

REPRESENTATIVE FOR THE PETITIONERS: Andre & Julia Wu, *pro se*

REPRESENTATIVE FOR THE RESPONDENT: Ayn Engle, Attorney

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**BEFORE THE  
INDIANA BOARD OF TAX REVIEW**

Andre & Julia Wu 2022 Living Trust,	)	Petition No.:	07-001-24-1-5-01044-24
	)		
Petitioner,	)	Parcel No.:	07-01-17-100-515.000-001
	)		
v.	)	County:	Brown
	)		
Brown County Assessor,	)	Township:	Hamblen
	)		
Respondent.	)	Assessment Year:	2024

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MARCH 4, 2026

**FINAL DETERMINATION**

The Indiana Board of Tax Review (“Board”), having reviewed the facts and evidence, and having considered the issues, now finds, and concludes the following:

**INTRODUCTION**

1. The trustees of the Andre & Julia Wu 2022 Living Trust (“the Petitioners”) appealed the 2024 assessment of their property in Brown County arguing the assessment was not uniform and the Assessor engaged in sales chasing. But they failed to present reliable evidence showing they were entitled to any relief. The Assessor asked to raise the assessment but likewise failed to present any reliable evidence of value. Thus, we order no change to the 2024 assessment.

## PROCEDURAL HISTORY

2. The Petitioners filed a Form 130 appeal with the Assessor on June 12, 2024, appealing the 2024 assessment of a parcel located at 7543 Holly Lane in Nineveh.
3. The Brown County Property Tax Assessment Board of Appeals (“PTABOA”) held a hearing on September 19, 2024. On September 30, 2024, the PTABOA sustained the assessment at \$272,000 for land and \$294,200 for improvements for a total of \$566,200. The Petitioners filed a 131 petition with the Board on November 12, 2024.
4. On August 7, 2025, Dalene McMillen, the Board’s Administrative Law Judge (“ALJ”), held a telephonic hearing. Neither the Board nor the ALJ inspected the property.
5. Co-Trustees Andre and Julia Wu, and Ken Surface of Nexus Ltd. testified under oath.
6. The Petitioner offered the following exhibits:

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|------------------------|---|
| Petitioner Exhibit 1:  | Petitioners’ coversheet,  |
| Petitioner Exhibit 2:  | Petitioners’ list of exhibits,  |
| Petitioner Exhibit 3:  | Slide regarding Department of Local Government Finance (“DLGF”) 2021 Real Property Assessment Manual (“Manual”) key requirements, |
| Petitioner Exhibit 4:  | Slide regarding DLGF 2021 Manual – IAAO Standard,   |
| Petitioner Exhibit 5:  | Slide regarding 2013 IAAO Standard on Ratio Studies – Sales Chasing Detection,  |
| Petitioner Exhibit 6:  | Slide regarding Selective Reassessment,   |
| Petitioner Exhibit 7:  | Email between Mari Miller, Brown County Assessor and Andre Wu,  |
| Petitioner Exhibit 8:  | Slide titled Parcels Representative of a Stratum,   |
| Petitioner Exhibit 9:  | Slide of historical assessments,  |
| Petitioner Exhibit 10: | Slide of historical assessments,  |
| Petitioner Exhibit 11: | Slide of historical assessments,  |
| Petitioner Exhibit 12: | Slide of 2023-2024 assessment data,   |
| Petitioner Exhibit 13: | Slide of 2023-2024 assessment data,   |
| Petitioner Exhibit 14: | Slide regarding DLGF/Sales chasing,   |
| Petitioner Exhibit 15: | Slide of Conclusion.  |

