

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

Petition No.: 53-004-22-1-5-00937-22
Petitioner: Bill and Lisa Hurley
Respondent: Monroe County Assessor
Parcel: 53-05-18-200-043-013-004
Assessment Year: 2022

The Indiana Board of Tax Review (“Board”) issues this determination in the above matter, and finds and concludes as follows:

Procedural History

1. On June 15, 2022, Bill and Lisa Hurley contested the 2022 assessment of real property located at 5019 North Muirfield Lane in Bloomington. The Monroe County Property Tax Assessment Board of Appeals (“PTABOA”) issued a Form 115 determination valuing the property at \$101,100 for land and \$549,500 for improvements for a total assessment of \$650,600.
2. The Hurleys timely appealed to the Board. On September 20, 2023, Natasha Marie Ivancevich, the Board’s Administrative Law Judge (“ALJ”), held a telephonic hearing. Neither the Board nor the ALJ inspected the subject property.
3. Bill and Lisa Hurley appeared *pro se*. Marilyn Meighen appeared as counsel for the Assessor. The Hurleys and Monroe County Assessor Judith Sharp were sworn and testified.

Record

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

a) Exhibits:

Petitioner Ex. 1:	Form 11-2022
Petitioner Ex. 2:	Form 11-2023
Petitioner Ex. 3:	Form 115 Page 1
Petitioner Ex. 4:	Form 115 Page 2
Petitioner Ex. 5:	Form 115 Page 3
Petitioner Ex. 6:	Form 131
Petitioner Ex. 7:	Data Summary Architectural Grade
Petitioner Ex. 8:	Assessment Values for Comparable Homes
Petitioner Ex. 9:	Hurley Photo of Residence

Petitioner Ex. 10:	Hurley Property Record Card
Petitioner Ex. 11:	Hurley Property Record Card
Petitioner Ex. 12:	3661 Lauren Lane Photo of Residence
Petitioner Ex. 13:	3661 Lauren Lane Property Record Card
Petitioner Ex. 14:	3661 Lauren Lane Property Record Card
Petitioner Ex. 15:	4652 N. Maple Grove Rd. Photo of Residence
Petitioner Ex. 16:	4652 N. Maple Grove Rd. Property Record Card
Petitioner Ex. 17:	4652 N. Maple Grove Rd. Property Record Card
Petitioner Ex. 18:	3620 Lauren Lane Photo of Residence
Petitioner Ex. 19:	3620 Lauren Lane Property Record Card
Petitioner Ex. 20:	3620 Lauren Lane Property Record Card
Petitioner Ex. 21:	3641 Lauren Lane Photo of Residence
Petitioner Ex. 22:	3641 Lauren Lane Property Record Card
Petitioner Ex. 23:	3641 Lauren Lane Property Record Card
Petitioner Ex. 24:	3650 N. Lauren Lane Photo of Residence
Petitioner Ex. 25:	3650 N. Laurel Lane Property Record Card
Petitioner Ex. 26:	3650 N. Laurel Lane Property Record Card
Petitioner Ex. 27:	Hurley Home Map
Petitioner Ex. 28:	Comparable Homes Reference Map
Petitioner Ex. 29:	Shared Boundary Map
Petitioner Ex. 30:	Binford Woods and Muirfield Neighborhood Similarities
Petitioner Ex. 31:	Examples of Binford Woods Homes
Petitioner Ex. 32:	Binford Woods and Murfield Proximity Map
Petitioner Ex. 33:	Muirfield Neighborhood Current 2023 Sales Spreadsheet
Petitioner Ex. 34:	2023 Nearby Home Sales Spreadsheet
Petitioner Ex. 35:	3650 N. Lauren Lane Property Record Card
Petitioner Ex. 36:	3650 N. Lauren Lane Property Record Card
Petitioner Ex. 37:	4952 N. St. Patricks Ct. Property Record Card
Petitioner Ex. 38:	952 N. St. Patricks Ct. Property Record Card
Petitioner Ex. 39:	4923 N. Chatham Drive Property Record Card
Petitioner Ex. 40:	4923 N. Chatham Drive Property Record Card
Respondent Ex. A:	Property Record Card Subject Property
Respondent Ex. B:	Sales in Neighborhood Spreadsheet
Respondent Ex. C:	2021 Grades in Murfield Neighborhood
Respondent Ex. D:	2022 Grades in Murfield Neighborhood
Respondent Ex. E:	Lot Sizes in Murfield Neighborhood
Respondent Ex. F:	Lot Sizes in Binford Woods

- b) 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) a digital recording of the hearing.

Objections

5. The Assessor objected to the admission of Petitioner's Ex. 2, the 2023 Form 11, on the grounds that it was for the incorrect assessment year and was illegible. The Assessor did not cite to any rule or specific reason that would merit the exclusion of the exhibit. The ALJ took the Assessor's objection under advisement. The objection goes more to the weight of the evidence, rather than its admissibility. Therefore, we overrule the objection and admit the exhibit.

