

REPRESENTATIVE FOR PETITIONER: Susan E. Draheim, *pro se*

REPRESENTATIVE FOR RESPONDENT: Jess Reagan Gastineau, Attorney

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**BEFORE THE  
INDIANA BOARD OF TAX REVIEW**

SUSAN E. DRAHEIM,	)	Petition Nos.: 49-101-18-1-4-00522-20
	)	49-101-19-1-4-00523-20
Petitioner,	)	49-101-20-1-4-00667-21
	)	
v.	)	Parcel No.: 1053758
	)	
MARION COUNTY ASSESSOR,	)	County: Marion
	)	
Respondent.	)	Assessment Years: 2018-2020

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**March 15, 2022**

**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. Susan E. Draheim contested her 2018, 2019, and 2020 assessments. The Assessor had the burden to prove that the assessments were correct, but he failed to present probative market-based evidence supporting the assessments. Draheim likewise failed to present reliable evidence in support of her requested assessments. Accordingly, all three assessments must revert to the property’s 2017 assessed value of \$361,900.

**PROCEDURAL HISTORY**

2. Draheim challenged the 2018, 2019, and 2020 assessments of her property located at 716 Russell Avenue in Indianapolis. For 2018 and 2019, she filed Form 130 petitions with

the Marion County Assessor. After the Marion County Property Tax Assessment Board of Appeals (“PTABOA”) failed to issue determinations within 180 days of their respective filing dates, Draheim elected to file Form 131 petitions directly with the Board pursuant to Indiana Code § 6-1.1-15-1.2(k). For 2020, Draheim filed a Form 131 petition and attached the parties’ Form 55853 agreement to forego a PTABOA hearing and bring the appeal directly to the Board.

3. The assessments under appeal are as follows:

<b>Year</b>	<b>Land</b>	<b>Improvements</b>	<b>Total</b>
<b>2018</b>	\$152,200	\$230,900	\$383,100
<b>2019</b>	\$143,200	\$230,900	\$374,100
<b>2020</b>	\$143,200	\$222,000	\$365,200

4. On November 17, 2021, David Smith, our designated Administrative Law Judge (“ALJ”), held a telephonic hearing on the petitions. Neither he nor the Board inspected the property. Draheim and Melissa Tetrick testified under oath.

5. Draheim submitted the following exhibits:

- Petitioner Ex. 1: 2018 Form 131 petition
- Petitioner Ex. 2: 2019 Form 131 petition
- Petitioner Ex. 3: 2020 Form 131 petition
- Petitioner Ex. 4: Map showing locations of former and current dental offices
- Petitioner Ex. 5: Aerial view of the subject property
- Petitioner Ex. 6: Photo of and Property Record Cards (“PRCs”) for subject property prior to construction of current office
- Petitioner Ex. 7: Photos of and PRCs for 715 and 717 S. Illinois Street
- Petitioner Ex. 8: Aerial view of surrounding properties
- Petitioner Ex. 9: Summary of subject property’s assessed values and 2011-2020 PRCs for subject property
- Petitioner Ex. 10: IBTR Final Determination dated March 14, 2016 and audio recording of the associated IBTR hearing
- Petitioner Ex. 11: Photos and PRC sketches of subject property and 2017 PRC for subject property
- Petitioner Ex. 12: Landeen appraisal dated December 28, 2017
- Petitioner Ex. 13: IBTR Final Determination dated January 14, 2019

