

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

Petition: 53-015-23-1-1-00605-23
Petitioners: David E. & Cathron S. Dodrill
Respondent: Monroe County Assessor
Parcel: 53-09-16-100-010.000-015
Assessment Year: 2023

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

Procedural History

1. David and Cathron Dodrill appealed the 2023 assessment of their property located at 3993 South Eller Lane in Bloomington. They sought to have their assessment lowered from \$845,300 to \$697,600. The Monroe County Property Tax Assessment Board of Appeals (“PTABOA”) issued a determination valuing the property at \$831,100 (\$41,800 for land and \$789,300 for improvements).
2. The Dodrills then filed a Form 131 petition with us, seeking to have their assessment lowered to \$697,000. In the space provided for explaining why they believed their assessment was incorrect, the Dodrills indicated (1) that the Monroe County Assessor did not apply guidelines for increasing or decreasing assessments “uniformly within the particular locales within Monroe County . . .[.]” and (2) that she “established and maintained vastly different results for base assessments for similarly located houses and similarly sized/quality of improvements (houses)” *Form 131 petition*.
3. On March 19, 2024, our designated administrative law judge, Joseph Stanford (“ALJ”), held a telephonic hearing on the Dodrills’ petition. Neither he nor the Board inspected the property. David Dodrill appeared *pro se*, and Marilyn Meighen appeared as counsel for the Assessor. Dodrill and Bradley Berkemeier of Nexus Group testified under oath.

Record

4. The official record for this matter includes the following:
 - Exhibit 1: Photographs and assessment information for the Dodrills’ property,
 - Exhibit 2: Photographs and assessment information for 1500 West That Road,
 - Exhibit 3: Photographs and assessment information for 2080 West That Road,
 - Exhibit 4: Photographs and assessment information for 1720 West That Road,

- Exhibit 5: Photographs and assessment information for 1370 West That Road,
- Exhibit 5a: Photographs and assessment information for 6900 West Ison Road,
- Exhibit 6: Photographs and assessment information for 4602 South Whooping Crane Lane,
- Exhibit 7: Photographs and assessment information for 4611 South Whooping Crane Lane,
- Exhibit 8: Photographs and assessment information for 7875 West Brennick Court,
- Exhibit 9: Photographs and assessment information for 3750 South Garrison Chapel Road,
- Exhibit 10: Photographs and assessment information for 4604 West Little Flock Lane,
- Exhibit 11: Photographs and assessment information for 4281 West Angels Way,
- Exhibit 12: Photographs and assessment information for 2004 West That Road,
- Exhibit 13: Photographs and assessment information for 2010 West That Road,
- Exhibit 14: Photographs and assessment information for 9840 West Gardner Road,
- Exhibit 15: Photographs and assessment information for 3170 South Hoff Lane,
- Exhibit 16: Photographs and assessment information for 8821 West Elwren Road,
- Exhibit 17: Photographs and assessment information for 8203 West John Williams Lane,
- Exhibit 18: Photographs and assessment information for 7895 West State Road 45,
- Exhibit 19: Photographs and assessment information for 8218 West John Williams Lane,
- Exhibit 20: Photographs and assessment information for 7329 West Ison Road.

- Exhibit A: Property record card (“PRC”) for the Dodrills’ property,
- Exhibit B: Aerial photograph,
- Exhibit C: Sales-comparison analysis,
- Exhibit D: Indiana Association of Realtors year-over-year sale price and CPI analysis,
- Exhibit E: PRC and sales disclosure for 4610 South Whooping Crane Lane,
- Exhibit F: PRC and sales disclosure for 4607 South Whooping Crane Lane,
- Exhibit G: PRC and sales disclosure for 8421 West John Williams Lane.

