

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

Petition Nos.: 03-005-21-1-5-00958-22
03-005-22-1-5-00399-23
Petitioners: Albert H. Schumaker II and Nannette Russell
Respondent: Bartholomew County Assessor
Parcel No.: 03-95-13-310-001.700-005
Assessment Years: 2021 and 2022

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

PROCEDURAL HISTORY

1. Albert H. Schumaker II and Nannette Russell (“Petitioners”) contested the 2021 and 2022 assessments of their property located at 316 Flat Rock Drive, Columbus, Indiana, by filing Form 130 notices on June 15, 2021 and November 29, 2022, respectively.
2. The Bartholomew County Property Tax Assessment Board of Appeals (“PTABOA”) considered the Petitioner’s 2021 appeal at four meetings: November 30, 2021; April 1, 2022; July 19, 2022; and November 22, 2022. At the November 2021 meeting, the PTABOA directed the Assessor to get an appraisal of the property. As of the July 19, 2022 PTABOA meeting, however, the Assessor had not ordered an appraisal. On August 24, 2022, the Petitioners’ counsel emailed the Assessor and requested to withdraw the 2021 appeal. Later that day, the Assessor informed the Petitioners’ counsel that the PTABOA denied the withdrawal request because “[t]he hearing has already been held and the appraisal is in progress.” On August 25, 2022, the Assessor’s appraiser, Jonathan C. Scheidt, SRA, conducted a site visit to the subject property as part of his 2021 appraisal assignment, and he issued his 2021 appraisal on September 6, 2022.
3. On November 23, 2022, the Bartholomew County Property Tax Assessment Board of Appeals (“PTABOA”) issued a final determination for 2021 valuing the subject property at \$320,000 (\$61,300 for land and \$258,700 for improvements). On April 18, 2023, the PTABOA issued a final determination for 2022 valuing the property at \$320,000 (\$60,700 for land and \$259,300 for improvements).
4. The Petitioners timely filed Form 131 petitions with the Board and elected to proceed under our small claims procedures. On October 25, 2023, David Smith, our designated Administrative Law Judge (“ALJ”), held a telephonic hearing on the petitions. Neither he nor the Board inspected the property.

5. Melissa Michie appeared as counsel for the Petitioners. Bartholomew County Assessor Ginny Whipple appeared pro se. Whipple and appraiser Jonathan C. Scheidt testified under oath.

RECORD

6. The Petitioners submitted the following exhibits:

Petitioner Exhibit 1:	Timeline of events
Petitioner Exhibit 2:	2021 Form 130
Petitioner Exhibit 3:	2021 Property Record Card (“PRC”)
Petitioner Exhibit 4:	November 30, 2021 PTABOA minutes
Petitioner Exhibit 5:	July 19, 2022 PTABOA minutes
Petitioner Exhibit 6:	Email withdrawal of 2021 appeal
Petitioner Exhibit 7:	PTABOA email denying 2021 withdrawal request
Petitioner Exhibit 8:	2021 Form 115
Petitioner Exhibit 9:	November 22, 2022 PTABOA minutes
Petitioner Exhibit 10:	2021 Scheidt appraisal
Petitioner Exhibit 11:	2022 Form 122
Petitioner Exhibit 12:	2022 Form 130
Petitioner Exhibit 13:	2022 PRC
Petitioner Exhibit 14:	2022 Form 115
Petitioner Exhibit 15:	2022 Scheidt appraisal
Petitioner Exhibit 16:	Income approach valuation
Petitioner Exhibit 17:	2021 income & expenses
Petitioner Exhibit 18:	2022 income & expenses

7. The Assessor submitted the following exhibits:

Respondent Exhibit A:	Whipple resume
Respondent Exhibit B:	Statement of Professionalism
Respondent Exhibit C:	2020 PRC
Respondent Exhibit D:	2021 PRC
Respondent Exhibit E:	2022 PRC
Respondent Exhibit F:	Aerial photo of parcel
Respondent Exhibit G:	2021 appraisal of Jonathan Scheidt
Respondent Exhibit H:	2022 appraisal of Jonathan Scheidt
Respondent Exhibit I:	Copy of 11/30/21/PTABOA minutes
Respondent Exhibit J:	Copy of 4/1/22 PTABOA minutes
Respondent Exhibit K:	Copy of 11/22/22 PTABOA minutes
Respondent Exhibit L:	Copy of 12/6/22 PTABOA minutes
Respondent Exhibit M:	Copy of 1/24/23 PTABOA minutes
Respondent Exhibit N:	Copy of 3/22/23/email to Michie
Respondent Exhibit O:	Copy of 3/23/23 email to Michie