- Petitioner Ex. 14: Assessor's responses to Draheim's discovery requests
- Petitioner Ex. 15: IBTR Final Determination dated March 29, 2021
- Petitioner Ex. 16: Dental office construction costs
- Petitioner Ex. 17: 2018 and 2019 IRS Schedule E for subject property (CONFIDENTIAL)
- Petitioner Ex. 18: Rismiller land survey dated December 2, 2010 and associated emails
- Petitioner Ex. 19: Aerial photos and property information for subject property
- Petitioner Ex. 20: Parcel maps with notes indicating land assessments per square foot for nearby commercial properties
- Petitioner Ex. 21: Parcel map with notes indicating influence factors applied to nearby commercial properties
- Petitioner Ex. 22: Parcel map of and assessment analysis for four nearby professional office properties
- Petitioner Ex. 23: Photo of and 2019 PRC for 728 Russell Ave.<sup>1</sup>
- Petitioner Ex. 24: Photo of and 2018 and 2019 PRCs for 615 Russell Ave.
- Petitioner Ex. 25: Photos of and 2018 and 2019 PRCs for 825 S. Meridian St.
- Petitioner Ex. 26: Photos of and 2018 and 2019 PRCs for 845 S. Meridian St.
- Petitioner Ex. 27: Access to Public Records request and Assessor's response
- Petitioner Ex. 28: Assessment analysis for five dental office parcels
- Petitioner Ex. 29: 2018 and 2019 PRCs for 1339 Madison Ave.
- Petitioner Ex. 30: Photo of and 2018 and 2019 PRCs for 1122 Shelby St.
- Petitioner Ex. 31: 2018 and 2019 PRCs for 2261 N. Meridian St.
- Petitioner Ex. 32: 2018 and 2019 PRCs for 2536 E. 10<sup>th</sup> St.
- Petitioner Ex. 33: 2018 and 2019 PRCs for 32 Sycamore St.
- Petitioner Ex. 34: Assessment Appeal Procedure flowchart, Department of Local Government Finance ("DLGF") FAQ sheet, DLGF memorandum dated June 10, 2016, and copies of I.C. §§ 6-1.1-4-4.4 and 6-1.1-4-4.5
- Petitioner Ex. 35: Assessor's Consumer Price Index ("CPI") and CPPI trending calculations for 2017
- Petitioner Ex. 36: Statement of Brian Rismiller, PS, dated November 10, 2021 regarding 2010 land survey of subject property

6. The Assessor submitted the following exhibits:

- Respondent Ex. 1: 2018 and 2019 Form 131 petitions, 2020 Form 130 notice, and 2020 Form 55853 agreement
- Respondent Ex. 2: 2018, 2019, and 2020 PRCs for subject property
- Respondent Ex. 3: Aerial photos of and 2018-2020 PRCs for 712 Russell Ave.
- Respondent Ex. 4: Aerial photos of and 2018-2020 PRCs for 728 Russell Ave comparable

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<sup>1</sup>The PRC identifies the property address as 727 Russell Avenue, while the owner's address is listed as 728 Russell Avenue. Because the parties (and their maps) both referred to the parcel as 728 Russell Avenue, we do as well.

Respondent Ex. 5:	Aerial photos of and 2018-2020 PRCs for 615 Russell Ave. comparable
Respondent Ex. 6:	Landeem appraisal dated December 28, 2017
Respondent Ex. 7:	CPI data from 1913 to 2020
Respondent Ex. 8:	Assessor's CPI trending calculations for 2018, 2019, and 2020
Respondent Ex. 9:	CoStar report for subject property <sup>2</sup>
Respondent Ex. 11:	Floor plan and site plan for subject property
Respondent Ex. 12:	Photos of the subject property

7. The record also includes the following: (1) all pleadings, briefs, motions, and documents filed in these appeals; (2) all notices and orders issued by the Board or our ALJ; and (3) an audio recording of the hearing.

### OBJECTIONS

8. During the hearing, our ALJ ruled on several objections. We see no need to revisit those objections and we adopt our ALJ's rulings. However, our ALJ took several objections about the admission of exhibits under advisement. We now turn to those objections.
9. Draheim objected to the admission of all of the Assessor's exhibits because the Assessor allegedly failed to provide full and complete answers and materials in response to her discovery request. However, there is no indication that Draheim made any efforts to resolve her discovery dispute with the Assessor either informally or by seeking a discovery order from the Board at any point prior to the hearing. We therefore overrule Draheim's objection and admit all of the Assessor's exhibits.
10. The Assessor objected to the admission of Petitioner Exhibits 5, 6, 8, 11, 18, 19, and 30 on the grounds that Draheim had not laid a proper foundation for the various photos and sketches they contain. While Draheim asserted that she would provide a foundation during her testimony, she largely failed to do so. Nevertheless, our proceedings are regulated without recourse to the rules of evidence. 52 IAC 4-6-9(a). And the Assessor

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<sup>2</sup>Although our ALJ preliminarily admitted Respondent Exhibit 10 into the record, the Assessor voluntarily withdrew it from consideration.

did not claim that the admission of any of the photos or sketches (some of which he admitted were likely created by his office) would be prejudicial to his case. We therefore overrule the objections.