7. The Respondent offered the following exhibits:

- Respondent Exhibit R-A: 2024 subject property record card (“PRC”),
- Respondent Exhibit R-B: Petitioners’ adjoining 2024 PRCs 07-01-17-100-513.000-001, 07-01-17-100-514.000-001 and 07-01-17-100-516.000-001,
- Respondent Exhibit R-C: Sales disclosure form for the subject property dated August 11, 2022,
- Respondent Exhibit R-D: Warranty deed for the subject property dated August 11, 2022,
- Respondent Exhibit R-E: Sales disclosure form for the subject property dated August 29, 2013,
- Respondent Exhibit R-F: Warranty deed for the subject property dated August 29, 2013,
- Respondent Exhibit R-G: Redfin listing for the subject property,
- Respondent Exhibit R-H: RAECO Realty listing for the subject property,
- Respondent Exhibit R-I: Two aerial maps of the subject area,<sup>1</sup>
- Respondent Exhibit R-K: Assessor’s assessment analysis,
- Respondent Exhibit R-L: Redfin information on “Brown County, IN Housing Market,”
- Respondent Exhibit R-M: Two aerial maps of the subject neighborhood,
- Respondent Exhibit R-N: Two letters from the DLGF to the Brown County Assessor dated March 14, 2023, and March 1, 2024.

8. The record also includes the following: (1) all pleadings and documents filed in this appeal, (2) all orders, and notices issued by the Board or ALJ; and (3) the digital recording of the hearing.

**OBJECTIONS**

9. The Assessor objected to a question posed to Ken Surface regarding Respondent’s Ex. R-N, the DLGF ratio study approval letter, on the grounds that it was too vague. The ALJ took the objection under advisement. We disagree with the Assessor and overrule the objection.

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<sup>1</sup> The Assessor submitted Respondent Exhibit R-J but did not enter it into the record.

10. The Assessor also objected to some questions posed to Ken Surface on cross-examination regarding the grade of the subject property on the grounds that they were outside the scope of the direct examination. The ALJ took the objection under advisement. We disagree with the Assessor and overrule the objection.

#### FINDINGS OF FACT

11. The parcel under appeal (“subject parcel”) consists of a one-story home located on .32 acres of land with a basement, detached garage, and utility shed in Nineveh. It is a waterfront property in the Corday Sweetwater Lake area, which includes 975 parcels with access to the water. The Petitioners also own three additional adjoining parcels (“additional parcels”) with a combined .67 acres of land as well as a boathouse and wood deck. All four parcels sold together in 2013 for \$385,000 and to the Petitioners on August 5, 2022, for \$737,500. The Petitioners use all the parcels together (“subject property” or “entire property”) as a single property. *A. Wu testimony; Surface testimony; Resp’t Exs. R-(A-I).*
12. The recent assessment history of the subject parcel as well as the entire property is listed below:

Year	Subject Parcel	Entire Property
2022	\$445,600	\$484,900
2023	\$536,700	\$717,100
2024	\$566,200	\$743,400

The 2024 assessment under appeal of the subject parcel was an approximately 5.5% increase over the prior year’s assessment. The entire property’s assessment increased by approximately 3.7% for that time. *Resp’t Exs. R-A, R-B.*

#### PETITIONERS’ CONTENTIONS

13. The Petitioners argued the Assessor disproportionately increased the assessments of properties that sold between 2022 and 2024 as compared to assessments of unsold

properties in the same time period. In support of this, they presented assessment history for 11 properties that had not recently sold and two that had (including the subject). They claim this demonstrated a lack of uniformity in the assessments and was likely sales-chasing. *A. Wu testimony; Pet'r Exs. 3, 5, 6 & 15.*

14. The Petitioners also argued specifically that the Assessor engaged in sales-chasing by increasing the subject property's 2023 assessment by nearly 30% following their August 5, 2022, purchase. They asked the Board to derive their 2024 assessment by beginning with the 2022 assessment and adjusting it upward based on the average assessment increase. *A. Wu testimony.*

#### **RESPONDENT'S CONTENTIONS**

15. The Assessor argued that no sales chasing occurred because the subject property's 2023 assessment was less than the 2022 sale price. In addition, the Assessor argued that trending the 2022 sale price using the median increase of sale prices in Brown County yielded a value of \$775,000, indicating the subject property was underassessed. The Assessor asked to increase the assessment to this amount. *Surface testimony; Resp't Exs. R-C, R-K, R-L.*
16. In addition, the Assessor argued that the Petitioners failed to demonstrate a lack of uniformity in the assessment because they had insufficient data and they failed to account for the varying characteristics of the properties. *Surface testimony.*