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 Dodrills' property contains a 6,456-square-foot, single-family home built in 1990. It includes five acres of land, one acre of which was classified as a homesite and the other four acres of which were classified as agricultural. It was assessed for \$789,700 in 2022. *Ex. A.*

Parties' Contentions

A. The Dodrills' Contentions

7. The Dodrills asked that their home's quality grade be lowered from "B+1" to "B." They pointed to three other properties on West That Road. The home located at 2080 West That was graded "C+2," while the Dodrills' home was graded at "B+2" until a year or two ago. The 2080 home is vastly superior to the Dodrills' home in terms of built-ins and floors. Similarly, homes located at 1720 and 1370 West That are of comparable quality as the Dodrills' home but are assessed for considerably less. The Dodrills also pointed to several homes on various streets that are graded "C" but that the Dodrills claim are of "vastly higher quality" than their home. *Dodrill testimony and argument; Exs. 3-20.*
8. The Dodrills further claimed that their assessment has increased at a higher rate than the assessments for other rural properties in western Monroe County. The assessment of the Dodrills' improvements increased by 20.7% over two years, rising to \$122.20/sq. ft. The Dodrills compared that to the assessments of 20 other homes, which ranged from \$75/sq. ft. to \$120/sq. ft., with an average of \$101/sq. ft. They focused on one home in particular: 1500 West That Road. That property's assessment increased by only 14.7% over two years. While the home was assessed at \$120/sq. ft., it is of far higher quality than the Dodrills' home: it has hardwood floors, extensive molding, cathedral ceilings, limestone siding and retaining walls, and upgraded windows. *Dodrill testimony and argument; Exs. 1-20.*
9. Turning to the Assessor's evidence, the Dodrills argued that Bradley Berkemeier, who analyzed the Dodrills' property under the sales-comparison approach, used "outliers," rather than comparable properties in his analysis. Those properties are located in rural subdivisions, while the Dodrills' property is in a distinctively rural area with farms and woods. And the comparable properties have "upscale houses," while the Dodrills' home is "pretty standard." Also, one of the comparable properties was bought by a venture capitalist from California who "sees value everywhere" compared to where he came from. Another property was bought by someone who did not care what the property cost because he just wanted a brand-new home. *Dodrill testimony and argument*

10. The Dodrills also disagreed with Berkemeier’s use of the consumer price index (“CPI”) to adjust his comparable properties’ sale prices for market conditions. While the CPI measures inflation for consumer goods, it excludes home prices. *Dodrill testimony and argument.*

B. The Assessor’s Contentions

11. To support the assessment, the Assessor offered Berkemeier’s sales-comparison analysis. Berkemeier is a Level III Assessor-Appraiser with Nexus Group, which the Assessor uses as a consultant. He has more than 20 years of experience in the assessment field, including roughly 15 years in which he has reviewed residential appeals. Although Berkemeier has reviewed hundreds of residential appraisals, he is not a licensed fee appraiser. The Assessor, however, argued that an appraisal is not required to prove a property’s value if a party offers appropriately adjusted sales data. *Meighen argument; Berkemeier testimony; Ex. C.*
12. Berkemeier used three main criteria in looking for sales data. He wanted sales that (1) occurred as close as possible to the assessment date, (2) involved properties that were physically similar to the Dodrills’ property, and (3) were from similar locations as the Dodrills’ property. He settled on three sales from Van Buren Township that occurred between December 2021 and August 2023. They were all in generally rural locations, although at least two were in platted subdivisions. *Berkemeier testimony; Exs B-C.*
13. To adjust the sale prices to reflect market conditions as of the January 1, 2023 assessment date, Berkemeier looked at two sources: data from the Indiana Association of Realtors, which reflected a 10% increase in the median sale price for Monroe County homes between February 2022 and January 2023, and the CPI. Although he recognized that the CPI was more of a gauge of inflation than of changes in the real estate market, he still leaned on that metric because two of the comparable sales were outside the window covered by the Indiana Association of Realtors’ data. Nonetheless, the CPI generally tracked the real estate data. *Berkemeier testimony; Exs. C-D.*
14. Berkemeier also considered adjusting the sale prices to account for physical differences between the comparable properties and the Dodrills’ property. He considered characteristics like story height, exterior finish, foundation type, the existence and size of finished and unfinished basements, bedroom and bathroom counts, quality grade, effective age, and exterior features. For most of his adjustments, Berkemeier relied on assessment data that had been collected for the properties. And he quantified many of those adjustments using the Real Property Assessment Guidelines from the Department of Local Government Finance (“DLGF”). For example, he accounted for differences in quality grades by adjusting 5% per increment, and he adjusted for differences in garage size and exterior features using the differences in replacement cost new for those items. Where Berkemeier could not find assessment data to quantify an adjustment for differences in a given characteristic, he tried to make a “reasonable” adjustment. *Berkemeier testimony; Ex. C.*

