REPRESENTATIVE FOR PETITIONER: Robert E. Phillips, *pro se*

REPRESENTATIVE FOR RESPONDENT: Craig R. Emig, Attorney

# BEFORE THE
# INDIANA BOARD OF TAX REVIEW

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| ROBERT E. PHILLIPS,<br><br>Petitioner,<br><br>v.<br><br>VANDERBURGH COUNTY ASSESSOR,<br><br>Respondent. | )<br>)<br>)<br>)<br>)<br>)<br>)<br>)<br>) | Petition No.: 82-029-24-1-5-01138-24<br><br>Parcel No.: 82-06-19-028-004.022-029<br><br>County: Vanderburgh<br><br>Assessment Year: 2024 |

## FINAL DETERMINATION

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

### Findings of Fact and Conclusions of Law

### Introduction

1. Robert Phillips challenged the assessment for his vacant lot. Because the evidence presented by Phillips was insufficient to prove the assessment was incorrect, we order no change to the assessment.

## Procedural History

2. Phillips filed a Form 130 petition contesting the 2024 assessment of his property located at 1021 North 4th Avenue in Evansville ("subject property").[1] On December 6, 2024, the Vanderburgh County Property Tax Assessment Board of Appeals ("PTABOA") issued a determination sustaining the 2024 assessment of $800, all for land. On December 26, 2024, Phillips filed a Form 131 petition with us.

3. On July 24, 2025, our designated administrative law judge, Joseph Stanford ("ALJ"), held a consolidated telephonic hearing on Phillips' petition in this appeal and his appeals of three other properties.[2] Neither the ALJ nor the Board inspected the subject property. Phillips represented himself. Craig R. Emig appeared as counsel for the Vanderburgh County Assessor. Phillips, Jacki Doty-Fox, and Cara Schuster testified under oath.

4. At the outset of the hearing, the ALJ pointed to Ind. Code § 6-1.1-15-20, which, among other things, assigns the burden of proof to an assessor when the assessment under appeal represents an increase of more than 5% over the prior year's assessment. He then asked the parties whether they believed the burden of proof should shift to the Assessor for any of the appeals.

5. Phillips initially indicated that assessments had increased significantly across various properties he owned, but the only specific properties he referenced were not at issue in the hearing. When counsel for the Assessor indicated that he did not think the assessments for the properties at issue had increased by more than 5%, Phillips responded, "if [Assessor's counsel] says they did not, then I'm not gonna argue with him, but. . ." Counsel for the Assessor later indicated that the assessment for one of the

[1] Phillips' Form 130 contains a signature date of August 28, 2023. While the record is unclear, it is possible that Phillips originally intended to file a 2023 appeal but filed it too late, so the Assessor considered it to be a 2024 appeal. In any case, the parties agreed that the assessment appeal before us is for January 1, 2024.

[2] The other properties were 1910 N. Fulton Ave. (pet. no. 82-029-24-1-5-01140-24), 736 E. Delaware St. (pet. no. 82-029-24-1-5-00361-24), and 403 E. Virginia St. (pet. no. 82-029-1-5-01141-24).

properties, 736 E. Delaware St., had increased by more than 5%. Neither side, however, offered any evidence to show what the subject property's assessment was for 2023.

6. Phillips did not offer any exhibits regarding this appeal.

7. The Assessor offered the following exhibits regarding this appeal:

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| Exhibit R-1138A: | Land Appraisal Report for the subject property completed by Marco G. Butturi, |
| Exhibit R-1138I: | Worksheet used for assessment analysis. |

8. The record also includes the following: (1) all petitions or other documents filed in this appeal, (2) all notices and orders issued by the Board or the ALJ in this appeal, and (3) an audio recording of the consolidated hearing.

