

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

**Petition No.:** 53-009-23-1-5-00538-23  
**Petitioner:** Patrice Tankam  
**Respondent:** Monroe County Assessor  
**Parcel No.:** 53-08-01-301-046.000-009  
**Assessment Year:** 2023

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

**PROCEDURAL HISTORY**

1. Patrice Tankam appealed the 2023 assessment of his property located at 912 South Carleton Court in Bloomington. On July 13, 2023, the Monroe County Property Tax Assessment Board of Appeals (“PTABOA”) issued a final determination valuing the property at \$320,100 (land at \$86,000 and improvements at \$234,100).
2. Tankam timely appealed to the Board and elected to proceed under our small claims procedures. On April 25, 2024, Natasha Marie Ivancevich, our designated administrative law judge (“ALJ”), held an in-person hearing. Neither she nor the Board inspected the property.
3. Tankam represented himself. Attorney Marilyn Meighen appeared on behalf of the Monroe County Assessor. Tankam and Bradley Berkemeier, Nexus Group District Vice President, were sworn and testified under oath.

**RECORD**

4. The Petitioner submitted the following exhibits:

Petitioner Exhibit 1:	Pictures of Subject Property
Petitioner Exhibit 2:	Initial Tax Assessment
Petitioner Exhibit 3:	Monroe County Tax Appeal
Petitioner Exhibit 4:	Assessment and Comparable Methodology
Petitioner Exhibit 5:	Assessment Adjustments
Petitioner Exhibit 6:	State Tax Appeal
Petitioner Exhibit 7:	Tentative Settlement
Petitioner Exhibit 8:	Land Value Increase Impact

5. The Assessor submitted the following exhibits:

Resp't Exhibit A:	Property Record Card
Resp't Exhibit B:	Pictures of Subject Property
Resp't Exhibit C:	Sales Analysis
Resp't Exhibit D:	Comparable 1 Sales Disclosure and PRC
Resp't Exhibit E:	Comparable 2 Sales Disclosure and PRC
Resp't Exhibit F:	Comparable 3 Sales Disclosure and PRC
Resp't Rebuttal Exhibit G:	2022-2023 Market Sales

6. 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.

### OBJECTIONS

7. The Assessor objected to Petitioner's Ex. 7, the Tentative Settlement, because it contains evidence of settlement negotiations. Our Supreme Court has held that "[t]he law encourages parties to engage in settlement negotiations in several ways" and "it prohibits the use of settlement terms and settlement negotiations to prove liability or invalidity of a claim or its amounts. *Dep't of Local Gov't Fin. v Commonwealth Edison Co.*, 820 N.E.2d 1222, 1227 (Ind. 2005). For that reason, we sustain the objection and exclude the exhibit from evidence.

### FINDINGS OF FACT

8. The subject property is an 1,860 square foot home situated on a 0.25-acre site in Bloomington. Since Tankam purchased the home, he has not made repairs or improvements. *Resp't. Ex. A.*
9. The 2023 assessment under appeal of \$320,100 is a 9% increase (rounded) over the 2022 assessment of \$292,700. *Resp't. Ex. A.*

### PARTIES' CONTENTIONS

#### A. Assessor's Contentions

10. The Assessor argued the assessment is correct. Due to trending factors, the Assessor has had to complete reassessments every year since 2018. Berkemeier testified that because homes in Bloomington are highly sought after, values have rapidly increased. *Berkemeier testimony; Resp't. Ex. A.*
11. Berkemeier, a Level III Assessor-Appraiser and Nexus Group's district president, was engaged to prepare a sales-comparison analysis for the subject property. He has taken and passed the Uniform Standards of Professional Appraisal Practice ("USPAP") course

as part of his Assessor-Appraiser certification, and he testified that his analysis complies with USPAP. To arrive at his opinion of value, Berkemeier selected three comparable properties that sold in the year prior to the assessment date. He adjusted the comparables for factors such as square footage, grade, exterior materials, and age. He used assessment cost figures for most of the adjustments. He also adjusted for land using the Assessor's base rates for land. This analysis resulted in adjusted sale prices with a median of \$333,200 and an average of \$328,700. Berkemeier did not offer an opinion as to the property's value beyond saying that the average and median values supported the existing assessment of \$320,100. *Berkemeier testimony; Resp't. Ex. C.*

