

II. PROCEDURAL HISTORY

2. On April 22, 2022, the Pridemores filed a Form 130 petition with the Lawrence County Assessor challenging their property's 2021 assessment. The property is located on Hollace Chastain Road, in Mitchell. On December 9, 2022, the Lawrence County Property Tax Assessment Board of Appeals ("PTABOA") issued its Form 115 determination ordering no change to the assessment.¹ This left in place a 2021 assessment of \$310,600. The Pridemores appealed the PTABOA's determination by timely filing a Form 131 petition with us.

A. The Assessor's Request for Entry Upon Land for Inspection and Motion to Dismiss.

3. After receiving notice of the Pridemores' Form 131 petition, the Assessor informally asked them to allow an appraiser to enter the property so she could prepare an appraisal report. The Pridemores refused. The Assessor then filed her Request for Entry Upon Land for Inspection. Our designated administrative law judge, Erik Jones ("ALJ"), held a telephonic conference on the motion. Ronald Pridemore and the Assessor's counsel participated. During the conference, Pridemore became upset and prematurely terminated his line. He did not return to the conference.
4. Later that day, the ALJ issued an order granting the Assessor's motion and giving the Pridemores 60 days to permit the Assessor's appraiser to inspect the property. *Order Granting Assessor's Request for Entry Upon Land*. The Pridemores again refused to allow an inspection.
5. After this second refusal, the Assessor filed a Status Report and Motion to Dismiss, arguing that we should dismiss the Pridemores' appeal based on their "explicit" and "adamant" refusals to comply with the ALJ's order. The Pridemores did not respond. We set a telephonic hearing on the merits of the appeal for September 19, 2023, and notified the parties that we would hear arguments on the Assessor's motion to dismiss at

¹ Although the PTABOA signed the Form 115 on December 9, 2022, it did not mail the determination until January 11, 2023.

that hearing. *See Assessor's Status Report and Motion to Dismiss; September 6, 2023 Hearing Notice.*

B. The Pridemores' ex parte letter requesting the ALJ's recusal and an in-person hearing.

6. On August 17, 2023, roughly one month after we sent notice scheduling the hearing, the Pridemores submitted a letter to us, ex parte (i.e., without serving the Assessor). In that letter, the Pridemores notified us that they would “not be addressing any questioning or interrogating by any board members.” They also indicated they would not address “‘wish list’ items such as completing an assessment of our property and allowing outside attorneys to involve themselves in our appeal for tax year 2021[.]” Finally, they requested that the hearing be held in person, rather than telephonically, and that the ALJ recuse himself “due to his previous affiliation and prior contact with” the Assessor and her attorneys. *Aug. 17, 2023 letter from Pridemores.* The Pridemores offered no grounds for their assertions about the ALJ. The ALJ has not been affiliated with the Assessor, nor has he had any ex parte communications with the Assessor or her counsel.

7. We promptly forwarded the Assessor a copy of the letter, and she filed a response in opposition. After considering the Pridemores' letter and the Assessor's response, we granted the request for an in-person hearing, reserving a conference room at the Lawrence County Assessor's office. We sent both parties revised hearing notices setting the hearing for October 10, 2023. Those notices identified the location as “**Lawrence County Assessor's Office** 916 15th St. Rm 22 **Assessor's Conference Room** Bedford, IN 47421[.]” *September 6, 2023 hearing notices (emphasis added).* We denied the Pridemores' demand that the ALJ be recused from hearing their appeal. *Order Denying Taxpayers' Request for Recusal and Granting Request for In-Person Hearing.*

C. The Hearing

8. The ALJ held the hearing as scheduled. Neither he nor the Board inspected the property. Ashley Johnson, Ronald Pridemore, and Nola Pridemore were sworn as witnesses.

9. The ALJ had the parties address the Assessor's motion to dismiss before moving to the merits of the Pridemores' appeal. Due to a technical issue, the recording device failed while the parties were addressing that motion, and the ALJ did not discover the problem until after the Pridemores had completed their case-in-chief on the merits. To make a clear record, the ALJ had the parties redo their presentations, starting at the point where he believed the recording equipment had first malfunctioned.
10. While addressing the motion to dismiss, Ronald Pridemore raised his voice. A person in a sheriff's deputy uniform entered the hearing room and instructed Pridemore to keep his voice down. Neither we nor the ALJ requested the deputy's presence or asked him to intervene. Pridemore became upset, and he and Nola Pridemore left the hearing. When they failed to return, the ALJ let the Assessor present her case-in-chief.
11. The Pridemores covered several points during the un-recorded portion of the hearing:
 - They described their property, including testifying that it contains about 40 acres.
 - They raised several issues about the appeal process. For example, they complained about the ALJ's order granting the Assessor's request for entry upon land. They also said that they rejected the county-level assessment determinations and that they would refuse to subject themselves to county-level review going forward.
 - Ronald Pridemore read from the cover letter he and Nola Pridemore had mailed with their Form 131 petition. Among other things, that letter outlined the Pridemores' disagreement with the Assessor's decision to increase the subject property's assessment to account for what she characterized as unreported or omitted improvements to the home. The Pridemores claimed that they had not omitted anything and argued that the Assessor was trying to turn the property into something it is not.
 - They complained about the Assessor's exhibits, claiming that the exhibits were more than one inch thick and were difficult to parse without an expert's help. They also asked several questions about handwritten notations on their property

record card.

