

REPRESENTATIVE FOR PETITIONER: Mary Ciasto, pro se

REPRESENTATIVE FOR RESPONDENT: Marilyn Meighen, Attorney at Law

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**BEFORE THE  
INDIANA BOARD OF TAX REVIEW**

MARY CIASTO,	)	Petition No.: 53-008-19-1-5-00452-19
	)	
Petitioner,	)	Parcel No.: 53-01-41-709-745.000-008
	)	
v.	)	County: Monroe
	)	
MONROE COUNTY ASSESSOR	)	Assessment Year: 2019
	)	
Respondent.	)	

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Appeal from the Final Assessment of the  
Monroe County Assessor's Office

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**January 13, 2020**

**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. Ciasto contested her 2019 assessment. The Assessor accepted the burden of proof and offered valuation opinions prepared by certified Level III assessor/appraiser Ken Surface. Because Surface failed to establish that he adhered to generally recognized appraisal principles in formulating his opinions, we conclude they lack probative value. Ciasto is therefore entitled to have her 2019 assessment reduced to its 2018 assessed value of \$173,700.

## PROCEDURAL HISTORY

2. Ciasto challenged the 2019 assessment of her residential property located at 1641 W. Hennessey Street in Bloomington. The Monroe County Assessor valued the subject property at \$186,100 (\$28,800 for land and \$157,300 for improvements).
3. The parties agreed to waive review by the Monroe County Property Tax Assessment Board of Appeals and Ciasto filed a Form 131 petition for review directly with the Board.<sup>1</sup> On November 7, 2019, our designated administrative law judge, David Smith (“ALJ”), held a hearing on Ciasto’s petition. Neither he nor the Board inspected the subject property.
4. Ken Surface, Mary Ciasto, and Theodore Ciasto testified under oath.
5. The Assessor submitted the following exhibits:<sup>2</sup>

Respondent Ex. A:	Property Record Card (“PRC”) for subject property
Respondent Ex. B:	Photograph of subject property
Respondent Ex. C:	Photographs of comparable properties
Respondent Ex. D:	Map showing location of subject and comparable properties
Respondent Ex. E:	Sales adjustment grid
Respondent Ex. F:	PRCs for comparable properties
Respondent Ex. G:	Sales Disclosure Forms (“SDF”) for comparable properties
Respondent Ex. H:	Uniformity comparison
6. The record also includes the following: (1) all pleadings, briefs, and documents filed in this appeal; (2) all orders and notices issued by the Board or our administrative law judge; and (3) an audio recording of the hearing.

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<sup>1</sup> See Ind. Code § 6-1.1-15-2.5(b)(1) (allowing a taxpayer and county assessor to agree to waive a determination by the county board and submit the dispute directly to the Board).

<sup>2</sup> Ciasto did not submit any exhibits.

## **BURDEN OF PROOF**

7. Generally, a taxpayer seeking review of an assessing official's determination has the burden of proof. Indiana Code § 6-1.1-15-17.2 creates an exception to that general rule and assigns the burden of proof to the assessor in two circumstances—where the assessment under appeal represents an increase of more than 5% over the prior year's assessment, or where it is above the level determined in a taxpayer's successful appeal of the prior year's assessment. I.C. § 6-1.1-15-17.2(b) and (d). If the assessor has the burden of proof and fails to meet it, the assessment reverts to the previous year's level or to another amount shown by probative evidence. I.C. § 6-1.1-15-17.2(b).
8. Here, the Assessor acknowledged that the property's assessment increased by more than 5% from 2018 to 2019 and accepted the burden of proof.

## **THE ASSESSOR'S CONTENTIONS**

9. Surface is a Senior Vice President for Nexus Group, a private contractor that has contracted with Monroe County and numerous other counties for many years. He has been with Nexus for 16 years, and is a certified Level III assessor/appraiser as defined by the Department of Local Government Finance ("DLGF"). He also holds a Bachelor of Science degree from Indiana University. His responsibilities at Nexus include all facets of the assessment process including annual adjustments, ratio studies, new construction, and review of all types of residential and commercial properties. *Surface testimony.*
10. The subject is a 1,497 square foot one-story ranch house built over a slab with a frame structure and a brick exterior. The house was built in 2007. It has three bedrooms, two bathrooms, a fireplace and a one-car garage. *Surface testimony; Resp't Exs. A, B.*
11. Surface presented a sales comparison approach using five purportedly comparable properties. He searched for sales of comparable properties within the trending period, which he identified as the 2018 calendar year. His search identified nine sales, from

which he chose the five most comparable properties. All five comps are located in the subject's neighborhood, and are within 0.4 miles of the subject. Comps 1, 3 and 5 appear to be nearly identical to the subject in build, style, and size. And Surface selected Comps 2 and 4 because they are both one-story frame ranch homes built on a slab like the subject. *Surface testimony; Resp't Exs. B, C, D.*

