eenhuistra appraisal with the assessed value of the land and their own calculated values for the agricultural land. For 2024, they applied a market factor to trend the improvements and then did the same analysis. They argued that the entire property beyond the homesite should be assessed as agricultural land because a portion was used for hay and the remainder was used as forage ground for their bees. *Gertz testimony; Pet'r Exs 23, 27; Resp't Exs. M, N.*

35. The Petitioners also argued that the Assessor's 2023 and 2024 ratio studies were flawed because the neighborhoods were not properly stratified, the assessments were not uniform, and the data was not properly verified. *Gertz testimony.*

BURDEN OF PROOF

36. 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." I.C. § 6-1.1-15-20(a) (effective March 21, 2022).

37. 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.*

38. 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).

39. Here, the 2023 assessment of $512,000 is an increase of more than 5% over the previous assessment of $378,700. Thus, the Assessor has the burden of proof. The burden of proof for the 2024 assessment year necessarily depends on our determination for 2023 and is addressed below.

ANALYSIS

40. 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). "If the totality of the evidence presented to the 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).

41. 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 Cnty. 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 Cnty. Ass'r,* 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.

42. 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 Cnty. 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. Dept. of Local Gov't. Fin.,* 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006).

43. With respect to agricultural property, Indiana Code § 6-1.1-4-13(a) provides that "land shall be assessed as agricultural land only when it is devoted to agricultural use." The definition of "agricultural property" includes land "devoted to or best adaptable for the production of crops, fruits, timber and the raising of livestock." 2021 REAL PROPERTY ASSESSMENT GUIDELINES, Glossary at 2. It also includes "bees and apiary products." GUIDELINES, Ch. 2 at 78. The statutory and regulatory scheme for assessing agricultural land requires the Board to treat challenges to those assessments differently than other assessment challenges. *See* MANUAL at 2. For example, the legislature directed the DLGF to use distinctive factors such as soil productivity that do not apply to other types of land. I.C. § 6-1.1-4-13(c). The DLGF determines a statewide base rate by taking a rolling average of capitalized net income from agricultural land. *See* GUIDELINES, Ch. 2 at 73-74. Assessors then adjust that base rate according to soil productivity factors. *Id.* at

92-96. Depending on the type of agricultural land at issue, assessors may then apply influence factors in predetermined amounts. *Id.* at 82-83, 87, 95-96.

44. Furthermore, for the purpose of determining the true tax value of agricultural land, the Guidelines provide that one acre per dwelling on agricultural property be classified as Type 9 agricultural homesite. GUIDELINES, Ch. 2 at 90. The homesite makes up a portion of a property's land value. Also, areas containing a large, manicured yard that exceeds the accepted one-acre homesite are classified as Type 92 agricultural excess acreage. GUIDELINES, Ch. 2 at 51-52, 90. Unlike other subtypes of agricultural land, the true tax values of agricultural homesites and excess acreage cannot be established on appeal by applying the Guidelines. *See* GUIDELINES, Ch. 2 at 5-13, 90 (explaining that agricultural homesites and agricultural excess acreage are not valued using the soil-productivity method but are instead valued using base rates established through sales data). Instead, a party needs to offer probative market-based evidence.

45. For properties with mixed residential and agricultural uses like the subject property, the parties are faced with a hybrid regime for proving true tax value. Land devoted to agricultural use must be valued using the soil-productivity method, and the parties' evidence must conform to the Guidelines.[4] For improvements, agricultural homesites, and agricultural excess acreage, the parties must offer market-based evidence to establish the property's market value-in-use.

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[4] In *Gertz v. Porter Cnty. Ass'r*, 2026 WL 351967 (Ind. Tax Ct. Feb. 3, 2026), *review pending,* the Indiana Tax Court seems to suggest that the true tax value of agricultural land is established by showing its market value-in-use rather than by applying the Guidelines. This appears inconsistent with the 2021 Real Property Assessment Manual which states "[i]n the case of agricultural land, true tax value shall be the value determined in accordance with the Guidelines" and that market value-in-use applies to "all other real property." MANUAL at 2. However, the Manual also defines true tax value somewhat ambiguously as "In the case of agricultural land, the value determined in accordance with the Guidelines adopted by the Department of Local Government Finance. True Tax Value means market value-in-use as defined in this manual." MANUAL at 8. In addition, the Tax Court has previously affirmed the Board for ordering an assessor to reassess land as agricultural tillable land under the Guidelines. *Gertz v. Porter Cnty. Ass'r*, 187 N.E.3d 978 (Ind. Tax Ct. 2022). Given the present ambiguity, we rely on the Manual's explicit instruction that the true tax value of agricultural land can only be found by applying the Guidelines—and we find that this instruction applies both in the initial assessment and in an appeal to this Board.