11. The Assessor similarly objected to the admission of Petitioner Exhibits 4, 16, 20, 21, and 22 (parcel maps and an email itemizing the subject's construction costs), for failure to lay a proper foundation. He also objected to the exhibits as hearsay. We conclude that Draheim provided a sufficient foundation for her exhibits during the hearing. As for the hearsay objections, we note that Draheim neither disputed that the documents were hearsay nor argued that they fall within a recognized exception to the hearsay rule. Nevertheless, our procedural rules specifically allow us to admit hearsay evidence into the record provided we do not base our final determination solely on the evidence unless it falls within a recognized exception to the hearsay rule. 52 IAC 4-6-9(d). We admit the exhibits but note that they ultimately have no bearing on our final determination.
12. The Assessor further objected to the admission of Petitioner Exhibits 10, 13, and 15 (copies of three prior decisions we issued regarding the subject property), arguing that the cases are not relevant to year under appeal. However, the Assessor subsequently requested that we take judicial notice of those same three decisions. While we decline the Assessor's request, we conclude that it undermines the Assessor's relevance objection. We therefore admit all three exhibits.

#### **BURDEN OF PROOF**

13. 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).

14. Here, the assessment increased by more than 5% from 2017 to 2018 (\$361,900 in 2017 to \$384,100 in 2018). The 2018 assessment is also higher than the resulting valuation from Draheim’s successful appeal of her 2017 assessment. The Assessor conceded that he bears the burden of proof for 2018. The determination of who has the burden for 2019 and 2020 will depend on the outcome of the appeal for the previous year. We note, however, that Draheim has the burden of proof in making her argument that her assessed value constituted an actionable lack of uniformity and equality for all three years under appeal. *See Thorsness v. Porter County Ass’r*, 3 N.E.3d 49, 52 (Ind. Tax Ct. 2014) (explaining that the predecessor to Ind. Code § 6-1.1-15-17.2 does not apply to claims based on a lack of uniformity and equality).
15. The Indiana Supreme Court recently addressed the burden shifting statute in *Southlake Ind., LLC v. Lake Cty. Assessor*, 174 N.E.3d 177 (Ind. 2021). In that case, the assessor had the burden of proof. The Board came to a conclusion different than either party’s requested assessment. The Indiana Supreme Court reversed, finding:

Section 17.2, by its plain terms, imposes the initial burden on the assessor to prove its original assessment was correct. If the assessor fails, the burden shifts to the taxpayer to prove the correct assessment value. If neither party meets its burden, section 17.2’s reversionary clause applies, and the assessment reverts to the assessment for the prior tax year. *Id.* at 179.

16. Thus, while a taxpayer is permitted to provide evidence supporting any assessment that they may proffer, the assessor is confined to providing evidence showing the original assessment was correct. Since then, in *Southlake Ind., LLC v. Lake Cty. Assessor*, 2021 Ind. Tax LEXIS 48 (Ind. Tax Ct. 2021), the Indiana Tax Court has held that correct means “exactly the same as the original assessment.” *Id.* at 9. Thus, to meet his burden, the Assessor must provide probative, market-based evidence that the original assessment is exactly correct.

### THE ASSESSOR'S CONTENTIONS

17. Melissa Tetrick is the Assessor's Deputy Director of Commercial and Industrial Assessments. She has been employed with the Assessor's Office for 25 years. Tetrick is a certified Level III assessor/appraiser in Indiana. She has received training in the Uniform Standards of Professional Appraisal Practice ("USPAP") and stays current by reviewing material published by the Appraisal Institute. She also attends conferences held by the Indiana County Assessor's Association and the International Association of Assessing Officers ("IAAO"). *Tetrick testimony.*
  
18. In support of the challenged assessments, Tetrick identified three purportedly comparable properties located near the subject. They include a residence located immediately next door to the subject at 712 Russell Avenue, an office building located directly across the street at 728 Russell Avenue, and another nearby office building located at 615 Russell Avenue. Tetrick compared them to the subject in terms of size, shape, topography, accessibility, use, age, quality, condition, and location. Although she concluded that they were either the same or similar in most respects, Tetrick noted that the subject property (built in 2012) is newer than any of the three comparables, which were built in 1895, 2000, and 1987, respectively. And while she felt that the subject and the comparables were all of good quality construction, Tetrick also noted that 712 Russell Avenue is the only one that does not have a brick front. She further acknowledged that 712 Russell Avenue is used as a residential property instead of as a commercial property like the subject. However, she argued that it is still similar to the subject because the subject was built more like a "residential-type structure." *Tetrick testimony; Resp. Exs. 3, 4, 5.*
  