12. Surface adjusted the comps for several factors including location, design, construction quality, condition, foundation, bathroom count, heating/cooling, fireplace, exterior features, square footage/construction type, garage size, and age/depreciation. He then totaled all of the adjustments and applied a local county multiplier of 0.94 and a neighborhood factor of 1.45 to calculate an "Adjusted Sale Price Value" for each comp. Surface derived all of his adjustments from the DLGF's Uniform Cost Manual used by the 92 counties for the mass appraisal process. Although he is not an appraiser, Surface argued that the use of adjustments is not a methodology limited to appraisers. *Surface testimony; Resp't Ex. E.*
13. After applying his adjustments, the comps ranged in price from \$119/SF to \$151/SF. Surface concluded that \$138/SF was the appropriate value. Applying that value to the subject's 1,497 square feet produced a final value of \$206,600 (rounded), which is higher than the assessment under appeal. He requested the Board increase the 2019 assessment to that value. *Surface testimony; Resp't Ex. E.*
14. Surface also prepared a uniformity comparison using the assessed values and sales prices from the nine sales he initially identified for use in his sales comparison approach. The purpose of this comparison is to determine the ratio of assessed value to sales price for each property to see how representative the assessed values are in comparison to the sales prices of the properties. Surface found that the properties had a median ratio of 95%. He then multiplied the value produced by his sales comparison approach (\$206,600) by 95% to arrive at an alternative value of \$196,200, which he referred to as a uniformity adjustment. Surface requested the Board adopt this value should it reject the valuation

produced by his sales comparison approach. *Surface testimony; Resp't Ex. H.*

15. Surface did not engage in “sales chasing,” which he defined as simply assigning an assessed value to a property equal to its sales price without looking at other non-sold properties. He explained that some assessments are less than their sales prices because Indiana, as a mass appraisal state, does not allow sales chasing pursuant to DLGF regulations. The county would love to have all properties assessed at 100% of their purchase price, but that is not realistic. Some properties sell for more than their assessed values, while some sell for less. He looked at the subject property individually as well as from a ratio standpoint for purposes of this appeal, which lead to the creation of the uniformity comparison. *Surface testimony; Resp't Ex. H.*

#### CIASTO'S CONTENTIONS

16. Four of the Assessor's nine comps have sales prices that are \$6,000-\$27,000 lower than their assessed values, while the other five comps have sales prices that are \$8,900-\$26,400 higher than their assessed values. However, the Assessor failed to show how the sales prices made the tax assessments increase or decrease. It would be understandable if the differences were \$5,000-\$6,000. With differences as high as \$26,000, however, it does not seem to match up. *M. Ciasto testimony; T. Ciasto testimony.*

#### ANALYSIS

17. The goal of Indiana's real property assessment system is to arrive at an assessment reflecting the property's true tax value. 50 IAC § 2.4-1-1(c); 2011 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). It is instead determined under the rules of the 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.” MANUAL at 2.

18. All three standard appraisal approaches—the cost, sales comparison, and income approaches—are “appropriate for determining true tax value.” MANUAL at 2. In an assessment appeal, parties may offer evidence relevant to a property’s true tax value, including appraisals prepared in accordance with generally recognized appraisal principles. *Id.* at 3; see also *Eckerling V. Wayne Twp. Ass’r*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006) (reiterating that a market value-in-use appraisal that complies with USPAP is the most effective method for rebutting the presumption that an assessment is correct). Regardless of the appraisal method used, a party must relate its evidence to the relevant valuation date. *Long v. Wayne Twp. Ass’r*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). Otherwise, the evidence lacks probative value. *Id.* The valuation date for this appeal is January 1, 2019. I.C. § 6-1.1-2-1.5(a).
19. Here, the Assessor has the burden of proving that the 2019 assessment is correct. She offered a sales comparison approach and requested we increase the assessment to the \$206,600 value produced by that approach. In the alternative, she requested we increase the assessment to the \$196,200 value produced by the uniformity comparison she offered. However, there are problems with both approaches that undermine their probative value.
20. While we agree that the five properties Surface used in his sales comparison approach are sufficiently comparable to the subject, he failed to establish that his adjustments comply with generally recognized appraisal principles. The use of adjustments is not a methodology limited to appraisers, but Surface relied exclusively on cost and depreciation information taken from the DLGF’s Guidelines to calculate his adjustments. And he did so without explaining how such wholesale borrowing of information intended for use in the mass-appraisal context complies with generally recognized appraisal principles when appraising an individual parcel. Thus, Surface’s sales comparison approach is not probative valuation evidence. See *Grabbe v. Duff*, 1 N.E.3d 226,231 (Ind. Tax Ct. 2013) (stating that the probative value of an opinion depends on whether the

proponent of that opinion has shown that he adhered to generally recognized appraisal principles in formulating the opinion).

21. The Assessor also offered a uniformity comparison prepared by Surface. However, Surface failed to demonstrate that his uniformity comparison complies with generally recognized appraisal principles. Moreover, it relies on the value produced by his sales comparison approach to compute an adjusted value. Consequently, Surface's uniformity comparison lacks probative value as well.
  
22. Because the Assessor did not offer any probative valuation evidence, she failed to make a prima facie case that the property's current assessment is correct. Ciasto is therefore entitled to have her 2019 assessment reduced to its 2018 assessed value of \$173,700. Because Ciasto did not request a lower value, this ends our review.

#### **FINAL DETERMINATION**

In accordance with the above findings of fact and conclusions of law, we order the 2019 assessment reduced to its 2018 value of \$173,700.

ISSUED: January 13, 2020

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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>>.