#### **BURDEN OF PROOF**

17. Generally, a taxpayer has the burden of proof when challenging a property 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).
18. 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.*
19. 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).
20. Before determining who has the burden of proof, we must determine what constitutes “the property” for purposes of the burden-shifting statute. In this case, the Petitioners appealed only one parcel of the four that make up the entire property. The subject parcel’s assessment increased more than 5%, while the assessment for the entire property did not.
21. We find we must look to the value of the entire property, not just the parcel under appeal. We begin by recognizing that parcel numbers are simply administrative tools used by assessing officials. *Cedar Lake Conference Ass’n v. Lake Cty. Prop. Tax Assessment Bd. of App.*, 887 N.E.2d 205, 208-09 (Ind. Tax Ct. 2008). The mere fact that an assessor has divided a property into multiple parcels, therefore, does not govern how we apply I.C. § 6-1.1-15-20 or how we should view a property’s value. Instead, we have typically avoided piecemeal approaches to those questions. The Board has long held that multiple parcels used as a single economic unit must be considered together.<sup>2</sup>
22. Here, the four parcels in question were sold together at least twice. In addition, both parties agreed the four parcels are used together as a single property. And both the Assessor and the Petitioners presented evidence related to the entire property, not just the parcel under appeal. For these reasons, we must look to the value of the entire property

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<sup>2</sup> See *Vern R. Grabbe v. Carroll Co. Ass’r*, Ind. Bd. of Tax Rev. Pet. Nos. 08-002-10-1-1-00001, et al. (May 10, 2012); *Rebecca Budreau v. White Co. Ass’r*, Ind. Bd. of Tax Rev. Pet. Nos. 91-020-08-1-5-00058, et al. (July 30, 2012); *Waterford Dev. Corp. v. Elkhart Co. Ass’r*, Ind. Bd. of Tax Rev. Pet. Nos. 20-015-08-1-4-00241, et al. (September 25, 2012); *Mac’s Convenience Stores, LLC v. Hamilton Co. Ass’r*, Ind. Bd. of Tax Rev. Pet. No. 29-006-12-1-4-02050 (November 14, 2014).

for the purposes of the burden-shifting statute. Because the 2024 combined assessment of the entire property did not increase by more than 5% over the prior year's assessment, the Petitioners have the burden of proof. In addition, the current assessment is presumed correct unless the totality of the evidence is sufficient to support a different value. I.C. § 6-1.1-15-20(f).

#### ANALYSIS

23. The Indiana Board of Tax Review is the trier of fact in property tax appeals, and its 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 it. I.C. § 6-1.1-15-20(f). The Board’s 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).
24. The goal of Indiana’s real property assessment system is to arrive at an assessment reflecting a property’s true tax value. 52 IAC 2.4-1-2; 2021 REAL PROPERTY ASSESSMENT MANUAL at 3. 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).
25. For most real property, 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 a similar user, from the property.” MANUAL at 2. In order to meet its burden of proof, a party “must present objectively verifiable, market-based evidence.” *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)). 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 County 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. Dept. of Local Gov’t Fin.*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006).

26. The Petitioners have the burden of proof and argued the Assessor engaged in sales chasing and the assessment was not uniform. We address each claim in turn. “Sales chasing” or “selective reappraisal” is the “practice of selectively changing values for properties that have sold, while leaving other values alone.” *Big Foot Stores, LLC v. Franklin Twp. Ass’r*, 818 N.E.2d 623 (Ind. Tax Ct. 2009) (citing *Co. of Douglas v. Nebraska Tax Equalization and Rev. Comm’n*, 635 N.W.2d 413, 419 (Neb. 2001)). In the mass appraisal process, assessors are prohibited from engaging in sales chasing, and they are required to use tests to ensure the avoidance of inadvertent sales chasing through their ratio studies. 50 Ind. Admin. Code 27-11-2. Unchecked sales chasing results in “the recently sold properties being more accurately appraised than the unsold ones.” 50 IAC 27-11-2(b).
27. The Petitioners have endeavored to apply the “Mann-Whitney” test, one of the methods for detecting sales chasing described in Appendix E of the IAAO Standard on Ratio Studies (2013). But that is a mass appraisal technique utilized in determining a uniform rate of assessment for all properties. The Petitioners are not challenging the uniform rate: they are challenging their assessment alone. The IAAO cautions against using its guidelines for determining the value of any individual property. *See* IAAO Standard at 7. (Stating that “ratio study statistics cannot be used to judge the level of appraisal of an *individual parcel*”) (emphasis in original).
28. In an individual assessment appeal, a claim of sales-chasing is a challenge to uniformity and equality. Unlike a typical valuation appeal alleging that the assessment does not