12. The Parties offered the following exhibits:

The Pridemores' Exhibits

Petitioner's Exhibit 1	Parcel information sheet,
Petitioner's Exhibit 3	2021 Property Record Card ("PRC") for subject property with "WIP" notation,
Petitioner's Exhibit 4	2020 PRC for subject property.

The Assessor's Exhibits:

Respondent's Exhibit A	Assessor's Request for Entry Upon Land for Inspection,
Respondent's Exhibit B	Order Granting Assessor's Request for Entry Upon Land,
Respondent's Exhibit C	Assessor's Status Report and Motion to Dismiss,
Respondent's Exhibit D	2021 PRC for subject property,
Respondent's Exhibit E	Form 115 determination,
Respondent's Exhibit F	Appraisal report from Ashley Johnson of First Appraisal Group,
Respondent's Exhibit G	Assessor's witness and exhibit list, and FedEx tracking document.

13. The Pridemores originally submitted a document that they labelled as Exhibit 2, which consisted of part of a listing for the subject property with the Multiple Listing Service ("MLS"). Although the Assessor objected to admitting only part of the listing, she mooted the objection by later offering an appraisal report that included the full listing. *See Ex. F at 18-22.* When the Pridemores left the hearing, they took Exhibit 2 with them, without leaving a copy for the record.
14. The record also includes the following: (1) all pleadings, briefs, and documents filed in this appeal; (2) all orders, and notices issued by the Board or ALJ; and (3) an audio recording of the hearing (with portions missing due to the recording equipment's malfunction).

III. OBJECTIONS

15. The ALJ ruled on various objections at the hearing, and we adopt his rulings. He also took a few objections under advisement, which we now address.
16. At the start of the hearing, the Pridemores raised two procedural objections. First, they objected to holding the hearing in the Assessor's conference room. They alleged someone told them the hearing would not "use office space that belonged to the Assessor." They did not identify who told them this. In any case, we overrule the objection. The parties do not dictate where we schedule hearings. We granted the Pridemores' request for an in-person hearing. For the parties' convenience, we scheduled it in Lawrence County instead of at our central office in Indianapolis. Despite receiving notice of the location more than 30 days before the hearing, the Pridemores did not object to that location until the hearing began. And they offered nothing to show how they were prejudiced by the hearing's location.
17. Second, the Pridemores objected to the ALJ presiding over the hearing and again sought his recusal. This time, they alleged the ALJ showed he was biased against them because he granted the Assessor's Motion for Entry Upon Land. By themselves, adverse rulings do not suffice to show bias. *Dan Cristiani Excavating Co. v. Money*, 941 N.E.2d 1072, 1082 (Ind. Ct. App. 2011). We therefore overrule the Pridemores' objection and reaffirm our decision denying their request for the ALJ's recusal.
18. Next, the Pridemores objected to three exhibits the Assessor offered in support of her motion to dismiss: Exhibit A, a copy of the Motion for Entry Upon Land; Exhibit B, our order granting that motion; and Exhibit C, the Assessor's Status Report and Motion to Dismiss. The Pridemores argued that the exhibits had nothing to do with their 2021 tax appeal.
19. We overrule the objections. Although the Assessor labeled the documents as exhibits, they are not evidentiary. They are instead part of the appeal's procedural record, and

they offer context for the Assessor's argument on her motion to dismiss. The Pridemore's objections simply contest the underlying merits of the Assessor's motion. We address the merits of that motion below.

IV. FINDINGS OF FACT

A. The Subject Property

20. The subject property includes a single-story home with a walkout basement located on 39.50 acres of land. The property also includes two pole barns. In 2021, the Pridemores twice listed the property for sale with MLS: first for \$549,900 and then for \$650,000. They ultimately took down both listings. *Pet'r Ex. 3; Resp't Exs. D, F at 17.*
21. Initially, the Assessor valued the property at \$259,300 for the 2021 tax year. But in December 2021, she determined that the property had several unreported or omitted improvements, including the basement's finish and sink. She also lowered the property's effective age by three years. Those corrections raised the assessment to \$310,600. *Pridemore testimony; Pet'r Ex. 3; Resp't Ex. D.*

B. Johnson's Appraisal

22. The Assessor hired Ashley Johnson, an MAI and Senior Residential Appraiser, to appraise the market value-in-use of the fee simple interest in the subject property as of January 1, 2021. She certified that her appraisal complied with the Uniform Standards of Professional Appraisal Practice ("USPAP"). *Johnson testimony; Resp't Ex. F at 74.*
23. Although the Pridemores refused to let Johnson enter the subject property, she was still able to prepare an appraisal report. She viewed and photographed the property from a public right-of-way and compiled information from the Pridemores' MLS listings, including many photographs of the property's interior and exterior. *Johnson testimony; Resp't Ex. F at 17-22.*

