

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

**Petition No.:** 45-034-21-1-5-00333-23  
**Petitioner:** Lake County Assessor  
**Respondent:** Joseph & Connie Spezia  
**Parcel:** 45-11-06-329-003.000-034  
**Assessment Year:** 2021

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

**Procedural History**

1. The Spezias appealed the 2021 assessment of their property located at 933 Waterville Court in Dyer on June 13, 2022.
2. The Lake County Property Tax Assessment Board of Appeals (“PTABOA”) issued its decision lowering the assessment to \$122,400 for land and \$615,300 for improvements for a total assessment of \$737,000. The Assessor disagreed with the PTABOA’s determination and appealed to the Board, electing to proceed under the small claims procedures.
3. On December 19, 2023, Dalene McMillen, the Board’s Administrative Law Judge (“ALJ”) held a telephonic hearing. Neither the Board nor the ALJ inspected the property.
4. Ayn Engle appeared as the Assessor’s attorney. Joseph Spezia, owner, appeared *pro se*. Jolie Covaciu, Project Manager for Nexus LTD, and Spezia testified under oath.

**Record**

5. The parties submitted the following exhibits:
  - Petitioner Exhibit R-1: 2021 subject property record card,
  - Petitioner Exhibit R-2: Sales disclosure form for the subject property,
  - Petitioner Exhibit R-3: Residential client detail report for the subject property,
  - Petitioner Exhibit R-4: Agent detail with additional pictures report for the subject property.

- Respondent Exhibit 0: Petition for Review of Assessment Before the Indiana Board of Tax Review – Form 131,
- Respondent Exhibit 1: Notification of Final Assessment Determination – Form 115,
- Respondent Exhibit 2: Taxpayer’s Notice to Initiate an Appeal – Form 130,
- Respondent Exhibit 3: 2019-2020 comparable sales,
- Respondent Exhibit 4: Two photographs for 1630 Muirfield Drive,
- Respondent Exhibit 5: Property record card for 1630 Muirfield Drive,
- Respondent Exhibit 6: Two photographs for 1117 Royal Dublin Lane,
- Respondent Exhibit 7: Residential client detail report for 1117 Royal Dublin Lane,
- Respondent Exhibit 8: Property record card for 1117 Royal Dublin Lane,
- Respondent Exhibit 9: Two photographs for 1031 Killarney Drive,
- Respondent Exhibit 10: Residential client detail report for 1031 Killarney Drive,
- Respondent Exhibit 11: Property record card for 1031 Killarney Drive,
- Respondent Exhibit 12: Two photographs for 1533 Muirfield Drive,
- Respondent Exhibit 13: Residential Client Detail Report for 1533 Muirfield Drive,
- Respondent Exhibit 14: Property record card for 1533 Muirfield Drive.
- Respondent Exhibit 15: Two photographs for subject property record card,
- Respondent Exhibit 16: 2021 subject property record card.

- a) 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.

**Findings of Fact**

- 6. The subject property is a two-story, 5,147 sq. ft. brick/frame home built in 1992 with an attached 1,055 sq. ft. garage on a 0.425-acre lot. *Pet’r Ex. R-1; Resp’t Ex. 16.*
- 7. The Spezias purchased the subject property on July 23, 2020, for \$900,000. The sales disclosure form shows there was no business or family relationship between the parties. In addition, each party had their own real estate agent. *Covaciu testimony; Spezia testimony; Pet’r Exs. R-1 & R-2; Resp’t Ex. 16.*

**Contentions**

- 8. Summary of the Assessor’s case:
  - a) The Assessor argued that the subject property’s assessment should reflect the July 2020 sale price of \$900,000 because that sale was an arms-length transaction that

occurred within six months of the assessment date. *Covaciu testimony; Pet'r Exs. R-3 & R-4.*

- b) The Assessor also argued that Joseph Spezia's comparable sales analysis was unreliable because he did not adjust for the relevant differences between the purportedly comparable properties and the subject property. In particular, the Assessor noted that the subject property was located on a cul-de-sac while the comparable properties were not. *Covaciu testimony.*

9. Summary of the Spezias' case:

- a) Joseph Spezia presented four purportedly comparable properties from the Briar Ridge Country Club neighborhood. He chose the comparable properties based on the number of bedrooms and bathrooms, exterior finish, year built, style, quality of construction, above grade square footage and date of sale. He testified he did not factor in the finished basement areas on the comparable properties. The properties sold from September 2019 through October 2020 for \$660,000 to \$800,000. This is \$135.95 to \$149.22 per sq. ft., or an average of \$143.33 per sq. ft. He claimed that these sales demonstrated that his purchase price of \$900,000 is excessive. He also testified that when they purchased the property they were on a short timeline and were unfamiliar with the local market. Spezia argued his assessment should remain as determined by the PTABOA at \$143.33 per sq. ft. or \$737,700 (rounded). *Spezia testimony; Resp't Exs. 1 & 3-16.*

### **Burden of Proof**

- 10. 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).
- 11. 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.*
- 12. 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).

13. Here, the current assessment of \$737,700 was an increase of more than 5% over the previous assessment of \$686,200. Thus, the Assessor has the burden of proof under I.C. § 6-1.1-15-20. In addition, the Assessor also has the burden of proof as the party seeking to overturn the PTABOA determination.

### Analysis

14. The Assessor presented probative evidence of the market value-in-use of the subject property.
- 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).
- 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) The Assessor asks the Board to raise the assessment to \$900,000 based on the July 23, 2020, purchase price. The purchase price can be the best evidence of a property’s

value. *Hubler Realty Co. v. Hendricks Co. Assessor*, 938 N.E.2d 311, 315 (Ind. Tax Ct. 2010). We also find this sale to be contemporaneous with the January 1, 2021, assessment date because it occurred less than six months prior to that date. Although Joseph Spezia speculated that they may have overpaid for the subject property because they were unfamiliar with the local market and were on a short timeline, we do not find this seriously undercuts the reliability of the sale as evidence of the market value-in-use of the subject property—particularly given the fact that both parties were represented by their own real estate agents. For these reasons we find the \$900,000 sale price is reliable evidence of the subject property’s market value-in-use as of the assessment date and sufficient to meet the Assessor’s burden of proof.

- e) We now examine whether Spezia provided reliable evidence supporting a different value. Spezia presented a sales-comparison approach as evidence that the PTABOA’s determination of \$737,700 is correct. To effectively use a sales comparison approach in a property tax assessment appeal, the proponent must establish the comparability of the properties being examined. 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). The proponent must also 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 relevant market value-in-use of the properties. *Id.* at 471. Opinions that are unsupported by probative evidence are conclusory and of no value to the Board in making its determination. *Whitley Products, Inc. v. State Bd. of Tax Comm’rs*, 704 N.E.2d 1113, 1118 (Ind. Tax Ct. 1998).
- f) Spezia did not offer the type of analysis required by *Long*. While he identified certain differences between the comparables and the subject property, he did not offer any reliable evidence showing how those differences affected their respected values. Without such analysis, this evidence is insufficient to support any value.
- g) Thus, we find that the July 23, 2020, purchase price of \$900,000 is the most persuasive evidence in the record for the market value-in-use of the subject property as of the valuation date.

### **Final Determination**

- 15. In accordance with the above findings and conclusions, we order the assessment increased to \$900,000.

ISSUED: March 14, 2024

Jonathan R. Elrod  
Chairman, Indiana Board of Tax Review

Betsy J. Brand  
Commissioner, Indiana Board of Tax Review

Timothy Schubert  
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>.