INDIANA BOARD OF TAX REVIEW
Small Claims
Final Determination
Findings and Conclusions

Petition:	**53-006-10-1-5-00052**
	53-006-11-1-5-00101
	53-006-13-1-5-00019
Petitioner:	**Elden L. and Betty L. Holsapple**
Respondent:	**Monroe County Assessor**
Parcel:	**53-00-40-690-000.000-006**
Assessment Year:	**2010, 2011, 2013**

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

Procedural History

1. The property under appeal is 3.53-acre parcel with a former horse barn that the Holsapples converted to a residence prior to the years under appeal. It is located at 8023 S. Old State Rd. 37 in Bloomington. The Holsapples contested the property's assessments for 2010, 2011, and 2013. The Monroe County Property Tax Assessment Board of Appeals ("PTABOA") issued determinations valuing the property as follows:

2010:	Land: $27,600	Improvements: $101,200	Total: $128,800
2011:	Land: $23,800	Improvements: $103,200	Total: $127,000
2013:	Land: $24,100	Improvements: $112,300	Total: $136,400

2. The Holsapples timely filed Form 131 Petitions with the Board. We originally scheduled a hearing for September 11, 2014. At the scheduled time, the Assessor and administrative law judge were ready to proceed but no one appeared for the Holsapples.[1] We therefore issued an Order of Dismissal on Sept. 15, 2014. The Holsapples petitioned for re-hearing, which we granted on October 3, 2014. We scheduled a new hearing on all three petitions for January 28, 2015. Our designated administrative law judge, Andrew Howell, held the hearing. Neither he nor the Board inspected the property.

3. Angela Parker appeared as counsel for the Holsapples. Brian Cusimano appeared as counsel for the Monroe County Assessor. Elden Holsapple and Ken Surface testified under oath.

[1] Mr. Holsapple arrived after the administrative law judge had closed the record.

Record

4. The official record for this matter is made up of the following:

   a. A digital recording of the hearing,

   b. Exhibits:[2]

Petitioners' Ex. 1:	Photographs of subject property,
Petitioners' Ex. 18:	Topography map of subject property,
Petitioners' Ex. 19:	Soils map dated November 7, 2013, with notations by Mr. Holsapple,
Petitioners' Ex. 20:	Excerpt from chapter 2 of the Real Property Assessment Guidelines for 2002 – Version A,
Petitioners' Ex. 21:	Aerial parcel soil survey of Monroe County, including subject property, with notations by Mr. Holsapple,
Petitioners' Ex. 22:	Soils inventory of report of subject property, with notations by Mr. Holsapple,
Petitioners' Ex. 23:	Conservation plan map of Monroe County, including subject property, with notations by Mr. Holsapple,
Petitioners' Ex. 26:	Photographs taken by Mr. Holsapple of different aspects and features of the subject property including various animals that reside there,
Petitioners' Ex. 47:	Document prepared by Mr. Holsapple,
Petitioners' Ex. 48:	Document prepared by Mr. Holsapple,
Petitioner's Ex. 49:	Summary appraisal report prepared by Richard Figg,
Petitioners' Ex. 51:	Abbreviated Form 156 property record from the U.S. Dept. of Agriculture,
Respondent's Ex. A:	Document packet containing photographs of and property record cards for, the subject property,
Board Ex. A:	Form 131 petitions,
Board Ex. B:	Hearing notices,
Board Ex. C:	Hearing sign-in sheet.

   c. These Findings and Conclusions and all other orders and filings.

[2] The Holsapples offered exhibits with non-sequential numbering. Petitioners' Exs. 47 and 48 were offered and admitted for demonstrative purposes only. A document marked as Petitioners' Ex. 50 was included with other documents the Holsapples offered and Mr. Holsapple referenced it in his testimony. But the Holsapples never formally offered that document as an exhibit, which deprived the Assessor of an opportunity to object to its admission. While the document is not in evidence, we note that its inclusion would not have altered our determination.