## Findings of Fact

### A. The Subject Property

9. The subject property is a 4,092-square-foot vacant lot with 31 feet of frontage. It is located at 1021 North 4th Avenue in Evansville. *See Phillips testimony; Ex. R-1138A.*

10. Phillips acquired the property after bidding $11 at a tax-sale auction in 2023. There had been a "for sale sign" posted on the property beforehand. Phillips bought the property because the county was not regularly mowing it, and he wanted to protect neighborhood property values. *Phillips testimony.*

11. Phillips owns a house at 1025 North 4th Avenue. A second vacant lot at 1023 4th Avenue separates the subject property from the lot with the house. It is unclear whether Phillips owns the second vacant lot. In any case, the lot with the house has a fence separating it from the two vacant lots, and Phillips did not use the lot with the house and the subject property together. *Phillips testimony.*

12. It is unclear how long the subject property has been vacant. It is within an area that is zoned R-2, which permits one- and two-unit residences. But that zoning classification requires a minimum lot width of 50 feet and a minimum size of 5,000 square feet. Phillips asserted that the lot was unbuildable, while Marco Butturi, an appraiser hired by the Assessor, indicated that the property was a legal non-conforming use under the applicable zoning ordinance. In any case, Butturi acknowledged that any residence built on the property would have to comply with the following setback requirements: 25 feet from the lot's front and rear and five feet on both sides. *Phillips testimony; Ex. R-1138A.*

13. Even if a house may be built on the property, Phillips received an estimate of $12,000 to connect to city water. *Phillips testimony.*

14. Phillips testified that he owns other lots that are as nice or nicer than the subject property and that were assessed for only $500 or $600. But he did not offer any other information about those lots. *Phillips testimony.*

**B. Butturi's Land Appraisal Report**

15. Butturi, who is a certified appraiser, prepared an appraisal report in which he estimated the subject property's market value at $4,000 as of January 1, 2024. Butturi certified that he prepared his appraisal in conformity with the Uniform Standards of Professional Appraisal Practice. *Ex. R-1138A; Doty-Fox testimony.*

16. The appraisal report contains almost no analysis. Butturi identified three vacant lots from subdivisions near the subject property that he apparently viewed as comparable to the subject property. They sold in 2023 for prices ranging from $3,000 to $5,250, with an average price of $3,850 and a median price of $3,300. Butturi included photographs of the lots in an addendum to his report. But he did not provide any other legible

information about the lots.[3] Nor did he explain how he arrived at his opinion of $4,000 for the subject property. *Ex. R-1138A.*

**C. Doty-Fox's Review of Sales**

17. Doty-Fox, a Level III Assessor-Appraiser with 35 years of experience in the Assessor's Office, reviewed sales of vacant lots from the subject property's township during 2023. The sale prices ranged from $1 to $8,000. Doty-Fox disregarded what she viewed as invalid transactions, which included things like bank sales, sheriff's sales, and tax sales. She based her determination of invalidity on guidance from the IAAO[4] and the Department of Local Government Finance ("DLGF"). After disregarding the invalid sales, Doty-Fox found that the remaining sales were mostly in the $4,000 range. *Doty-Fox testimony; Ex. R-1138I.*

**Parties' Contentions**

**A. Phillips' Contentions**

18. Phillips argued that the subject property's assessment is "a little bit high" based on (1) what he paid for it, (2) the assessments for other lots he owns, (3) his belief that the lot is unbuildable, and (4) the estimate for connecting to city water.

19. Phillips disputed the notion that his purchase of the subject property constituted an invalid sale; to the contrary, he characterized the sale as an arm's length transaction. He also pointed out that the property was sold at a public auction after being advertised for sale through the "for sale" sign. He believes the Assessor incorrectly invalidates many sales with lower values, resulting in an overassessment based on the other sold properties.

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[3] In a table listing the lots' addresses, sale dates, and sale prices, Butturi included a column with numbers and a partial heading of "Approx. Pr[.]" The remainder of the heading is cut-off.
[4] We presume Doty Fox was referring to the International Association of Assessing Officers, which is commonly abbreviated as "IAAO."

20. Finally, Phillips disagreed with Butturi's $4,000 value conclusion, which Phillips described as inflated.

### B. The Assessor's Contentions

21. The Assessor argued that Phillips' successful bid at tax sale did not justify assessing the subject property for $11. Instead, based on Doty-Fox's analysis and Butturi's appraisal, the Assessor argued that the subject property was under-assessed. But through Doty-Fox, the Assessor recommended that the assessment not be raised.

## Conclusions of Law and Analysis

### A. We must start with the presumption that the PTABOA's assessment determination is equal to the subject property's true tax value.

22. Generally, a 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 be equal to the property's true tax value until rebutted by evidence presented by the parties." I.C. § 6-1.1-15-20(a). If the totality of the evidence does not suffice to determine the property's true tax value, the presumption holds. I.C. § 6-1.1-15-20(f).

23. 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.* 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).