Findings of Fact

6. The subject property is a 4,002 sq. ft. single family residence situated on 1.11 acres in the Murfield subdivision in Bloomington. Construction finished in 2015 and the structure received a "C" grade. The home has vinyl windows; vinyl exterior with fake stone; and vinyl shutters. The interior floors are "laminated, fake wood floors from Sam's Club." The home has a drop ceiling and carpet tile basement. Between 2021 and 2022, the property's assessment increased from \$553,400 to \$650,600 and the grade changed from a "C" to a "B" grade. *L. Hurley testimony; Resp't Ex. A.*

Contentions

7. Summary of the Assessor's case:
 - a) The Assessor argued the subject property's assessment is correct. In support of this, she pointed to 2021 sales of other properties in the same neighborhood. She found four sales with an average sale price of \$167/sq. ft. She noted that the subject property's assessment was very close to the average and median sales prices of the other homes in the neighborhood. Finally, she also testified that the subject property's new grade was more in line with its quality of construction and design elements. *Sharp testimony.*
8. Summary of the Petitioner's case:
 - a) The Hurleys argued that the subject property's grade should not have been changed because there have been no improvements to it since construction. They requested that the grade be returned to a "C." *L. Hurley testimony.*
 - b) The Hurleys contended that homes in the area that are equal or greater in size and quality have received lower assessments. In addition, they argued that other nearby homes have higher replacement costs but lower assessments. For these reasons, the Hurleys contend their property was inequitably assessed. *L. Hurley testimony; B. Hurley testimony.*

Burden of Proof

9. 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).
10. However, the burden of proof shifts if the property’s assessment “increased more than 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.*
11. 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).
12. Here, the current assessment of \$650,600 is an increase of more than 5% over the previous year’s assessment of \$553,400, and none of the exceptions apply. Thus, the Assessor has the burden of proof. I.C. § 6-1.1-15-20(f).

Analysis

13. Neither party offered probative evidence to show the property’s true tax value so the assessment must revert to its 2021 value.
 - a) 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).
 - b) 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 Cty. 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.

- c) 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. 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).
- d) As stated above, the Assessor has the burden of proof. In support of the assessment, she pointed to sales of properties in the same neighborhood. While sales data can be probative, it must be compiled according to generally accepted appraisal principles. *Peters* at 849. In addition, parties must explain how the properties compare to each other in terms of characteristics that affect market value-in-use. *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 470-71 (Ind. Tax Ct. 2005). They must similarly explain how relevant differences affect values. *Id.* Here, the Assessor did not offer any reliable analysis explaining the differences between the sold properties and the subject. Nor did she provide any explanation of how those differences affected the properties’ respective values. For this reason, we find the Assessor failed to meet her burden of proof.
- e) To the extent the Hurleys request a lower value, we now examine their evidence. They primarily argued that the subject property’s grade should not have been changed because there were no improvements since construction. They also asked the Board to order the grade reverted from B to C. As the Tax Court has explained, “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). Evidence of a property’s assessment in one year therefore has little bearing on its true tax value in another. *Fleet Supply, Inc. v. State Bd. of Tax Comm’rs*, 747 N.E.2d 645,650 (Ind. Tax Ct. 2001). For this reason, the fact that the grade differed from one year to the next is not relevant to determining a property’s value on appeal. In addition, simply attacking the methodology used to develop the assessment is insufficient to establish a value. *Piotrowski*, 177 N.E.3d at 133. Instead, parties must use market-based evidence to “demonstrate that the suggested value accurately reflects the property’s true market value-in-use.” *Eckerling*, 841 N.E.2D 674, 678 (Ind. Tax Ct. 2006). Thus, the Hurley’s are not entitled to any relief on these grounds—either in the form a specific grade for their property, or for any reduction in the assessment.
- f) The Hurleys did present some market-based evidence in the form of the comparable assessments and sales data. But like the Assessor, they failed to meaningfully explain the differences between the purportedly comparable properties and the subject, nor

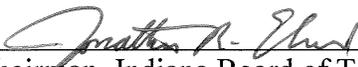
did they provide evidence showing how those differences affected their values. Without such analysis, this evidence is insufficient to support any specific value.

- g) The Hurleys made some argument that their property was inequitably assessed as compared to other nearby properties. We interpret 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. Assessor*, 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 Hurleys did not demonstrate that they provided a statistically reliable sample of properties, nor did they have reliable market data showing the value of the subject property. For these reasons, they failed to make a prima facie case showing a lack of uniformity and equality in the assessment.
- h) Because the burden of proof has shifted to the Assessor, and the totality of the evidence presented is insufficient to determine the property’s true tax value, I.C. § 6-1.1-15-20(f) mandates the property’s assessment revert to the previous year’s assessment of \$553,400.

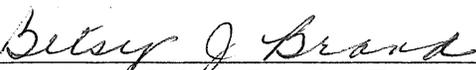
Final Determination

14. In accordance with the above findings and conclusions, the Board orders the assessment revert to the 2021 assessment of \$553,400.

ISSUED: 12/14/2023



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 after the date of this notice.

The Indiana Code is available on the Internet at <>. The Indiana Tax Court's rules are available at <<http://www.in.gov/judiciary/rules/tax/index.html>>.