

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

**Petition:** 42-003-22-1-5-00938-22  
**Petitioner:** David W. Shelton  
**Respondent:** Knox County Assessor  
**Parcel:** 42-22-07-400-001.000-003  
**Assessment Year:** 2022

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

**Procedural History**

1. On May 10, 2022, David W. Shelton filed a Form 130 petition contesting the 2022 assessment of his property located at 10459 South McCrary Road in Vincennes. The Knox County Property Tax Assessment Board of Appeals (“PTABOA”) issued a Form 115 determination sustaining the assessment of \$195,800 (\$9,200 for land and \$186,600 for improvements).<sup>1</sup>
2. Shelton then filed a Form 131 petition with us, electing to proceed under our small claims procedures. On May 25, 2023, our designated administrative law judge, Joseph Stanford (“ALJ”), held a telephonic hearing on Shelton’s petition. Neither he nor the Board inspected the property. Shelton and Robert Woodward, the Knox County Assessor, represented themselves and testified under oath.

**Record**

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

Petitioner Exhibit 1:	Property record card (“PRC”) for 14065 N Old 41,
Petitioner Exhibit 2:	PRC for 2158 S Sievers Rd,
Petitioner Exhibit 3:	PRC for 449 E Circle Dr,
Petitioner Exhibit 4:	Aerial photograph of the subject property,
Petitioner Exhibit 5:	Aerial photograph of the subject property,
Petitioner Exhibit 6:	Photograph of the subject property (street view),
Petitioner Exhibit 7:	Photograph of the subject property (view from the driveway),
Petitioner Exhibit 8:	Photograph of an outbuilding on the subject property,

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<sup>1</sup> On his Form 131 petition, Shelton checked the box indicating that the parties had agreed to waive the PTABOA determination. However, the PTABOA held a hearing and issued a determination within the time limits prescribed by Ind. Code § 6-1.1-15-1.2 (d) and (k). *See Resp’t Ex. 2.*

Petitioner Exhibit 9: Photograph of an outbuilding on the subject property,

Petitioner Exhibit 10: Photograph of an outbuilding on the subject property,

Petitioner Exhibit 11: Photograph of an outbuilding on the subject property,

Petitioner Exhibit 12: 2019 subject PRC,

Petitioner Exhibit 13: 2020 subject PRC,

Petitioner Exhibit 14: 2021 subject PRC,

Petitioner Exhibit 15: 2022 subject PRC,

Petitioner Exhibit 16: PRC for 12009 S Beal Rd,

Petitioner Exhibit 17: PRC for 5927 W Claypole Rd,

Petitioner Exhibit 18: PRC for 5546 W 6<sup>th</sup> Street Rd,

Petitioner Exhibit 19: PRC for S Cattle Barn Rd,

Petitioner Exhibit 20: PRC for 11724 S Cattle Barn Rd,

Petitioner Exhibit 21: Photograph of parcel 003-023-0024-200-005,

Petitioner Exhibit 22: PRC for 12014 S Smithville Rd,

Petitioner Exhibit 23: PRC for 1395 N John Robinson Rd,

Petitioner Exhibit 24: Photograph of parcel 008-011-D027-000-038,

Petitioner Exhibit 25: Aerial photograph of parcels 42-11-17-200-002.000-008, 42-11-17-200-021.000-008, and 42-11-17-200-020.000-008,

Petitioner Exhibit 26: PRC for 192 W Decker Chapel Rd,

Petitioner Exhibit 27: Photograph of parcel 003-022-S001-000-002,

Petitioner Exhibit 28: Photograph of a neighbor's building, dated 11/15/2016,

Petitioner Exhibit 29: Photograph of a neighbor's building, dated 11/15/2016,

Petitioner Exhibit 30: PRC for 1269 W Glenn Rd,

Petitioner Exhibit 31: Photograph of parcel 003-022-0007-400-012,

Petitioner Exhibit 32: Photograph of a neighbor's building, dated 9/9/2020,

Petitioner Exhibit 33: PRC for 1189 Glenn Rd,

Petitioner Exhibit 34: PRC for 10470 S McCrary Rd,

Petitioner Exhibit 35: PRC for 10133 S McCrary Rd,

Petitioner Exhibit 36: PRC for 1179 W Glenn Rd,

Petitioner Exhibit 37: PRC for parcel 42-06-36-300-014.000-018,

Petitioner Exhibit 38: PRC for 12095 E Hwy 550,

Petitioner Exhibit 39: Advertisement for Kelley Kopp Hopwood.