## **B. Tankam's Contentions**

12. Tankam contended his assessment has increased by 5% every year since 2018. He also claimed that all other properties in the neighborhood have benefited from reassessments and trending factors except for the subject property. In addition, Tankam argued the Assessor should consider the decrease in sale prices over the course of 2023. *Tankam testimony; Pet'r. Ex. 4, 5, and 8.*
13. Tankam further argued the assessment is incorrect because it did not consider deficiencies in the property such as the cracked driveway, the cinder block exterior wall, the age of the furnace and water heater, and the poor condition of the roof, deck, fence, and shed. *Tankam testimony; Pet'r. Ex. 1.*
14. Lastly, Tankam argued there is bias due to the subjectivity involved in the assessment process which is why his property has not benefited from any re-assessment since 2018. To demonstrate this, Tankam compared median listed prices and median sales prices of Monroe County homes to assessments in his neighborhood. Based on this, he concluded that his home had not benefited from neighborhood trending. *Tankam testimony; Pet'r. Ex. 4, 5, and 8.*

### **BURDEN OF PROOF**

15. Generally, the taxpayer has the burden of proof when challenging a property's tax assessment. So, 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." Indiana Code § 6-1.1-15-20(a) (effective March 21, 2022).
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). 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.*
17. 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).

18. Here, the current assessment of \$320,100 is an increase of more than 5% over the previous assessment of \$292,700. Thus, the Assessor has the burden of proof.

#### ANALYSIS

19. Because the totality of the evidence is insufficient to support any value, we must presume the prior year's assessment is correct.

- a) 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).
- b) 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, true tax value is found under the rules of the Department of Local Government Finance. I.C. § 6-1.1-31-5(a); I.C. § 6-1.1-31-6(f). The DLFG 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.
- c) To meet its burden of proof, a party "must present objectively verifiable, market-based evidence" of the property's value. *Piotrowski v. Shelby County 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 County 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 prove a specific property's market value-in-use. *Piotrowski*, 177 N.E.3d at 133.
- d) Market-based evidence may include "sales data, appraisals, or other information compiled in accordance with generally accepted appraisal principles." *Peters v. Garofolo*, 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 County Ass'r*, 119 N.E.3d

1152, 1156 (Ind. Tax Ct. 2019). Finally, the evidence must reliably show 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 2023 assessments, the valuation date was January 1, 2023. I.C. § 6- 1.1-2-1.5(a).

- e) Here, the Assessor had the burden of proof. To meet that burden, the Assessor relied on a valuation analysis prepared by Bradley Berkemeier, a Level III certified Assessor-Appraiser. However, Berkemeier did not show that he complied with generally accepted appraisal principles in completing his analysis.
- f) Berkemeier developed a sales-comparison approach in which he selected comparables, made adjustments, and concluded to average and median sale prices. His analysis resembles that of an appraiser in form, but we find it insufficient to support a value for the subject property. To explain why, we must examine how appraisers use the sales-comparison approach to estimate value.
- g) Under the sales-comparison approach, “an opinion of market value is developed by comparing properties similar to the subject property that have recently sold, are listed for sale, or are under contract . . .” THE APPRAISAL INSTITUTE, THE APPRAISAL OF REAL ESTATE 351 (15<sup>th</sup> Ed. 2020.) The approach is premised on the notion that an opinion of market value can be supported by studying the market's reaction to comparable and competitive properties. *Id.* Appraisers applying the approach examine market evidence using “paired data analysis, trend analysis, statistics, and other recognized and accepted techniques to identify which elements of comparison within the data set of comparable sales are responsible for value differences.” *Id.* They then use qualitative and quantitative techniques to adjust for any differences in relevant elements of comparison that affect the comparable properties' sales prices. *Id.* at 361-65, 372-96.
- h) Several techniques are available to quantify adjustments, including paired- grouped- and secondary-data analysis, statistical analysis, and capitalization of income differences. *Id.* at 371-72. Appraisers may also make cost-related adjustments. *Id.* But the value added or lost by the presence or absence of an item may not equal the cost of installing or removing it. Instead, “the market dictates the value contribution of individual components to the value of the whole.” *Id.* at 392-93.
- i) In this case, Berkemeier is a certified Level III Assessor-Appraiser. This certification shows expertise in mass appraisal and assessment regulations. It does not necessarily show an expertise in the use of market-based evidence to value a specific property. Here, Berkemeier did little to explain how he arrived at his valuation opinion. Although he selected comparables and made adjustments to them, he did not show how he arrived at the specific amount for each adjustment beyond referencing general assessment figures. Nor did he provide any market-based evidence showing those adjustments were appropriate. While his analysis superficially mirrors the sales-comparison approach in form, it lacks the necessary substance to carry probative weight. And while he testified his analysis complied with USPAP, he did little to