Summary of the Parties' Contentions

5. The Holsapples' case:

   a. The land should be classified as agricultural. The Holsapples used it exclusively for livestock and agricultural purposes in the years under review. They raise cattle on the property, and the U.S. Department of Agriculture has designated it as a farm. *Holsapple testimony; Pet'rs Exs. 26, 51.*

   b. The house was originally a horse barn and was built in 1977 or 1978; yet the property record card shows it as new construction. That error led the Assessor to apply insufficient depreciation. The Holsapples identified nine other houses built between 1970 and 1977 with quality grades ranging from D+2 to C. On average, those houses were assessed as having 28% depreciation. The property record card also erroneously indicates that the subject house has central air conditioning and an asphalt roof rather than a tin roof. *Holsapple testimony; Pet'rs Exs. 44, 47.*

   c. Mr. Holsapple further disagrees with the B+2 quality grade the Assessor assigned to the house. In his view, the grade should be B-1. Although he put a new roof and vinyl siding on the house and made other improvements, he also made mistakes. Richard Figg, an appraiser the Holsapples hired to appraise the property, recognized that the materials Mr. Holsapple used were not new and were of lesser quality than materials used in other average-quality construction in the marketplace. He similarly noted that the rear bedroom, walk-in closet, and one bath lack heating ducts, and that the closet has no foundation. In addition, Mr. Figg recognized external obsolescence due to road noise. *Holsapple testimony; Pet'rs Ex. 49.*

   d. In his appraisal report, Mr. Figg estimated the property's market value at $118,000 as of March 1, 2013. He developed both the cost and sales-comparison approaches. In reconciling the two values, he emphasized the sales-comparison approach because market participants typically base their decisions on the selling prices of similar properties. The Holsapples argue that Mr. Figg did not account for the fact that they use the land for agricultural purposes. *Holsapple testimony, Pet'rs Ex. 49.*

6. The Assessor's case:

   a. Where a property contains a dwelling, the Department of Local Government Finance's assessment guidelines call for a one-acre home-site even if the property is also used for agriculture. The Assessor therefore classified and assessed one acre as a homesite. She classified the rest as excess acreage. The Holsapples did not meet their burden of proving that the excess acreage should be assessed as agricultural land because they did not provide enough evidence to calculate the appropriate rates and soil productivity factors to apply to that excess acreage. *Surface testimony, Cusimano argument.*

b. Mr. Figg's appraisal is for the March 1, 2013 valuation date and does not apply to the 2010 or 2011 assessment years. He also valued the entire property without breaking down that value to account for any agricultural land. Nonetheless, when asked whether the appraisal was a fair value for 2013, the Assessor's witness, Ken Surface, responded, "I don't see any reason for the date as of March 1, 2013, to indicate that is not a fair value…." *Surface testimony; Cusimano argument.*

c. The purported errors on the property record card that Mr. Holsapple identified do not warrant changing the assessments. The type of roofing listed on the card is for informational purposes only and does not affect the assessment. *Surface testimony; Cusimano argument.*

Analysis

A. Burden of Proof

7. Generally, a taxpayer must prove that the assessment he is challenging is incorrect and what the correct assessment should be. Indiana Code § 6-1.1-15-17.2, also known as the burden-shifting statute, creates two exceptions to that rule. First, the statute "applies to any review or appeal of an assessment under this chapter if the assessment that is the subject of the review or appeal is an increase of more than five percent (5%) over the assessment for the same property for the prior tax year." I.C. § 6-1.1-15-17.2(a). "Under this section, the county assessor or township assessor making the assessment has the burden of proving that the assessment is correct in any review or appeal under this chapter and in any appeals taken to the Indiana board of tax review or to the Indiana tax court." I.C. § 6-1.1-15-17.2(b).

8. Second, subsection (d) of the statute "applies to real property for which the gross assessed value of the real property was reduced by the assessing official or reviewing authority in an appeal conducted under IC 6-1.1.15." I.C. § 6-1.1-15-17.2(d). Under those circumstances, "if the gross assessed value of the real property for an assessment date that follows the latest assessment date that was the subject of an appeal described in this subsection is increased above the gross assessed value of the real property for the latest assessment date covered by the appeal, regardless of the amount of the increase, the county assessor or township assessor (if any) making the assessment has the burden of proving that the assessment is correct." *Id.*

9. Thus, two mechanisms may trigger a shift in the burden of proof: (1) an increase of more than 5% between years, and (2) a successful appeal that reduces the previous year's assessment below the current year's level, regardless of the amount. There is no evidence that the Holsapples successfully appealed the 2009 or 2012 assessments. And the assessment did not increase between 2012 and 2013. The assessment did increase by more than 5% between 2009 and 2010. But the burden shifting statute contains an important exception—it does not apply where the assessment at issue was based on structural improvements, zoning, or uses that were not considered in the previous year's

assessment. I.C. § 6-1.1-15-17.2(c); *see also*, § 6-1.1-15-17.2(a) (shifting the burden to an assessor where the assessment under appeal represents an increase of more than 5% over the prior year's assessment for "the same property."). The parties agree that the 2010 assessment was based on significant intervening changes to the Holsapples' house and that the burden of proof therefore did not shift to the Assessor for that year.