8. The official record for this matter also includes the following: (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

9. The subject property is located at 316 Flat Rock Drive, Columbus, Indiana. It consists of a single-unit residential home constructed in 1964 on a 3.56-acre lot. The home has 2,878 square feet of finished living area with three bedrooms, three and a half bathrooms, a basement with 885 square feet of unfinished space, a two-car carport, and a shed. It is in average condition, with some dated interior finishes and minor deferred maintenance. One of the full bathrooms had structural problems and a complete remodel was still in progress as of August 25, 2022. *Scheidt testimony; Resp't Ex. G; Pet'r Ex. 3.*
10. The Assessor engaged Jonathan C. Scheidt, SRA, a certified residential appraiser, to value the subject property as of January 1, 2021 and January 1, 2022. Scheidt has been appraising properties in Indiana for more than 10 years, and his primary focus is residential properties in Bartholomew County. He developed his opinions of value for both years using the sales comparison approach, and he certified that his appraisals comply with the Uniform Standards of Professional Appraisal Practice ("USPAP"). *Scheidt testimony; Resp't Exs. G, H.*
11. Scheidt determined that the subject property's current use and highest and best use are both residential. Thus, he concluded that there was no difference between its market value-in-use and its market value. Although the subject property is a rental property, Scheidt did not develop an income approach (such as the Gross Rent Multiplier ("GRM") method) because the subject property is in a predominantly owner-occupied neighborhood and the most likely buyer would be buying it for owner-occupancy. Scheidt also lacked reliable GRM data, and he was unable to locate any sales of rental properties in the neighborhood. He also decided not to develop a cost approach due to the subject property's age and the approach's lack of relevance due to existing physical depreciation. *Scheidt testimony; Resp't Exs. G, H.*
12. For his 2021 appraisal, Scheidt developed a sales comparison approach using three comparable properties from the subject property's neighborhood. They sold between August 2019 and October 2020 for prices ranging from \$345,000 to \$365,000. He applied adjustments for differences in condition, room count, size, finish, garages, and porches/patios. Scheidt also applied a \$30,000 cost-to-cure adjustment to all three sales to account for the repairs and updates to the subject property's unfinished bathroom. After applying his adjustments and weighting the sales, Scheidt concluded that the subject property's value fell within a range from \$295,000 to \$320,000 as of January 1, 2021. *Scheidt testimony; Resp't Ex. G.*
13. For his 2022 appraisal, Scheidt again developed a sales comparison approach using three

comparable properties from the subject property's neighborhood. Although Scheidt relied on two of the same properties (Comparable Sales 1 and 3) he used in his 2021 appraisal, the purchase price for Comparable Sale 3 is from a subsequent sale. The properties sold between September 2020 and September 2021 for prices ranging from \$359,900 to \$390,100. Scheidt applied adjustments for differences in date of sale, condition, room count, size, finish, and garages. He also applied the same \$30,000 cost-to-cure adjustment he used in his 2021 appraisal to all three sales to account for the repairs and updates to the subject property's unfinished bathroom. After applying his adjustments and weighting the sales, Scheidt concluded that the value of the subject property was \$335,000 as of January 1, 2022. *Scheidt testimony; Resp't Ex. H.*

14. Although the Petitioners did not mention it during the hearing, they submitted a spreadsheet containing three proposed assessments for 2021 and three proposed assessments for 2022 calculated using the GRM method. All of the proposed assessments were developed using the subject property's actual income and expenses from 2021 and 2022. *Pet'r Exs. 16, 17, 18.*

