

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

**Petition:** 28-018-22-1-5-00637-23  
**Petitioner:** Timmy Ray Phegley  
**Respondent:** Greene County Assessor  
**Parcel:** 28-06-23-224-124.000-018  
**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 May 5, 2023, Timmy Ray Phegley filed a Form 130 notice challenging the 2022 assessment of his property located at 280 S.E. 8<sup>th</sup> Street in Linton. On September 18, 2023, the Greene County Property Tax Assessment Board of Appeals (“PTABOA”) issued a final determination valuing the subject property at \$28,800 (\$14,200 for land and \$14,600 for improvements).
2. Phegley timely filed a Form 131 petition with the Board and elected to proceed under our small claims procedures. On March 14, 2024, our designated administrative law judge, David Smith (“ALJ”), held a hearing on Phegley’s petition. Neither he nor the Board inspected the subject property.
3. Phegley appeared pro se. Attorney Marvin Abshire appeared as counsel for Dawn Abrams, the Greene County Assessor. Phegley and Abrams testified under oath.

**RECORD**

4. Phegley submitted the following exhibits:

Petitioner Exhibit 9:	GIS photo of parcel 28-06-22-444-023.000-018
Petitioner Exhibit 10:	GIS photo of subject property
Petitioner Exhibit 11:	Property Record Card (“PRC”) for parcel 28-06-23-224-126.000-018 <sup>1</sup>
Petitioner Exhibit 9A:	PRC for parcel 28-06-22-444-023.000-018
Petitioner Exhibit 10A:	PRC for subject property

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<sup>1</sup> Although Phegley submitted a document labeled Exhibit 11A, it is in fact page 2 of Exhibit 11 and is therefore not listed separately.

5. The Assessor submitted the following exhibits:

Respondent Exhibit 1:	2021 PRC for subject property
Respondent Exhibit 2:	2022 PRC for subject property
Respondent Exhibit 3:	Form 134 report

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

#### FINDINGS OF FACT

7. The subject property is a 0.36-acre lot with an unfinished garage located at 280 S.E. 8<sup>th</sup> Street in Linton, Indiana. When Phegley purchased it in 2023, the subject property's assessment still included a dwelling that had burned down 8-10 years prior to his purchase. On February 13, 2023, Phegley and the Assessor signed a Form 134 report removing the dwelling and reducing the subject property's 2022 assessment to \$28,800. *Phegley testimony; Abrams testimony; Pet'r Exs. 10, 10A; Resp't Ex. 3.*

#### SUMMARY OF CONTENTIONS

8. **Phegley's case:**

a) Phegley just wants his taxes to be fair and equitable. After Phegley purchased the property, he discovered that the value of a house that was no longer on the property was included in the assessment. He brought that to the Assessor's attention, which was when the Form 134 report was signed removing the value of the house. The lot to the north of the subject property has a house and a garage, yet its taxes are less than those on the subject property. There is also a lot larger than the subject property south of town with two structures that has lower taxes. The Assessor needs to go out and see the subject property to make a true assessment. The values of the properties are not equally assessed. *Phegley testimony; Pet'r Exs. 9, 10, 11, 9A, 10A.*

9. **The Assessor's case:**

a) The property is correctly assessed. The Assessor believed that an agreement had been reached when the Parties signed the Form 134 report, but she acknowledges that Phegley has the right to change his mind. The properties Phegley discussed are not comparable to the subject property. His comparison of properties fails to account for differing tax rates, differing neighborhood factors and values, and the number of lots being assessed. Phegley has not met his burden to prove the subject property's true tax value. *Abrams testimony; Abshire argument; Resp't Ex. 3; Pet'r Exs. 9, 10, 9A, 10A, 11.*

## BURDEN OF PROOF

10. Generally, the taxpayer has the burden of proof when challenging a property's 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." Ind. 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). In that situation, 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.* But the burden shifting provision does not apply if the assessment increase is based on 1) substantial renovations or new improvements; 2) zoning; or 3) uses that the assessing official did not consider in the assessment for the prior tax year. I.C. 6-1.1-15-20(d).
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 \$28,800 is less than the previous year's assessment of \$68,500. Phegley therefore has the burden of proof.

## ANALYSIS

14. The Indiana Board of Tax Review is the trier of fact in property tax appeals, and our 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 us. I.C. § 6-1.1-15-20(f). Our 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).
15. In order to meet its burden of proof, a party "must present objectively verifiable, market-based evidence" of the property's value. *Piotrowski v. Shelby County 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 County Ass'r*, 842 N.E.2d 899, 900 (Ind. Tax Ct. 2006). This is because the "formalistic application of the procedures and schedules" from the Department of Local Government Finance's ("DLGF") assessment guidelines lacks the market-based evidence necessary to establish a specific property's market value-in-use. *Piotrowski*, 177 N.E.3d at 133.
16. 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 County 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). For 2022 assessments, the valuation date was January 1, 2022. Ind. Code § 6-1.1-2-1.5.

17. As explained above, Phegley has the burden of proof. However, he did not present any objectively verifiable, market-based evidence showing the subject property’s true tax value as of January 1, 2022. Phegley provided some information about two properties he alleged were receiving more favorable tax treatment despite being superior to the subject property. But a party offering sales or assessment data must use generally accepted appraisal or assessment practices to show that the purportedly comparable properties are comparable to the property under appeal. *Long v. Wayne Twp. Ass’r*, 821 N.E.2d 466, 470-71 (Ind. Tax Ct. 2005). Conclusory statements that properties are “similar” or “comparable” do not suffice; instead, parties must explain how the properties compare to each other in terms of characteristics that affect market value-in-use. *Id.* They must similarly explain how relevant differences affect values. *Id.* Here, Phegley did not offer the type of analysis contemplated by *Long*. And he failed to use what little information he did provide to even develop a proposed valuation for the subject property. Thus, his evidence lacks probative value.
18. To the extent Phegley intended his evidence regarding the two properties he alleged were receiving more favorable tax treatment to support an argument that the subject property’s assessment violated the “uniform and equal” provisions of the Indiana Constitution, we conclude that he fell short. As the Tax Court has explained, “[o]ne way to measure uniformity and equality in property assessment is through an assessment ratio study.” *Thorsness v. Porter Cty. Ass’r*, 3 N.E.3d 49, 51 (Ind. Tax Ct. 2014). Such a study “compare[s] the assessed values of properties within an assessing jurisdiction with objectively verifiable data, such as sales prices or market value-in-use appraisals.” *Id.* at 51 (citation omitted). Where a ratio study shows an actionable lack of uniformity, a taxpayer may be entitled to an equalization adjustment bringing its assessment to the common level shown by the study. *Id.* In this case, Phegley did not compare the assessed values of any properties within the subject property’s assessing jurisdiction to objectively verifiable market data such as sales prices or appraisals, let alone present a credible ratio study showing an actionable lack of uniformity. Consequently, Phegley failed to prove that he is entitled to an equalization adjustment.
19. Because Phegley did not present any objectively verifiable, market-based evidence of the subject property’s true tax value and did not prove that he is entitled to an equalization adjustment, he failed to make a case for reducing the subject property’s 2022 assessment. Because the Assessor did not seek to change the assessment, our review ends here.

**FINAL DETERMINATION**

20. Phegley failed to prove that the subject property's 2022 assessment should be reduced. We therefore find for the Assessor and order no change.

ISSUED: June 12, 2024

  
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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>>.