24. As explained above, Phillips did not dispute the Assessor's general assertion that the subject property's assessment had not increased by more than 5% over the prior year. In any case, if Phillips wanted to take advantage of I.C. § 6-1.1-15-20's burden-shifting provision, he needed to establish a factual predicate for doing so by offering evidence to show the prior year's assessment. He failed to do that, and we must therefore begin with the presumption that PTABOA's assessment determination equals the property's true tax value.

**B. Phillips failed to rebut the presumption that the subject property's assessment equals its true tax value.**

25. We are 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 "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).

26. 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.

27. To meet its burden of proof, a party "must present objectively verifiable, market-based evidence" of the property's value. *Piotrowski v. Shelby Cty. 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." *PIA Builders*

*& Developers, LLC v. Jennings Cty. 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 DLGF's 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.

28. 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. 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. Dep't of Local Gov't. Fin.*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006). For 2024 assessments, the valuation date was January 1, 2024. I.C. § 6-1.1-2-1.5(a).

29. Phillips failed to make a prima facie case for changing the assessment. First, he asserted that he owned other lots that were as nice or nicer than the subject property but that were assessed for lower amounts, without offering any specifics about those other lots or their assessments. Such broad assertions, however, carry no probative weight. *See Long v. Wayne Twp. Ass'r*, 821 N.E.2d 466, 470-71 (Ind. Tax Ct. 2005) (finding taxpayers' comparative sales evidence carried no probative value where they failed to identify how purportedly comparable properties' characteristics compared to their property's characteristics or how any differences affected the properties' relative values).

30. Next, Phillips pointed to the subject property's size and the cost of connecting to utilities, which he believed would make building a house on the property difficult or impossible. While those factors are relevant, they do not by themselves show a value, or even a range of values, for the property.

31. Finally, Phillips pointed to the fact that he acquired the property after bidding only $11 at a tax-sale auction. Normally, for a sale price to qualify as probative, it must be a good indicator of a property's market value, which the 2021 Real Property Assessment Manual defines as:

> The most probable price, as of a specified date, in cash, or in terms equivalent to cash, or in other precisely revealed terms, for which the specified property rights should sell after reasonable exposure in a competitive market under all conditions requisite to a fair sale, with the buyer and seller each acting prudently, knowledgeably, and for self-interest, and assuming that neither is under undue duress.

2021 REAL PROPERTY ASSESSMENT MANUAL at 6. Because forced sales, such as tax sales and sheriff's sales, are made under duress, the sale prices from those transactions are normally poor indicators of a property's market value or market value-in-use. *Cf. Lake Cty. Ass'r v. U.S. Steel Corp.*, 901 N.E.2d 85, 91-92 (Ind. Tax Ct. 2009)(approving use of bankruptcy sales where taxpayer established that those sales were the market norm).

32. The tax-sale procedure is particularly inapt for generating market prices. The seller (i.e. the county treasurer) is not typically motivated. Her primary motivation is simply to generate enough money to pay delinquent and current taxes, fees, penalties and other costs of sale. *See* I.C. § 6-1.1-24-5(e) (providing that treasurer must sell property to the highest bidder but prohibiting sale for less than the amount of delinquent taxes plus other specified taxes, fees, and costs). And a tax-sale purchaser "is not purchasing title to the land in a standard market transaction." *Jenner v. Bloomington Cellular Servs.*, 77 N.E.3d 1232, 1237 (Ind. Ct. App. 2017). Instead, in exchange for paying the outstanding tax owed on the property, the purchaser receives a certificate evidencing the sale. *Id.*; I.C. 6-1.1-24-9. Within three months after the end of the redemption period, the purchaser may file a verified petition seeking the issuance of a tax deed. *Id.* (citing I.C. § 6-1.1-25-4.6(a)). Thus, "usually by risking pennies on the dollar relative to the fair market value of the land, the tax-sale purchaser obtains a legal right to later seek a deed to the land—*if* the tax-sale purchaser complies with the requirements set forth in . . . the tax-sale statutes." *Id.* (citing I.C. § 6-1.1-25-4.5) (emphasis in original).

33. Thus, Phillips failed to offer market-based evidence establish the subject property's market value-in-use.

## Conclusion

34. Phillips failed to make a prima facie case to rebut the assessment. We therefore find for the Assessor and order no change to the assessment

Date: OCTOBER 17, 2025

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 of 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>.