ANALYSIS

A. 2021 Assessment

15. Until its repeal on March 21, 2022, Ind. Code § 6-1.1-15-17.2 created an exception to the general rule that an assessment determined by an assessing official is presumed to be correct. Although the Legislature repealed it, the Tax Court has recently determined that Ind. Code § 6-1.1-15-17.2 is nevertheless applicable to appeals filed before its repeal. *See Elkhart Cnty. Assessor v. Lexington Square, LLC*, 219 N.E. 3d 236 (Ind. Tax Ct. 2023) (stating that Ind. Code § 6-1.1-15-17.2 applied to an appeal filed while the statute was still in effect and shifted the burden of proof to the assessing official for the pendency of the entire case). In this case, because the Petitioners filed their Form 130 notice on June 15, 2021, Ind. Code § 6-1.1-15-17.2 is applicable to their appeal. We must therefore determine whether it shifted the burden of proof to the Assessor.
16. Indiana Code § 6-1.1-15-17.2 requires an assessor to prove that a challenged assessment is "correct" where, among other things, the assessment 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 the reviewing authority. I.C. § 6-1.1-15-17.2(a)-(b) (repealed by 2022 Ind. Acts 174, § 32 effective on passage). Here, the 2021 assessment of \$320,000 represents an increase of more than 5% over the previous year's assessment of \$177,800. The Assessor therefore has the burden of proof with respect to the 2021 assessment.
17. When an assessor has the burden under Ind. Code § 6-1.1-15-17.2, her evidence needs to "exactly and precisely conclude" to the challenged assessment. *Southlake Ind. LLC v. Lake Cty. Ass'r* ("*Southlake II*"), 181 N.E.3d 484, 489 (Ind. Tax Ct. 2021). If the assessor fails to meet her burden, the taxpayer can prove that their proffered assessed

value is correct. If neither party meets its burden, the assessment reverts to the prior year's level. I.C. § 6-1.1-15-17.2(b); *Southlake Ind., LLC v. Lake Cty. Ass'r* (“*Southlake I*”), 174 N.E.3d 177, 179-80 (Ind. 2021). Given that the appraisal offered by the Assessor concluded that the subject property's value fell within a range from \$295,000 to \$320,000, we conclude that the Assessor failed to meet her burden because her valuation evidence did not “exactly and precisely conclude” to the value determined by the PTABOA. *Southlake II* at 489. We now turn to whether the Petitioners met their burden to lower the assessment.

18. The Petitioners submitted a spreadsheet containing three proposed assessments for 2021 calculated using the GRM method. However, they did not offer any witnesses to walk us through their calculations. Nor did they ask us to adopt any of the proposed assessments shown on the spreadsheet. Even if they had, we would conclude that all three of their proposed assessments lack probative value. Not only did the Petitioners fail to provide any market support for the capitalization rates used in their calculations, but they also based their calculations solely on the subject property's actual rental income and expense data from 2021. As the Tax Court has explained, “to provide a sound value indication under the income capitalization approach, one must not only examine the historical and current income, expenses, and occupancy rates for the subject property, but the income, expenses and occupancy rates of comparable properties in the market as well.” *Indiana MHC, LLC v. Scott Co. Ass'r*, 987 N.E.2d 1182, 1185-86 (Ind. Tax Ct. 2013).
19. Because the Petitioners did not offer any probative evidence proving the subject property's correct assessment, the 2021 assessment must revert to the prior year's value of \$177,800.¹

B. 2022 Assessment

20. We now turn to the 2022 assessment. In response to *Southlake I*, the Legislature repealed Ind. Code § 6-1.1-15-17.2 and enacted Ind. Code § 6-1.1-15-20. 2022 Ind. Acts 174, §34. The new statute also assigns the burden of proof to assessors in appeals where a property's assessment increased more than 5% over its assessment for the prior tax year. I.C. § 6-1.1-15-20(b). But it no longer requires the evidence to “exactly and precisely conclude” to the assessment, and it allows the Board to determine a value based on the totality of the evidence. Only where the evidence is insufficient to determine a property's true tax value does the assessment revert to the prior year's level. See I.C. § 6-1.1-15-20(f). The new statute, however, only applies to appeals filed after its March 21, 2022, effective date. I.C. § 6-1.1-15-20(h).
21. Because the Petitioners filed their 2022 appeal with the Assessor after March 21, 2022, we must apply the new statute and analyze its impact. As explained above, the burden-

¹ Given our resolution, we need not address the Petitioners' alternative arguments regarding their attempt to withdraw the 2021 appeal from the PTABOA or that Scheidt erred by using the sales comparison approach to value the subject property instead of the GRM method.

shifting provisions apply where an assessment has increased by more than 5% over the prior year's assessment, which, as relevant here, is the final value we determined for the 2021 assessment year. I.C. § 6-1.1-15-20(c)(3). Because the 2022 assessment of \$320,000 represents an increase of more than 5% over the new 2021 assessment of \$177,800, the Assessor has the burden of proof with respect to the 2022 assessment.