Respondent Exhibit 1: Description of exhibits,

Respondent Exhibit 2: Forms 131, 114, 130, and 115; subject PRC,

Respondent Exhibit 3: Appraisal completed by Kim R. Murray,

Respondent Exhibit 4: Property tax statement dated 4/1/2022.

4. 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**

5. The subject property contains a single-family home, a heritage barn, and other outbuildings on 4.26 acres of land. The property's assessment increased from \$172,600 in 2021 to \$195,800 in 2022. *Pet'r Ex. 15; Shelton testimony.*

### **Parties' Contentions**

#### **A. The Assessor's Contentions**

6. The PTABOA determined an assessment of \$195,800. While Shelton asked the Assessor for comparable properties at the PTABOA's hearing, the Assessor could not immediately provide them because Shelton had not asked for them in advance. *Woodward testimony; Resp't Ex. 1.*
7. Shelton's assessment increased from 2021 to 2022 because of "a base construction increase from the State," and because the Knox County ratio study indicated that an increase was warranted. When Shelton filed his appeal from the PTABOA's determination, the Assessor hired Kim R. Murray, a certified residential appraiser, to appraise the subject property. Murray relied on the sales-comparison approach to estimate the property's value at \$245,000, as of April 18, 2023. *Woodward testimony; Resp't Ex. 3.*
8. Murray used sales of three comparable properties in her analysis. One sale was from September 2022, while the other two were from 2023. Murray adjusted the sale prices to account for various ways in which those properties differed from the subject property, including differences in site values, age, room count, gross living area, and garages and outbuildings. When the Assessor informed her that the subject property has well water rather than city water as reflected in her report, Murray indicated that the correction would not affect her opinion of value. *Woodward testimony; Resp't Ex. 3.*
9. Although Shelton criticized Murray's selection of comparable properties, the Assessor had no input in her selection of those properties. The Assessor did not indicate whether he believes we should affirm the current assessment or order it to be increased to \$245,000. *Woodward testimony; Resp't Ex. 3.*

#### **B. Shelton's Contentions**

10. Shelton believes that his assessment is wrong and that the burden of proof lies with the Assessor. The Assessor therefore should have provided comparable properties at the PTABOA hearing without Shelton asking. *Shelton argument.*

11. Shelton contends that Murray’s appraisal is not probative because the effective date is April 18, 2023, while the valuation date at issue is January 1, 2022. And none of Murray’s comparable properties are from the subject property’s taxing district. Indeed, one of the properties is 27 miles away from the subject property. All three properties sold for more than 2022 or 2023 assessments. *Shelton argument and testimony; Resp’t Ex. 3; Pet’r Exs. 1-3.*
12. According to Shelton, six properties from the subject property’s township sold in 2021 or 2022. All six show a large increase in their assessments from 2021 to 2022. Before that, all six experienced “normal trending,” unlike Shelton’s property, which saw its assessment steadily increase. One of those six sales involved a new brick home with new outbuildings. While Shelton described that property as “vastly superior” to the subject property, their assessments are comparable. Shelton offered data that includes sale prices for four of the six properties. In three instances, the sale price exceeded the property’s 2022 assessment, while the fourth property sold for less than its 2022 assessment.<sup>2</sup> Another property outside the township sold in November 2022 for more than its 2022 assessment. *Shelton testimony and argument; Pet’r Exs. 16-22, 26-29.*
13. Shelton believes he has been targeted for higher assessments, possibly for political purposes, and especially by the previous Assessor. He asked if we could address the previous assessments as well as the 2022 assessment. *Shelton testimony and argument; Pet’r Ex. 39.*

### **Conclusions of Law and Analysis**

#### **A. Because the assessment increased by more than 5% between 2021 and 2022, the Assessor had the burden of proof.**

14. 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).
15. 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.*
16. 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). Here, the subject property’s assessment increased by more than 5% between 2021 and 2022. The Assessor therefore has the burden of proof.