15. Because four acres of the Dodrills' land was classified as agricultural and therefore had to be valued using the soil-productivity method from the 2021 Real Property Assessment Guidelines, Berkemeier did not use a unit price to adjust for differences in land size. Instead, he assumed that each property had a one-acre homesite, and he subtracted the amount the Assessor had assigned to the excess acreage for each comparable property and then added back the value of the Dodrills' agricultural land. *Berkemeier testimony; Exs. A, C.*
16. The adjusted sale prices ranged from \$876,900 to \$947,500, with an average of \$900,700 and a median of \$877,600. Berkemeier did not offer an opinion as to the property's value beyond saying that the average and median values supported the property's assessment of \$831,100. *Berkemeier testimony; Ex. C.*
17. Overall, Berkemeier explained that he wanted to use both what he had learned from reviewing appraisal reports and his experience in the assessment field. According to Berkemeier, his analysis is similar to what one might see in an appraisal report. It has a comparable-sales adjustment grid like one that an appraiser would develop. *Berkemeier testimony.*

Conclusions of Law

A. Because the Dodrills' assessment increased by more than 5% between 2022 and 2023, the Assessor had the burden of proving the property's true tax value.

18. 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." I.C. § 6-1.1-15-20(a) (effective March 21, 2022).
19. 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.* 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. The parties disagreed as to who had the burden of proof. The Dodrills argued that the burden should shift to the Assessor because the assessment increased more than 5% between 2022 and 2023. Indeed, the assessment increased 5.2% during that time, rising from \$789,700 in 2022 to \$831,100 in 2023. The Assessor, however, argued that because the Dodrills essentially claimed a lack of uniformity and equality in assessments, the burden of proof remained with the Dodrills. At hearing, the ALJ preliminarily determined that the Dodrills would have the burden of proof. But he explained that his

determination was mainly to decide which party would present its case first, and that we, the Board, would make the final determination as to who had the burden of proof.

21. After evaluating the Dodrills' appeal petition and evidentiary presentation, we find that they raised claims both that their property was assessed for more than its true tax value and that assessments were not uniform throughout the county. The Assessor therefore had the burden of proof regarding the property's valuation. But we agree that the Dodrills had the burden of proving they are entitled to relief based on a lack of uniformity and equality in assessments. *See Thorsness v. Porter Cty. Ass'r*, 3 N.E.3d 49, 52 (Ind. Tax Ct. 2014) (holding that predecessor to Ind. Code § 6-1.1-15-20 did not apply to claims alleging a lack of uniformity and equality).

B. Because the totality of the evidence does not suffice to show the property's true tax value, we must presume that its value equals the previous year's assessment of \$789,700.

22. We are 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 "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. 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 DLGF's rules. 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.
24. 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." *PIA 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.
25. 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 2023 assessments, the valuation date was January 1, 2023. I.C. § 6-1.1-2-1.5(a).

26. Neither party offered reliable evidence from which to determine the true tax value of the Dodrills’ property.
27. We begin with the Assessor’s evidence. She relied on Berkemeier’s sales-comparison analysis. Berkemeier, however, did not show that he complied with generally accepted appraisal principles in completing his analysis.
28. 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 (15th ed. 2020).¹ 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’ sale prices. *Id.* at 361-65, 372-96.
29. 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.
30. Berkemeier pointed to data showing that the three properties from his analysis were generally similar to the Dodrills’ property in terms of several elements of comparison. For example, they are all from rural locations, although some are in platted subdivisions while the Dodrills’ property is not. And Berkemeier adjusted the sale prices to account for various ways in which the properties differed. But he did little to show that he adhered to generally accepted appraisal principles. Instead, he largely relied on cost-based mass appraisal data without any assurance that it reflected how market participants value those differences. In other instances, he gave no basis for his adjustments other than to say that he thought they were “reasonable.”