19. The property at 712 Russell Avenue shows how a residential property was priced. Its assessments are a little bit lower due to it being residential (\$79,000 for 2018, \$85,600 for 2019, and \$94,600 for 2020). The property at 728 Russell Avenue had assessments of \$476,400 for 2018, \$458,000 for 2019, and \$471,100 for 2020. And the property at 615 Russell Avenue had assessments of \$526,600 for 2018 and 2019, and \$534,600 for 2020. The comparables show that the subject's assessments are in line with the comparable

properties' assessments and that they are all uniformly assessed. *Tetrick testimony; Resp. Exs. 3, 4, 5.*

20. The Assessor also submitted a USPAP-compliant appraisal prepared by Erick Landeen, MAI, that valued the subject at \$361,930 as of January 1, 2016 using the sales comparison approach.<sup>3</sup> Tetrick used the CPI to trend Landeen's concluded value to the three assessment dates under appeal. Her trending analysis produced assessed values of \$378,658 for 2018, \$384,532 for 2019, and \$394,094 for 2020. The trended values show that the current assessments are in line with the market. *Tetrick testimony; Resp. Exs. 6, 7, 8.*
21. Additionally, the Assessor submitted a report from CoStar that provides general information about the subject property. It also shows that the Market Sale Price for the subject's submarket was \$130/SF and that the subject was assessed at \$120.93/SF in 2021. While the market may be higher than the assessment, it demonstrates that the assessment is in line with the market. *Tetrick testimony; Resp. Ex. 9.*
22. Draheim's comparable properties are not like her property. Additionally, her two sets of comparables are not valid due to the distance some of the properties are from the subject and the fact that the comparables have different land base rates. Furthermore, the subject's land does not qualify for an influence factor reduction. Influence factors for land are subjective and based on the size and shape of the property. The subject property is a rectangle and does not have an irregular shape. The fact that many of the properties around the subject receive influence factor reductions reflects a subjective review of the size and shape of those properties. *Tetrick testimony.*

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<sup>3</sup> On January 14, 2019, the Board issued a Final Determination for Petition 49-101-16-1-4-01559-17 that reduced the subject's 2016 assessment to \$361,900 based on the Landeen appraisal and the corrective testimony the Assessor elicited from Landeen during that hearing. Specifically, Landeen corrected the subject's square footage from 2,512 square feet to 2,129 square feet and revised his value of the subject property to \$361,930, which the Board then rounded to \$361,900. *See Pet'r Ex. 13.*



### DRAHEIM'S CONTENTIONS

23. In 2009, Draheim was losing her rented office space at 29 E. McCarty. She needed another office close by to keep her existing patients, but there were no available spaces for rent and no vacant properties for sale. In September 2009, she bought the house at 716 Russell Avenue and an adjacent empty lot at 720 Russell Avenue, which are about a block away from her former location. The position of the house coupled with the parking space requirements prevented her from remodeling the house as she had intended to do, so she had to build a new building. At the time she purchased the subject, it was next door to four buildings that had been abandoned for decades and were in extreme disrepair. One of those abandoned buildings was the house next door at 712 Russell Avenue, which was totally redone in 2017. *Draheim testimony; Pet'r Exs. 4, 5, 6, 8.*
  
24. The seller Draheim purchased the subject property from also owned the houses at 715 and 717 S. Illinois, which are directly behind the subject. They are similar to the subject in age and quality but are smaller and have less acreage. 717 S. Illinois sold for \$120,000 in August 2017. It was then turned into a bed and breakfast and sold with existing bookings for \$275,000 in February 2018. The house at 715 S. Illinois is still a residence and it sold for \$210,000 in October 2017. When Draheim bought the subject property from the seller, he rightfully expected compensation for the house, and she paid \$250,000 for it. But the Assessor has treated all of the subsequent assessments of Draheim's property as if the value of the house was zero and as if she only paid for land. *Draheim testimony; Pet'r Exs. 6, 7.*
  