46. Here, the Assessor had the burden of proof for the 2023 assessment year and relied primarily on the Krakowski appraisal review. Krakowski did purport to estimate the market value-in-use of the improvements and 1-acre homesite while applying agricultural rates to the remainder of the property. But as discussed above, we do not find Krakowski presented a credible estimate of value. More importantly, we agree with the Assessor's alternative argument that not all of the land beyond the 1-acre homesite is devoted to agricultural use. Both the Petitioners and the Assessor agree that the land farmed for hay is devoted to agricultural use and we concur. As for the remainder, the Petitioners largely rest on the theory that the entire acreage beyond the homesite is agricultural because it serves as forage grounds for their bees. We disagree. Beekeeping and the cultivation of honey are certainly agricultural uses, and we agree that the land directly supporting the apiaries should be assessed as agricultural. Nevertheless, as stated in our findings above, while the remaining land may have some ***incidental*** agricultural use, it is not ***devoted*** to agricultural use.[5] The majority of this land more closely aligns with the "large, manicured yard" described by the Guidelines as agricultural excess acreage. GUIDELINES, Ch. 2 at 51-52, 90. For that reason, it cannot be valued using the agricultural Guidelines and soil productivity method. Instead, the Assessor needed to present market-based evidence of its market value-in-use. Thus, to successfully prove a value for the entire property, the Assessor needed to show:

- What portion of the land was devoted to agricultural use and what portion was not.
- The market value-in-use of the improvements and non-agricultural land.[6]
- The true tax value of the agricultural land under the Guidelines.

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[5] We recognize that this conclusion stands in contrast to our decisions regarding the same property in *David A. and Nichelle L. Gertz v. Porter Cnty. Ass'r*, Pet. No. 64-001-19-1-5-00369-20 (IBTR June 1, 2021) and *David A. & Nichelle L. Gertz v. Porter Cnty. Ass'r,* Pet. No. 64-00 l-22-1-5-00959-22 (IBTR June 7, 2024). In the 2019 appeal, we concluded that the remainder of the property beyond the homesite was devoted to agricultural use based on the uncontested testimony from Mr. Gertz stating that "we've always had local farmers cut and bale our non-homestead acreage to be used as cattle feed." *Pet'r Ex. 55* at 9. Here, the record shows that is clearly not the case. As stated in our above findings, we now determine that the hay farming is limited to only a portion of the acreage beyond the homesite, thus compelling a different conclusion. For the 2022 appeal, the Assessor did not contest the agricultural use of the non-homesite land.

[6] Also called "agricultural excess acreage" under the Guidelines. GUIDELINES, Ch. 2 at 51-52, 90

Despite presenting evidence that not all of the land beyond the homesite was devoted to agricultural use, the Assessor chose not to present an estimate of value under this theory. Because the Assessor did not provide such evidence she has failed to meet her burden of proof.[7]

47. The Petitioners likewise failed to make a case for any specific value. They primarily relied on a piecemeal valuation consisting of a combination of estimates for the improvements from the Eenhuistra appraisal, the assessed value of the homesite, and their own estimates of the value of the remaining land under the agricultural Guidelines. As discussed above, neither party may rely on the Guidelines for the value of non-agricultural land. Thus, the Petitioners needed to provide market-based evidence of value for the homesite—but they failed to do so. In addition, they also needed to provide market-based evidence of value for the land beyond the homesite that was not being farmed for hay or directly supporting the apiaries because that land was not devoted to agricultural use. They did not provide any such evidence. For these reasons, they have failed to make a case for any particular value.

48. In addition, the Petitioners appeared to argue that their assessment was unfair due to problems with the Assessor's ratio studies. But they failed to show why any of the alleged errors in the ratio studies would entitle them to individual relief on their assessments. To the extent the Petitioners may have been asking for an equalization adjustment or challenging the uniformity and equality of the assessment as mandated by I.C. § 6-1.1-2-2 and Article 10 of the Indiana Constitution, we will also address those claims. 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

[7] The Assessor did not purport to rely on any of the other appraisals that she introduced into evidence. Regardless, none of the appraisals, or any other evidence in the record, contain a reliable estimate of the market value-in-use of the improvements and properly allocated non-agricultural land.

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)). But the Petitioners did not provide reliable evidence showing the value of the subject property or meaningfully compare the subject property to a statistically reliable sample of comparable properties. For these reasons, they failed to make a prima facie case showing a lack of uniformity and equality in the assessment.

49. Finally, in addition to the arguments addressed above, the Petitioners' exhibits are replete with various notes, accusations, and claimed grievances. Most are written in the margins or added electronically. Many go toward issues outside the scope of these appeals. To the extent some may go toward the relevant issues, we remind Petitioners that simply marking up an exhibit with commentary is not a substitute for cogent argument made at the hearing or in a properly filed brief. While we do not address every allegation, we find the Petitioners have failed to walk the Board through their analysis and have not demonstrated they are entitled to any relief under Indiana Law.

50. For the 2023 assessment year, the assessment increased more than 5% over the prior year and the totality of the evidence is insufficient to prove any value. Thus, the prior year's assessment of $378,700 is presumed to equal the true tax value under Indiana Code § 6-1.1-15-20(f). For 2024, the Assessor again has the burden of proof because the current assessment of $530,600 is more than 5% above the 2023 assessment as we just determined. The parties largely relied on the same evidence and arguments for 2024 as they did for 2023 and we reach the same conclusions. Thus, the 2024 assessment must also revert to the prior year's assessment of $378,700.

CONCLUSION

51. Because the subject property's assessment increased by more than 5% over the prior year's assessment in each assessment year, and none of the exceptions apply, the current assessments are not presumed to equal the true tax value according to I.C. § 6-1.1-15-20. The Assessor had the burden of proof in each year, but failed to present reliable evidence supporting any value. Likewise, the Petitioners failed to present reliable evidence showing the value of the subject property. Because the totality of the evidence is insufficient to support any value, the prior year's assessment is presumed to equal the true tax value in each assessment year. Thus, we order the assessments reduced to $378,700 for each year at issue.

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>.