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<sup>2</sup>One property included only the home. The land was owned by, and assessed to, a different person. *Pet’r Ex. 22.*

**B. Because neither party offered probative evidence to show the property's true tax value, the assessment must revert to its 2021 level.**

17. 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).
18. 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.
19. 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.
20. 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 2022 assessments, the valuation date was January 1, 2022. See I.C. § 6- 1.1-2-1.5(a).
21. The Assessor attempted to meet his burden of proof through Murray’s appraisal. But Murray estimated the property’s value as of April 18, 2023, which is nearly 17 months after the January 1, 2022, valuation date at issue in this appeal. The Assessor failed to offer any evidence to show how Murray’s valuation opinion relates to the valuation date. Her appraisal therefore lacks probative value.

22. Shelton similarly failed to offer probative evidence to show the property's value. He offered an assortment of sales and assessment data for properties that he argued were more favorably assessed than the subject property. While he compared a few of the relevant characteristics of those properties to the subject property's characteristics, he offered no evidence to show how relevant differences affected the properties' relative market values-in-use. His comparative data therefore lacks probative weight. *See Long v. Wayne Twp. Ass'r*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005) (finding that the taxpayers' comparable sales data lacked probative value where they failed to explain how their property's characteristics compared to those of purportedly comparable properties, and how differences affected market value-in-use).
23. Because neither party's evidence suffices to establish the subject property's market value-in-use for 2022, we must presume that its value equals the previous year's assessment of \$172,600.

**C. The subject property's previous assessments are not before us on appeal, and Shelton failed to make a prima facie case for an equalization adjustment.**

24. Shelton claims that he was singled out for unfair treatment, mostly by the previous assessor, in years leading up to 2022. The only claim before us, however, is Shelton's appeal of his 2022 assessment. He cannot use this appeal as a vehicle for seeking relief for earlier assessment years.
25. Nonetheless, Shelton arguably claims that the subject property was not assessed uniformly and equally with other properties for the 2022 assessment date. He generally alleged that properties sold for more than their assessments, and he included sales data for five properties that sold within one year of January 1, 2022. Four of those properties sold for more than their 2022 assessments. 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.* (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.*
26. In providing guidance about how to compile and evaluate the data necessary for a ratio study, the DLGF has incorporated the International Association of Assessing Officers' ("IAAO") Standard on Ratio Studies (April 2013). *See* 50 IAC 27-1-4; 50 IAC 27-4-5(a); *see also*, *Thorsness*, 3 N.E.2d at 53-54 (citing to a previous version of 50 IAC 27-1-4). In *Thorsness*, the taxpayer offered evidence showing that while his property was assessed at 99.9% of its sale price, six other properties in his subdivision were assessed at an average of 79.5% of their recent sale prices. *Thorsness*, 3 N.E.3d at 50. At the administrative level, we rejected the taxpayer's claim on grounds that it neither conformed to professionally accepted standards, nor was based on a statistically reliable sample of properties. *Id.* Although the Tax Court recognized that the taxpayer's

evidence was relevant, it affirmed our conclusion that the evidence failed to show that his assessment exceeded the common level of assessment for the township. *Id.* at 54.

27. Shelton did not make an actionable claim for an equalization adjustment. Because Shelton did not offer any probative market-based evidence to show the subject property's market value-in-use, we cannot compare its ratio to the ratios for the five properties for which he provided timely sale and assessment data. *See Westfield Golf Practice Ctr., LLC v. Washington Twp. Ass'r*, 859 N.E.2d 396, 399 (Ind. Tax Ct. 2007) (rejecting a claim of lack of uniformity and equality where taxpayer failed to show the market value-in-use of its property or any of the comparable properties on which it based its claim). Even if Shelton had offered probative valuation evidence for the subject property, he did not analyze his data in accordance with the IAAO Standard or show that he used a statistically reliable sample. As in *Thorsness*, Shelton's data does not suffice to show that his assessment exceeded the common level of assessment.


### Conclusion

28. Because the subject property's assessment increased by more than 5% between 2021 and 2022 and neither party offered probative evidence that sufficed to show its true tax value for 2022, we must presume that the 2021 assessment of \$172,600 equals the property's true tax value. We therefore order that the 2022 assessment be reduced to \$172,600.

Date: AUGUST 18, 2023

  
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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>>.