10. Thus, the Holsapples have the burden of proof for the 2010 and 2013 assessment years. The analysis is slightly different for 2011. As things currently stand, the property's 2011 assessment is lower than its 2010 assessment. Nonetheless, the burden might still shift to the Assessor depending on what we determine in the Holsapples' appeal for 2010. We will therefore address the question of who has the burden for 2011 after we decide the Holsapples' appeal for 2010.

B. Valuation Standard and Evidence in Assessment Appeals

11. Indiana assesses real property based on its true tax value, which the Department of Local Government Finance ("DLGF") has defined as the property's market value-in-use. I.C. § 6-1.1-31-6(c); 2002 REAL PROPERTY ASSESSMENT MANUAL 2 (incorporated by reference at 50 IAC 2.3-1-2). *See also*, 2011 REAL PROPERTY ASSESSMENT MANUAL 2 (incorporated by reference at 50 IAC 2.4-1-2). A party to an assessment appeal may offer evidence that is consistent with that definition. A market-value-in-use appraisal prepared according to the Uniform Standards of Professional Appraisal Practice often will be probative. *Kooshtard Property VI v. White River Twp. Ass'r*, 836 N.E.2d 501, 506 n.6 (Ind. Tax Ct. 2005). A party may also offer actual construction costs, sale or assessment information for the property under appeal or comparable properties, and any other information compiled according to generally acceptable appraisal principles. *Id.; see also*, I.C. § 6-1.1-15-18.

12. Regardless of the valuation method used, a party must explain how its evidence relates to the property's value as of the relevant valuation date. *See O'Donnell v. Dep't of Local Gov't Fin.*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006); *Long v. Wayne Twp. Ass'r*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). For each assessment year under appeal, the valuation date was March 1 of that year. For example, the valuation date for the 2010 assessment year was March 1, 2010.

13. Normally, a party may not make a case for changing an assessment simply by showing how the DLGF's assessment guidelines should have been applied. *See Eckerling v. Wayne Twp. Ass'r*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006) ("Strict application of the regulations is not enough to rebut the presumption that the assessment is correct."). Instead, the party must offer the types of market-based evidence described above. *See id*. That general principle, however, does not apply to land used for agricultural purposes. The DLGF has promulgated guidelines for assessing agricultural land using distinctive factors, such as soil productivity, that do not apply to other types of land. I.C. § 6-1.1-4-13. The DLGF determines a statewide base rate by taking a rolling average of capitalized

net income from agricultural land. *See* 2011 REAL PROPERTY ASSESSMENT GUIDELINES, ch. 2 at 77-78; 2002 REAL PROPERTY ASSESSMENT GUIDELINES, ch. 2 at 99-100; *see also* I.C. § 6-1.1-4-4.5(e) (directing the DLGF to use a six-year, instead of a four-year, rolling average and to eliminate from the calculation the year for which the highest market value-in-use is determined). Assessors then adjust that base rate according to soil productivity factors. They also classify agricultural land into various types and subtypes. Depending on the classification, assessors may then apply influence factors in predetermined amounts. 2002 Guidelines ch. 2 at 102-08, 112-16; 2011 GUIDELINES, ch. 2 at 85-96, 98-100.

C. Discussion

14. Keeping those basic principles in mind, we turn to the appeals at hand, starting with the 2010 assessment year.

2010 Assessment

15. The Holsapples offered extensive undisputed evidence to show they used the property for agricultural purposes, including various photographs and testimony about the livestock they kept on the property, as well as evidence that the U.S. Department of Agriculture had designated the property as a farm. Raising cattle is an agricultural activity. *See* 2011 GUIDELINES at 19, 82-83. While the Holsapples converted what was previously a horse barn into a residence, they continued to use the property beyond the one-acre homesite for agriculture. They are therefore entitled to have the 2.53 acres currently assessed as residential excess acreage re-classified and assessed as agricultural land.