reflect the property's market value-in-use; the Petitioners argue that other properties are assessed at a value below their market value-in-use, and this lack of uniformity and equality entitles them to a downward adjustment in their assessment. Whether the Petitioners were singled out for higher assessments due to prohibited sales-chasing or inadvertent error, the requisite showing is the same. The Petitioners must prove a lack of uniformity and equality.

29. Uniformity and equality of assessments is 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. Ass'r*, 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)).
30. When a ratio study shows that a given property is assessed above the common level of assessment, the property's owner may be entitled to an equalization adjustment. See *Dep't of Local Gov't Fin. v. Commonwealth Edison Co.*, 820 N.E.2d 1222, 1227 (Ind. 2005) (holding that taxpayer was entitled to seek an adjustment on grounds that its property taxes were higher than they would have been if other property in Lake County had been properly assessed). The equalization process adjusts the property assessments so "they bear the same relationship of assessed value to market value as other properties within that jurisdiction." *Thorsness v. Porter County Ass'r*, 3 N.E.3d 49, 52 (Ind. Tax Ct. 2014) (citing *GTE N. Inc. v. State Bd. of Tax Comm'rs*, 634 N.E.2d 882, 886 (Ind. Tax

Ct. 1994)). Article 10, Section 1 (a) of Indiana's Constitution, however, does not guarantee "absolute and precise exactitude as to the uniformity and equality of each individual assessment." *State Bd. of Tax Comm'rs v. Town of St. John*, 702 N.E.2d 1034, 1040 (Ind. 1998).

31. Here, the Petitioners presented assessments and their changes over time for 13 properties on their cove, including 11 that had not recently sold and 2 that had. As discussed above, one of the requirements for a reliable ratio study is a comparison between a statistically reliable sample of assessments and objectively verifiable market data such as sale prices or appraisals. As the Assessor points out, the Petitioners did not demonstrate that they provided a statistically reliable sample of properties, particularly in light of the 975 waterfront parcels in the area. Even if 13 out of almost 1,000 properties were sufficient to succeed, the Petitioners needed to show that the subject property was assessed at a different level than the common level of assessment.
32. This requires a presentation of market-based evidence for the value of the subject property and the comparison properties, not merely evidence of the changes in the assessments. The Petitioners did not provide any reliable, market-based evidence for the actual value of the 11 comparable properties. Without knowing the market values of the 11 other properties, it is not possible for us to determine whether the subject property was treated differently (i.e. assessed at a higher ratio to its market value-in-use than the others). It is possible the assessments of the recently sold properties reflected rising values due to renovations rather than sales-chasing. Without establishing the value of the non-sold properties, the Petitioners cannot prevail on their claim of a lack of equality and uniformity.
33. We now turn to the Assessor's evidence. The Assessor asked to raise the assessment to \$775,000 based on trending the 2022 purchase using the median increase of home sale prices in the county. But it is insufficient to simply point to general trends in the market to adjust a sale price to the relevant valuation date. *Nova Tube Ind II LLC v. Clark Cty. Assessor*, 101 N.E.3d 887, 895 (Ind. Tax Ct. 2018). Instead, the Assessor needed to

demonstrate that the trending method was appropriate for this particular property and timeframe under generally accepted appraisal principles. But the Assessor failed to do that. In addition, the Assessor did not show that her witness, Ken Surface, had the appropriate expertise in the appraisal of an individual property to make that determination. For that reason, we find the Assessor has failed to make a case for any change in the assessment.

#### FINAL DETERMINATION

34. Because the totality of the evidence is insufficient to support any value, the current assessment is presumed correct. Thus, we order no change to the 2024 assessment.

The Final Determination of the above captioned matter is issued by the Indiana Board of Tax Review on the date written above.

  
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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>.