24. Johnson considered all three generally accepted valuation approaches—the cost, sales-comparison, and income approaches. But she developed only the sales-comparison approach. Given the improvements’ age and the volatility of component prices during the year at issue, she decided against developing the cost approach. She similarly decided against developing the income approach because an investor would be unlikely to purchase the property for its income-producing capabilities. *Johnson testimony; Resp’t Ex. F at 58, 72.*
25. For her sales-comparison analysis, Johnson selected five comparable improved properties. She then considered adjusting the sale prices to account for transactional differences between those sales and the posited sale of the subject property, as well as for differences in relevant physical characteristics between the properties. The adjusted sale prices ranged from \$348,310 to \$425,272, with an average price of \$393,874 and a median price just under \$400,000. Johnson settled on an indicated value of \$400,000 for the subject property. *Johnson testimony; Resp’t Ex. F at 59-73.*

V. CONCLUSIONS OF LAW AND ANALYSIS

A. Because Johnson was able to prepare a credible appraisal without entering the property, we deny the Assessor’s motion to dismiss.

26. While the Pridemores disregarded our ALJ’s order requiring them to let the Assessor’s appraiser enter their property for purposes of preparing an appraisal, we find that the Assessor did not suffer prejudice sufficient to warrant us dismissing the Pridemores’ appeal. The Assessor’s chosen appraiser, Johnson, was able to view the property from a public right-of-way and gather sufficient information from the property’s MLS listings to prepare a reliable appraisal report.
27. A more appropriate remedy, and one the Assessor asked for in the alternative at the hearing, would be to bar the Pridemores from offering any evidence to contradict the data for, and assumptions about, the subject property that Johnson was forced to rely on as a result of the Pridemores’ refusing her access. The Pridemores did make a few assertions

about their property, largely in the context of disputing the Assessor's decision to raise the original 2021 assessment to account for what she described as omitted or unreported improvements to the subject home. To the extent the Pridemores' testimony about their property's characteristics contradicts the data and assumptions that Johnson relied on in her appraisal report, we disregard the Pridemores' statements as a sanction for their refusal to allow a physical inspection.

B. Johnson's USPAP-certified appraisal is the only probative evidence of the subject property's true tax value.

1. Because the property's assessment increased by more than 5% between 2020 and 2021, the Assessor had the burden of proof.
28. 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 equal "the property's true tax value." I.C. § 6-1.1-15-20(a) (effective March 21, 2022).
29. 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.* Those exceptions apply where the assessment under appeal is based on "(1) substantial renovations or new improvements; (2) zoning; or (3) uses" that were not considered in the prior year's assessment. I.C. § 6-1.1-15-20(d).
30. 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).

31. The subject property's assessment rose from \$246,000 in 2020 to \$310,600 in 2021, an increase of more than 5%. While the Pridemore's letter and the property record card indicate that the Assessor raised the original 2021 assessment based on things that she believed were previously omitted, the Assessor failed to show that the assessment under appeal was based on "substantial renovations" or new improvements that were not considered in the prior year's assessment. The Assessor therefore has the burden of proof.
2. Based on Johnson's appraisal, we find that the property's true tax value was \$400,000.
32. 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 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).
33. 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 rules of the Department of Local Government Finance ("DLGF"). 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.
34. 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 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."

P/A 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.

35. 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 2021 assessments, the valuation date was January 1, 2021. I.C. § 6-1.1-2-1.5(a).
36. To meet her burden, the Assessor offered Johnson’s USPAP-compliant appraisal of the subject property. Johnson considered developing all three generally recognized appraisal approaches and persuasively explained why she chose to forego developing the cost and income approaches. In applying the sales-comparison approach, she identified comparable properties from the area and adjusted their sale prices to account for relevant ways in which they differed from the subject property. We therefore find her valuation opinion of \$400,000 credible.
37. The Pridemores did nothing to impeach Johnson’s appraisal or to offer any market-based evidence of their own. The evidence and argument that they did offer mostly went to what they believed were problems with the appeal process. When they did focus on the property, they mainly took issue with the Assessor’s decision to raise the initial 2021 assessment based on her belief that it had omitted improvements to the home. But those amount to attacks on the Assessor’s methodology in arriving at the assessment. They do

nothing to impeach Johnson's valuation opinion or to show a different, more credible value.

38. We therefore find that the subject property's true tax value was \$400,000, as Johnson estimated in her appraisal.

VI. CONCLUSION

39. Although the Pridemores refused to comply with the ALJ's order that they allow the Assessor's appraiser to enter their property for purposes of preparing an appraisal, the Assessor's chosen appraiser, Johnson, was able to access sufficient data to prepare a credible appraisal. We therefore deny the Assessor's motion to dismiss. After a hearing where the Pridemores were given the opportunity to fully present their case, even if they chose to voluntarily leave the hearing before its completion, Johnson's USPAP-certified appraisal valuing the property at \$400,000 was the only probative evidence of the subject property's true tax value. We therefore order that the assessment be changed to \$400,000.


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>.