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

Petition: **03-016-23-1-5-00063-24**
Petitioner: **Albert H. Schumaker II**
Respondent: **Bartholomew County Assessor**
Parcel: **03-84-11-130-001.200-016**
Assessment Year: **2023**

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

Procedural History

1. Albert H. Schumaker II appealed the 2023 assessment of his property located at 2335 Riverside Drive in Columbus. On January 2, 2024, the Bartholomew County Property Tax Assessment Board of Appeals ("PTABOA") issued a determination sustaining the assessment of $723,700 ($710,100 for land and $13,600 for improvements). Schumaker then filed a Form 131 petition with us.

2. We scheduled a telephonic hearing on Schumaker's petition for October 24, 2024 at 9:00 a.m. We also scheduled a telephonic hearing later that same day on another appeal filed by Schumaker. Schumaker withdrew the other appeal petition. Our designated administrative law judge, Joseph Stanford ("ALJ"), held the telephonic hearing on the petition at issue in this appeal as scheduled. But the Assessor mixed up the times and did not call in. Instead, she called in at the scheduled time for the hearing on the petition Schumaker had withdrawn.

3. Given those unique circumstances, we granted the Assessor's request to reschedule the hearing in this appeal to January 30, 2025, and the ALJ held that hearing as scheduled. Neither he nor the Board inspected the property. Milo Smith, a certified tax representative, represented Schumaker. Ginny Whipple, the Bartholomew County Assessor, represented herself. Both testified under oath.

Record

4. The official record for this matter includes the following:

Exhibit 2021:	2021 subject property record card ("PRC"),
Exhibit 2022:	2022 subject PRC,
Exhibit 2023:	2023 subject PRC,
Exhibit F131:	Form 131 petition,
Exhibit 2021STC:	Appeal to the Indiana Tax Court from our determination in *Albert M. Schumaker II v. Bartholomew Cty. Ass'r*, Pet. No. 03-016-21-1-5-00016-22 (IBTR January 4, 2023),

Exhibit Crandall: *Crandall v. Bartholomew Cty. Ass'r*, 246 N.E.3d 350 (Ind. Tax Ct. 2024).

Exhibit A: Whipple resume,
Exhibit B: Statement of Professionalism,
Exhibit C: 2022 subject PRC,
Exhibit D: 2023 subject PRC,
Exhibit E: Aerial photograph of the subject property,
Exhibit F: Form 131 petition.

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

Findings of Fact

6. The subject property is an 11,550-square-foot (0.265-acre) parcel with a boathouse and two docks. *Exs. C-D.*

7. Neither party offered any market-based evidence to show the property's true tax value.

8. Prior to this appeal, Schumaker had appealed the 2021 assessment, and, following a hearing, we issued a determination increasing the assessment. *Ex. 2021 STC at A; Ex. C.* Schumaker sought judicial review. On December 20, 2024, the Indiana Tax Court reversed and remanded to us.[1] We set the matter for hearing on remand, but on March 18, 2025, Schumaker and the Assessor filed a Joint Stipulation with us agreeing to an assessment of $548,900 for the 2021 assessment year.[2]

9. In the meantime, the Assessor issued her 2022 assessment, valuing the property at $692,600. Schumaker appealed to the PTABOA, which upheld the assessment, but Schumaker *did not* appeal the 2022 assessment to us.

10. Also in the meantime, the Assessor issued her 2023 assessment, valuing the property at $723,700. This was an increase of 4.5% from the 2022 assessment as decided by the PTABOA. This 2023 assessment is the matter on appeal. *Smith testimony; Exs. C-D.*

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[1] We take official notice of the Tax Court's Order and subsequent Notice of Clarification. *See* 52 IAC 4-6-11(a)(1) (allowing us to take official notice if "[a]ny fact that could be judicially noticed in the courts") and Ind. Evidence Rule 201(a)(2)(C) (providing that a court may judicially notice the existence of "records of a court of this state"). The Order and Notice of Clarification may be accessed through the Indiana Judicial Branch's appellate docket search tool (https://www.in.gov/courts/policies/tou-appellate-docket/) (last visited Apr. 25, 2025).

[2] We take official notice of the stipulation. *See* 52 IAC 4-6-11(a)(2) (providing that we may take official notice of "the record of other proceedings before the board").

Parties' Contentions

A. Schumaker's Contentions

11. Schumaker argues that, by operation of Ind. Code § 6-1.1-13-13, the final 2021 assessment, as decided on remand, must be applied to the 2022 assessment. And, if the new 2022 value is more than 5% lower than the 2023 assessment, then the burden of proof for the 2023 assessment would be on the Assessor pursuant to Ind. Code § 6-1.1-15-20.

12. Based on this reasoning, Schumaker asked us to hold off issuing our determination in this appeal until we decided the remand of his 2021 appeal, which he believed would result in his 2021 assessment reverting to $541,700. *Smith argument.*

13. As anticipated by Schumaker, after the hearing, the parties stipulated to a value for 2021 that was more than 5% below the 2023 assessment. Based on this, Schumaker argues that the 2023 assessment must reflect the new 2022 value (as effected by I.C. § 6-1.1-13-13) because neither party presented probative evidence and, accordingly, the prior year's assessment (new 2022) must be presumed the correct assessment for 2023 under the burden-shifting statute. *Smith argument.*

B. The Assessor's Contentions

14. The Assessor argues that each tax year stands alone. Schumaker's 2021 appeal therefore does not affect his 2022 assessment, which he did not appeal following the PTABOA's determination for that year. Because the 2023 assessment is only 4.5% higher than the 2022 assessment, the Assessor argues that Schumaker had the burden of proof. And he failed to offer any evidence to show the property's market value-in-use. *Whipple argument.*

Conclusions of Law and Analysis

15. 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" until rebutted by evidence presented by the parties. I.C. § 6-1.1-15-20(a) (effective March 21, 2022). If the totality of the evidence is insufficient for us to determine the property's true tax value, the initial presumption becomes final. I.C. § 6-1.1-15-20(f).

