

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

**Petition No.:** 45-004-18-1-5-00462-21  
45-004-21-1-5-00057-23  
45-004-23-1-5-00346-25  
**Petitioner:** James Nowacki  
**Respondent:** Lake County Assessor  
**Parcel No.:** 45-08-16-430-007.000-004  
**Assessment Year:** 2018, 2021, 2023

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

**PROCEDURAL HISTORY**

1. James Nowacki (“Nowacki”) appealed the 2018, 2021, and 2023 assessments of his property located at 2625 Madison Street in Gary on August 1, 2019, June 10, 2022, and June 8, 2024, respectively. The Lake County Property Tax Assessment Board of Appeals (“PTABOA”) issued their final determinations as follows:

Assessment Year	Issued	Land	Improvements	Total
2018	April 7, 2021	\$1,500	\$4,100	\$5,600
2021	December 1, 2022	\$1,500	\$3,100	\$4,600
2023	March 10, 2025	\$3,900	\$3,900	\$7,800

2. Nowacki filed his Form 131 Petitions appealing the 2018, 2021, and 2023 PTABOA Determinations on May 20, 2021, January 17, 2023, and April 21, 2025, respectively, electing to proceed under the small claims procedures. On August 4, 2025, Natasha Marie Ivancevich, our designated administrative law judge (“ALJ”), held an in-person hearing. Neither she nor the Board inspected the property.
3. Nowacki appeared *pro se*. Matthew Ingram from the Lake County Assessor’s office appeared for Assessor. Both testified under oath.

**RECORD**

4. Nowacki submitted the following exhibits:

Petitioner Ex. A	Subject Property Record Card
Petitioner Ex. B	Aerial Photo of Subject Property
Petitioner Ex. C	Subject Parcel Identification Information

5. The Assessor did not submit any exhibits.

6. The official record also includes: (1) all pleadings, briefs, motions, and documents filed in this appeal; (2) all notices and orders issued by the Board or our ALJ; and (3) an audio recording of the hearing.

### FINDINGS OF FACT

7. The subject property consists of a 0.07-acre lot with a dilapidated building. *Pet'r Ex. A; Nowacki testimony; Ingram testimony.*
8. There is no evidence in the record regarding whether the 2018 assessment under appeal was an increase, decrease, or identical to the prior year's assessment. The 2021 assessment under appeal of \$4,600 is an approximately 2% increase over the prior year's assessment of \$4,500. The 2023 assessment under appeal of \$7,800 is an approximately 59% increase over the prior year's assessment of \$4,900. *Pet'r Ex. A.*

### PARTIES' CONTENTIONS

#### A. Nowacki's Contentions

9. Nowacki argued the property is over-assessed. In support of this, he pointed to the poor condition of the building. He asked that the assessments be reduced to \$2,500 for each of the years under appeal. *Nowacki testimony.*
10. In addition, Nowacki argued that the large fluctuations in the assessments from year to year demonstrate that the current assessments should not be considered accurate. *Nowacki testimony.*

#### B. Assessor's Contentions

11. The Assessor argued the assessment should be decreased to \$3,400 for each of the years under appeal due to the condition of the improvements. *Ingram testimony.*

### BURDEN OF PROOF

12. These appeals span several years during which different statutory regimes governed the burden of proof in assessment appeals. *See* Indiana Code § 6-1.1-15-17.2 (repealed by 2022 Ind. Acts 174, § 32 effective on passage); I.C. § 6-1.1-15-20. Both statutes remove the normal presumption that an assessment is correct and shift the burden of proof to the assessor in cases where the assessment under appeal represents an increase of more than 5% over the prior year's assessment, as last corrected by an assessing official, stipulated to or settled by the taxpayer and the assessing official, or determined by a reviewing authority. I.C. § 6-1.1-15-17.2 (a)-(b); I.C. § 6-1.1-15-20(a)-(b), (f). And where there is a failure of proof, both statutes require the assessment to revert to the level last determined for the prior year. I.C. § 6-1.1-15-17.2(b); I.C. § 6-1.1-15-20(f). Under the

first statute, that reversion occurs where the assessor fails to offer probative evidence of the property's true tax value that "exactly and precisely conclude[s]" to the challenged assessment, and the taxpayer fails to show that its proffered assessment is correct. I.C. § 6-1.1-15-17.2(b); *Southlake Ind., LLC v. Lake Cnty. Ass'r* ("Southlake II"), 174 N.E.3d 177, 179-80 (Ind. 2021); *Southlake Ind. LLC v. Lake Cnty. Ass'r* ("Southlake III"), 181 N.E.3d 484, 489 (Ind. Tax Ct. 2021). Under the second statute, the Legislature clarified that the reversion is triggered only where the totality of the evidence does not suffice to prove the property's true tax value. I.C. § 6-1.1-15-20(f).