¹ We take official notice of this treatise. See 50 IAC 4-6-11(a)(4) (allowing us to take official notice of treatises considered to be reliable authorities on subjects addressed at the hearing, including any relevant edition of *The Appraisal of Real Estate*).

31. 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 and representations of USPAP compliance. And the Assessor offered no other evidence to establish the property's market value-in-use.
32. The Dodrills did even less than Berkemeier to show the property's value. They largely relied on a methodological claim: that the Assessor should have used a lower quality grade under the Guidelines in assessing the property. As we have already discussed, however, a party cannot rely on such methodological claims to prove a property's true tax value. The Dodrills also compared their year-over-year assessment increase to the increases for surrounding properties. But that does nothing to prove the value either of the Dodrills' property or of the surrounding properties. To the contrary, evidence of a property's assessment in one year has little bearing on its true tax value in another. *Fleet Supply, Inc. v. State Bd. of Tax Comm'rs*, 747 N.E.2d 645, 650 (Ind. Tax Ct. 2001).
33. Because the totality of the evidence does not suffice to prove the true tax value of the Dodrills' property, we must presume that its true tax value equals the previous year's assessment of \$789,700.

C. The Dodrills did not make a case for relief based on a lack of uniformity and equality in assessments.

34. We now turn to the Dodrills' claim that assessments in their area were not uniform and equal. As explained above, the Dodrills had the burden of proving this claim. Because they did not offer the type of market-based evidence of dis-uniformity or inequality required under Indiana's market value-in-use system, however, we find that they failed to meet their burden.
35. Before the switch to our current assessment system, true tax value was determined under Indiana's own assessment regulations and bore no relation to any external, objectively verifiable measurement standard. *Westfield Golf Practice Ctr., LLC v. Washington Twp. Ass'r*, 859 N.E.2d 396, 398 (Ind. Tax Ct. 2007). That changed under the new system, which incorporates market value-in-use as its external, objectively verifiable benchmark. The focus shifted from examining how assessment regulations were applied to examining whether a property's assessed value actually reflects that external benchmark. *Id.* at 399. Thus, "the end result—a 'uniform and equal rate' of assessment—is required, but there is no requirement of uniform procedures to arrive at that rate." *Id.* (quoting *State ex. rel. Att'y Gen. v. Lake Superior Ct.*, 820 N.E.2d 1240, 1250 (Ind. 2005) (emphasis in original)). The Court explained, and has since reiterated, that one method for proving a lack of uniformity and equality is to present assessment ratio studies, comparing the assessments of properties within an assessing jurisdiction with objectively verifiable data, such as sale prices or market value-in-use appraisals. *Id.* at n. 3; *Thorsness*, 3 N.E.3d at 51. The taxpayer in *Westfield Golf* lost its uniformity-and equality claim because it focused solely on the base rate used to assess its driving-range landing area compared to

the rates used to assess other driving ranges and failed to show the actual market value-in-use for any of the properties. *Westfield Golf*, 859 N.E.2d at 399.

36. Like the taxpayer in *Westfield Golf*, the Dodrills focused solely on the methodology employed in assessing the Dodrills' property and various other properties from rural western Monroe County. They did not offer any evidence to show the market value-in-use for any of the properties. They therefore failed to make a case for an equalization adjustment, or for any other relief based on the claimed lack of uniformity and equality.

Conclusion

37. The Dodrills' assessment increased by more than 5% between 2022 and 2023, and the totality of the evidence does not suffice to show their property's true tax value. We therefore order that the assessment be reduced to the previous year's level of \$789,700. Although the Dodrills also claimed a lack of uniformity and equality in assessments, they failed to make a case for relief on those grounds.

Date: June 17, 2024

Jonathan R. Urd
Chairman, Indiana Board of Tax Review

Betsy J. Brand
Commissioner, Indiana Board of Tax Review

Trinity Rhoads
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>>.