show he adhered to generally accepted appraisal principals nor the USPAP ethics rule. We do not mean to imply that an appraisal by a licensed appraiser is required to prove a property's market value-in-use. Instead, we simply find a lack of market-based support for Berkemeier's adjustments, particularly in the absence of an appraiser's credentialed expertise. The Assessor offered no other evidence to establish the property's market value-in-use. As such, the Assessor failed to meet her burden of proof.

- j) We now turn to whether Tankam provided reliable evidence supporting a different value. Tankam claimed there were several errors in the assessment, including that it failed to properly consider deficiencies in the subject property. But it is insufficient to simply attack the methodology used to develop the assessment. Instead, parties must use market-based evidence to "demonstrate that the suggested value accurately reflects the property's true market value-in-use." *Eckerling v. Wayne Twp. Assessor*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006). In addition, Tankam did not provide any reliable evidence quantifying the effect the physical deterioration had on the overall value of the property.
- k) Tankam did offer some market-based evidence of purportedly comparable properties, but a party offering sales or assessment data must use generally accepted appraisal or assessment practices to show that the purportedly comparable properties are comparable to the property under appeal. *Long v. Waybe Twp. Ass'r.*, 821 N.E.2d 466, 470-71 (Ind. Tax Ct. 2005). Conclusory statements that properties are "similar" or "comparable" do not suffice. Instead, parties must explain how the properties compare to each other in terms of characteristics that affect market value-in-use. *Id.* at 471. They must similarly explain how relevant differences affect values. *Id.* Opinions that are unsupported by probative evidence are conclusory and of no value to the Board in making its determination. *Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1118 (Ind. Tax Ct. 1998). Tankam did not offer the type of analysis contemplated by *Long*. He did not identify any similarities or differences between the comparables and the subject nor did he offer any evidence or analysis that showed how those differences affected the properties overall market values-in-use. Without such an analysis, this evidence is insufficient to support a reduction in value.
- l) Next, Tankam argued his property is not receiving the same benefits as other properties in the neighborhood due to bias and subjectivity in the assessment process. We interpret this as a challenge to the uniformity and equality of the assessment as mandated by I.C § 6-1.1-2-2 and Article 10 of the Indiana Constitution. As the Tax Court has explained, "when a taxpayer challenges the uniformity and equality of his or her assessment one approach that he or she may adopt involves the presentation of assessment ratio studies, which compare the assessed values of properties within an assessing jurisdiction with objectively verifiable data, such as sales prices or market value-in-use appraisals." *Westfield Golf Practice Center v. Washington Twp. Assessor*, 859 N.E.2d 396, 399 n .3 (Ind. Tax Ct. 2007) (emphasis in original). Such studies, however, should be prepared according to professionally acceptable

standards. *Kemp v. State Bd. of Tax Comm'rs*, 726 N.E.2d 395, 404 (Ind. Tax Ct. 2000). They should also be based on a statistically reliable sample of properties that actually sold. *Bishop v. State Bd. of Tax Comm'rs*, 743 N.E.2d 810, 813 (Ind. Tax Ct. 2001) (citing *Southern Bell Tel. and Tel. Co. v. Markham*, 632 So.2d 272, 276 (Fla. Dist. Co. App. 1994)). But Tankam did not demonstrate he provided a statistically reliable sample of properties, nor did he present reliable market data showing the value of the subject property as of the assessment date. For these reasons, he failed to make a prima facie case showing a lack of uniformity and equality in the assessment.

- m) Because the burden of proof has shifted under I.C. § 6-1.1-15-20, and the totality of the evidence is insufficient to support any value, the prior year's assessment is presumed correct.

#### FINAL DETERMINATION

20. In accordance with the above findings of fact and conclusions of law, we order the assessment reduced to the prior year's value of \$292,700.

ISSUED: July 24<sup>th</sup>, 2024

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Chairman, Indiana Board of Tax Review

*Daisy J. Brand*  
Commissioner, Indiana Board of Tax Review

*Timothy Schultz*  
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>.