13. For assessment year 2018, we apply I.C. § 6-1.1-15-17.2 because that appeal was filed with the PTABOA prior to its repeal and I.C. § 6-1.1-15-20 specifically applies to Chapter 15 appeals filed after its effective date of March 21, 2022. For assessment years 2021 and 2023, we apply I.C. § 6-1.1-15-20.
14. For 2018, there is no evidence in the record of the prior year's assessment. As the party seeking to take advantage of the burden-shifting statute, it was Nowacki's responsibility to provide the necessary evidence to show that it applied. Nowacki argued that the burden should be on the Assessor because the property was over-assessed. But he cited to no authority for this proposition. Thus, we find the burden rests with Nowacki for 2018. The 2021 assessment did not increase by more than 5% over the prior year's assessment and Nowacki has the burden for that year under I.C. § 6-1.1-15-20. For 2023, the assessment did increase more than 5% over the prior year's assessment and the Assessor has the burden of proof.

#### ANALYSIS

15. Neither party presented any reliable evidence of value.
  - a) Generally, an assessment determined by an assessing official is presumed to be correct. 2011 REAL PROPERTY ASSESSMENT MANUAL at 3.<sup>1</sup> The petitioner has the burden of proving the assessment is incorrect and what the correct assessment should be. *Piotrowski v. Shelby County Assessor*, 177 N.E.3d 127, 131-32 (Ind. Tax Ct. 2022).
  - b) Real property is assessed based on its true tax value. I.C. § 6-1.1-31-5. 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, it is determined under the DLGF's rules. 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.

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<sup>1</sup> The Department of Local Government Finance has adopted a new assessment manual and guidelines that apply to assessments for 2021 forward. 52 IAC 2.4-1-2 (filed Nov. 20, 2020) (incorporating 2021 Real Property Assessment Manual and Real Property Assessment Guidelines for 2021 by reference).

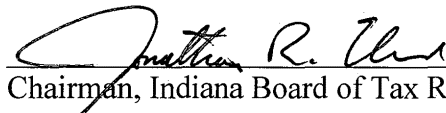
- c) To meet its burden of proof, a party “must present objectively verifiable, market-based evidence” of the value of the property. *Piotrowski v. Shelby Cty. Assessor*, 177 N.E.3d 127, 132 (Ind. Tax Ct. 2021) (citing *Eckerling v. Wayne Twp. Assessor*, 841 N.E.2d 674, 677-78 (Ind. Tax Ct. 2006)). For 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.
- d) 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).
- e) Here, Nowacki argued that the 2018 assessment should be \$2,500, but he failed to present any probative market-based evidence to support that value. Although Nowacki offered some argument and testimony related to the poor condition of the improvements and the neighborhood, he did not offer any reliable evidence quantifying the effect these deficiencies had on the overall value of the property. Statements 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). To successfully make a case for lowering an assessment, taxpayers must use market-based evidence to “demonstrate that their suggested value accurately reflects the property’s true market value-in-use.” *Eckerling*, 841 N.E.2d 674, 678.
- f) Nowacki also pointed to the fluctuations of the assessment over time, but as the Tax Court has explained “each tax year-and appeal process-stands alone.” *Fisher v. Carroll Cty. Ass’r*, 74 N.E.3d 582, 588 (Ind. Tax Ct. 2017). Absent the application of the burden-shifting statute, the subject property’s assessment in years not under appeal or its fluctuation between years are of little relevance. Rather, the focus is what the value should be as of the relevant assessment date. Because Nowacki offered no probative market-based evidence, he failed to make a prima facie case for a lower assessment.
- g) The Assessor likewise presented no reliable evidence of value. But the Assessor did request that the subject property assessment be reduced to \$3,400.

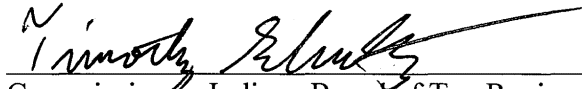
- h) Nowacki also had the burden of proof for the 2021 assessment year and relied on the same evidence and argument as for 2018. We reach the same conclusion. The Assessor did not present any evidence of value and again asked the assessment be reduced to \$3,400.
- i) The Assessor had the burden of proof for the 2023 assessment year and argued the assessment should be \$3,400 but failed to present any probative, market-based evidence to support that value. Nowacki relied on the same evidence and argument for 2023 as he did for the other two years and we reach the same conclusion.

#### FINAL DETERMINATION

16. Neither party presented any probative evidence of value for any of the years under appeal. For 2018 and 2021, Nowacki had the burden of proof. Because the Assessor conceded the subject property was worth no more than \$3,400, we order the assessment reduced to that amount. For 2023, the Assessor had the burden of proof but conceded the subject property was worth no more than \$3,400—less than the prior year's assessment of \$4,900. Thus, we also order the 2023 assessment reduced to \$3,400.

ISSUED: OCTOBER 31, 2025

  
Chairman, Indiana Board of Tax Review

  
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>.