22. 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).
23. 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 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.
24. 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). However, the GRM method is the preferred method of valuing real property that has one (1) to four (4) rental units. I.C. § 6-1.1-4-39(b). 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. I.C. § 6- 1.1-2-1.5(a).
25. The Assessor presented a USPAP-compliant appraisal prepared by Scheidt and requested we increase the 2022 assessment to reflect his concluded value. Scheidt relied on the sales comparison approach in estimating the subject property’s value to be \$335,000 as of January 1, 2022.
26. The Petitioners’ only real criticism of Scheidt’s appraisal was the claim that his opinion of value does not reflect the subject property’s market value-in-use because it is currently used as a rental. But Scheidt credibly explained that the subject property’s current use

and highest and best use are both residential because it is in a predominantly owner-occupied neighborhood and the most likely buyer would be buying it for owner-occupancy. We therefore accept his conclusion that there was no difference between its market value-in-use and its market value. Additionally, while the GRM method may be the “preferred” method for assessing small residential rental properties, this case serves as an example of why the legislature chose not to make it the exclusive method. Scheidt was unable to find any reliable data from which he could determine the subject property’s true tax value using the GRM method. We find it was reasonable to forgo the development of an income approach. Because the Petitioners failed to successfully impeach the credibility of Scheidt’s appraisal, we conclude it provides probative, market-based evidence of the subject property’s true tax value.

27. For their part, the Petitioners primarily argued that, should they prevail on their 2021 appeal (which they now have), Ind. Code § 6-1.1-13-13 prevents the Assessor from raising the subject property’s 2022 assessment and requires us to reduce it to \$177,800. Broadly speaking, Ind. Code § 6-1.1-13-13 sets up a regime where once a taxpayer successfully appeals an assessment that meets certain defined criteria, assessing officials are prohibited from increasing the property’s assessment in succeeding years for any reason other than applying an “annual adjustment factor.” I.C. § 6-1.1-13-13(b). The prohibition lasts until the “first year of the next four (4) year cyclical assessment cycle.” *Id.*²
28. Here, however, the Petitioners failed to establish that Ind. Code § 6-1.1-13-13 applies. The Petitioners claimed that the cyclical assessment cycle established by Ind. Code § 6-1.1-4-4.2 runs through May 1, 2022, making the 2023 assessment year the first year of the next four-year cyclical assessment cycle. But in order to apply this statute we must know whether or not the tax year for which the taxpayer wishes to apply the statute to is the general reassessment year. This is because if it is a general reassessment year, the statute has no effect. Here, the Petitioners did not provide any evidence of the reassessment cycle for this particular parcel. Additionally, even if there was sufficient evidence to establish that the statute applies, they have failed to show what the annual adjustment would have been. Accordingly, we cannot grant any relief under the statute.
29. Finally, the Petitioners also submitted the same spreadsheet they presented as part of their 2021 appeal. In addition to the information pertaining to the 2021 appeal, it contains three proposed assessments for 2022 calculated using the GRM method. However, it ultimately suffers from the same errors we identified in our analysis of the 2021 appeal, and we therefore reach the same conclusion—all three of the proposed assessments lack probative value.


² The statute also restricts taxpayers’ appeal rights. *See* I.C. § 6-1.1-13-13(b) (During this period, the taxpayer may not appeal an increased assessment...unless the taxpayer believes that the increased assessment is arbitrary and capricious and not made consistent with the annual adjustment factor used by the assessing official to adjust the property values for a tax year.”).

30. Because Scheidt's appraisal is the only probative evidence of the subject property's true tax value before us, the 2022 assessment must be changed to \$335,000.

FINAL DETERMINATION

In accordance with the above findings of fact and conclusions of law, we order the 2021 and 2022 assessments changed to \$177,800 and \$335,000, respectively.

ISSUED: April 22, 2024



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 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>.