16. The Assessor argues we should deny the Holsapples' request because there is insufficient information in the record for us to calculate the proper agricultural rate. We disagree; the procedure for assessing agricultural land is objective, as laid out in the DLGF's guidelines. We need not perform the specific calculations in order to grant relief. We therefore order the Assessor to reclassify those 2.53 acres as agricultural land under the appropriate type and to assess them accordingly. That will necessarily change the property's total value.

17. The one acre currently assessed as a homesite is a different story. Under the DLGF's guidelines, one acre per dwelling on agricultural property must be assessed as a homesite. *See* 2011 GUIDELINES, ch. 2 at 93. Unlike other types of agricultural land, a homesite's true tax value is not determined simply by applying a statewide base rate adjusted by soil productivity factors and influence factors in pre-determined amounts. Instead, agricultural homesites are assessed at a flat rate that an assessor determines by examining the costs for vacant land and improvements to the land, such as a well and septic system. *Id*. at 53, 93. Thus, the Holsapples needed to offer probative market-based evidence to show the true tax value of both their homesite and improvements.

18. They failed to do so. While they took issue with the quality grade and age assigned to their house and pointed to some errors on the property record card, those claims merely attack the Assessor's methodology in applying the assessment guidelines and do not suffice to show either that the assessment is incorrect or what the appropriate assessment should be. The house's construction quality undoubtedly affects its true tax value. But the Holsapples needed to offer probative market-based evidence to quantify that effect. And they did not do so. They instead pointed to depreciation applied to other houses built around the time as the subject house. But there is no indication those other houses were recently renovated like the subject property's conversion from a horse barn to a house. They similarly offered Mr. Figg's appraisal report valuing the property as of March 1, 2013 without explaining how the report relates to the property's value as of March 1, 2010—the valuation date for the 2010 assessment.

19. That being said, the Holsapples offered undisputed evidence to show the Assessor incorrectly identified the house as having an asphalt roof and central air conditioning. The Assessor must change its records to reflect a tin roof and the absence of central air conditioning. But the value of the residence and one-acre homesite shall remain the same.

2011 Assessment

20. It is unclear which party has the burden of proof for 2011. The original 2011 assessment was less than 2010, and we do not currently know the results of the agricultural reclassification we have ordered for that year. The Holsapples could have removed that uncertainty by offering sufficient evidence for us to order a specific value. The question is moot, however. The parties offered the same evidence for 2011 as they offered for 2010, and the result is the same—the 2.53 acres currently classified as excess acreage must be re-classified as agricultural land under the appropriate type and assessed accordingly. Once again, that will necessarily change the property's total value.

2013 Assessment

21. As discussed above, the Holsapples have the burden of proof for 2013. They relied on the same evidence for 2013 as for the previous two years under appeal, and with the exception of Mr. Figg's appraisal, that evidence suffers from the same shortcomings already discussed.

22. Unlike the other two years at issue, Mr. Figg appraised the property as of the relevant valuation date for the 2013 assessment year. But he used the sales-comparison approach to estimate the property's market value rather than its market value-in-use. That might be inconsequential for most property types. The market value-in-use of agricultural land, however, is determined by applying the DLGF's assessment guidelines, not through examining comparable sales.

23. Nonetheless, the Assessor's witness, Mr. Surface, conceded that Mr. Figg's opinion of $118,000 would be a fair value for 2013. That is less than what the assessment would be if we simply ordered the Assessor to re-classify the 2.53 acres beyond the homesite as agricultural land.[3] Based on that concession, the property's overall assessment must be reduced to $118,000. The 2.53 acres currently classified as excess acreage must be re-classified as agricultural land under the appropriate type and valued accordingly. The difference between that number and the total assessment of $118,000 must then be allocated between the homesite and improvements, although we make no finding as to the specific amounts of those allocations.

FINAL DETERMINATION

24. The Holsapples proved they used their property for agricultural purposes during all three years under appeal. For each year, we order the Assessor to reclassify the 2.53 acres beyond the Holsapples' homesite as agricultural land under the appropriate type and to assess them accordingly. For 2013, we further order the Assessor to reduce the property's total assessment to $118,000. Finally, we order the Assessor to correct her records to show that the house has a tin roof and no central air conditioning.

ISSUED: April 28, 2015

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Chairman, Indiana Board of Tax Review

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Commissioner, Indiana Board of Tax Review

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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>.

[3] The excess acreage was valued at $4,120 for 2013. Given that the property as a whole was assessed for $136,400, re-classifying the land would not lower the assessment as far as the $118,000 conceded by Mr. Surface.