16. 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). For purposes of the statute, the assessment for the prior year is the "final value" as last corrected by an assessing official, stipulated to by the parties, or determined by a reviewing authority. I.C. § 6-1.1-15- 20(c). Subject to certain exceptions, none of which apply here, 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." I.C. § 6-1.1-15- 20(b). If the

burden has shifted, and "the totality of the evidence is insufficient for us to determine the property's true tax value," the "prior year assessment is presumed to be equal to the property's true tax value." I.C. § 6-1.1-15- 20(f).

17. Neither party offered any valuation evidence. We must therefore base our determination on one of two presumptions. If the assessment increased by 5% or less between those two years, we must presume the 2023 assessment reflects the property's true tax value, which means we should order no change. By contrast, if the assessment increased by more than 5% between 2022 and 2023, we must presume the 2022 assessment equals the property's true tax value and order that the assessment be reduced accordingly.

18. There is no dispute that the 2022 assessment was only appealed to the PTABOA and its decision was not appealed to the Board. Based on the assessed value as finally determined by the PTABOA, the subject property's assessment increased only 4.5% between 2022 and 2023. Under these circumstances, the burden-shifting statute does not apply.

19. Schumaker does not challenge this conclusion. Rather, he invokes I.C. § 6-1.1-13-13 for the purpose of changing the 2022 assessment, despite his failure to appeal the 2022 assessment.

20. Broadly speaking, I.C. § 6-1.1-13-13 sets up a regime whereby 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 to apply an annual adjustment factor. I.C. § 6-1.1-13-13(a). The prohibition lasts until "the first year of the next four (4) year cyclical assessment cycle," which Schumaker claims is 2023. I.C. § 6-1.1-13-13(b)(2).[3] However, the statute does not apply if "the reduction in assessed value *is the result of a settlement agreement* between the taxpayer and the assessing official." I.C. § 6-1.1-13-13(c)(1).

21. This last caveat proves critical. Following the hearing but while the matter was under advisement, Schumaker resolved the 2021 appeal by stipulating to an agreed assessment. Because I.C. § 6-1.1-13-13 does not apply where the reduction in assessed value results from a settlement agreement, the statute has no application to the facts here at all.

22. Even if I.C. § 6-1.1-13-13 were to apply, we must still find Schumaker's failure to appeal the 2022 assessment is fatal to any claim that the 2022 assessment should be changed by operation of law. The law is clear that "in property assessment appeals at both the administrative and judicial levels, each tax year—and each appeals process—stands alone." *Fisher v. Carroll Cty. Ass'r*, 74 N.E.3d 582, 588 (Ind. Tax Ct. 2017). Schumaker cannot collaterally attack an assessment *that is not on appeal*, and the Board has no authority to change an assessment except through a *duly perfected appeal*.

[3] The statute also restricts taxpayers' appeal rights. See I.C. § 6-1.1-13-13(b)(2) ("During this period, the taxpayer may not appeal an increased assessment…unless the taxpayer believes 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 tax values for a year.").

23. In *Fisher*, the taxpayer appealed her 2012 and 2014 assessments, but not her 2013 assessment. We heard the two appeals together. *Id.* at 585-88. The 2012 assessment had increased by more than 5% over the 2011 assessment, meaning the assessor had the burden of proof for that year under a predecessor to Ind. Code. § 6-1.1-15-17.2. *Id.* But we found that the taxpayer had the burden of proof for 2014, because the assessment had not increased by more than 5% between 2013 and 2014. *Id.*

24. On judicial review, the taxpayer argued that we erred in assigning her the burden of proof. *Id.* at 588. She claimed there was no need for her to appeal the 2013 assessment because it was for the same amount as 2012. And because she believed she would prevail in her 2012 appeal, which would reduce that assessment to a level for 2013 that was more than 5% below the 2014 assessment, she argued the assessor should have the burden of proof for that year. *Id.* The Court disagreed and held that because the taxpayer had not appealed her 2013 assessment, she had the burden of proof. *Id.*

25. Schumaker asks us to do the same thing that was rejected in *Fisher*: change an assessment not on appeal for the purpose of applying the burden-shifting statute. We must reach the same conclusion as the Tax Court did in *Fisher*. The 2022 assessment became final when the time lapsed for an appeal to us, and we have no authority to change it now.

26. This is only fair. Had the 2022 appeal been heard on the merits, the Assessor might have presented probative evidence supporting the assessment or otherwise refuted the applicability of I.C. § 6-1.1-13-13. Schumaker failed to appeal and he cannot now seek to "achieve the same forbidden result by means of a collateral attack." *Marion County Bd. of Review v. State Bd. of Tax Comm'rs*, 516 N.E.2d 1129, 1131 (Ind. Tax Ct. 1987).

27. Because the 2023 assessment represents an increase of less than 5% over the amount finally determined by the PTABOA for 2022, we must start with the presumption that the 2023 assessment equals the subject property's true tax value. Neither side offered any evidence to rebut that presumption, making the presumption final.

Conclusion

28. Because (1) the subject property's assessment did not increase by more than 5% between 2022 and 2023, and (2) the parties failed to offer any valuation evidence, we must presume the property's true tax value equals the appealed assessment. We therefore order no change to the 2023 assessment.

Date: MAY 7, 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 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>.