25. Although the Assessor had fully inspected Draheim's building in 2013, the PRCs incorrectly listed it as a 1.5-story building until 2016. The PRCs also had a drawing of the building that listed the wrong square footage until it was removed at the end of 2017, which coincided with the completion of Landeen's appraisal. This shows that the Assessor knew that Landeen had used the inflated square footage and that the appraised value was wrong. Yet, the Assessor presented the appraisal at the hearing in 2018 as if it was valid. And when Landeen was asked to calculate a value using the correct square

footage, he decided to round his per-square-foot value from \$167/SF to \$170/SF, which is where the \$361,930 valuation came from. Draheim asked the Assessor a number of discovery questions and requested production of documents related to the information provided to Landeen, but she did not receive any responsive answers or documents. The Assessor's refusal to answer questions about how he got the appraisal makes the appraisal invalid. *Draheim testimony; Pet'r Exs. 11, 12, 14.*

26. After removing the costs not associated with building the structure, the construction cost for Draheim's office building was roughly \$200,000. Its basis for federal tax purposes started at \$193,295, and the building has been depreciating at just under \$5,000/year based on a 39-year depreciation schedule. By 2018, it had accumulated depreciation of just over \$40,000, resulting in a remaining value of \$153,000. Additionally, the parking lot is depreciating on a 15-year schedule for federal income tax purposes. As of 2018, the subject was more than half depreciated and it has continued to depreciate. *Draheim testimony; Pet'r Exs. 16, 17.*
27. Despite receiving a copy of a certified survey from Draheim in 2010, the Assessor continues to use the wrong square footage for the subject's land assessment. The PRCs continue to list the land as 5,968 square feet, which is significantly higher than the 5,800 square feet determined by the survey and the 5,803 square feet shown in the Indy Zoning Browser. It would not be a big deal if Draheim's land was assessed at \$0.80/SF like her next-door neighbor, but it makes a huge difference at \$30.00/SF. The Assessor has ignored the survey, but he has never provided any data to back up the square footage shown on the PRCs. Draheim is requesting a correction of her property's size for all the years on appeal. *Draheim testimony; Pet'r Exs. 18, 19, 36.*
28. Draheim's land assessment has been the biggest contributor to her property taxes. In the past, the Assessor has said the 2012 land order dictated that all commercial land north of McCarty Street was supposed to be assessed at \$30.00/SF, while all commercial land south of McCarty Street was supposed to be assessed at \$20.00/SF. But it does not

appear that that directive has been followed for most of the properties. Using the higher of the values from 2018 and 2019, Draheim calculated the average land assessment for the seventeen commercial properties nearest the subject that are north of McCarty Street to be \$13.03/SF. And doing the same for the thirteen commercial properties nearest the subject that are south of McCarty Street produced an average land assessment of \$14.46/SF. Because \$13.03/SF is the average for the subject's area, the Assessor has no justification for assessing her land higher than \$13.00/SF. Other properties that were assessed at \$30.00/SF had their assessments lowered once they were appealed, but Draheim's land assessment has remained stuck despite her appeals. She is requesting an order requiring the Assessor to reduce the 2018 assessment to reflect the depreciated value of her improvement plus the value of her land as calculated using the \$13.00/SF average land assessment for commercial properties in her neighborhood, and to carry the resulting assessment forward. *Draheim testimony; Pet'r Ex. 20.*

29. Draheim introduced a parcel map with handwritten notes indicating the influence factors some of the properties surrounding the subject receive for their land. The parcels she focused on are all zoned CBD2. Six of the parcels received reductions ranging from 40% to 60% based on their sizes and/or shapes. The parcels at 708 Russell and 625 Meridian did not receive reductions for size/shape, but their base rates were both \$21.00/SF. The properties at 712 Russell and 645 Meridian also lacked reductions for size/shape, but they were assessed at only \$0.80/SF. The property at 701 Meridian likewise received no size/shape reduction. However, in 2018, it did receive a "mis-improvement adjustment." Draheim is asking the Board to assign a permanent 60% influence factor reduction to the value of her land due to its size/shape. *Draheim testimony; Pet'r Ex. 21.*
30. Draheim prepared an assessment comparison analysis using four nearby office properties, all of which she can see from the front of her office. She described them all as "very nice office buildings," and noted that like the subject, they all have stone exteriors. In 2018 and 2019, the four properties' land assessments ranged from \$8.00/SF to \$18.00/SF, while the subject's assessment was \$25.50/SF in 2018 and \$24.00/SF in 2019. In those

same years, the four properties' building base rates ranged from \$85.20/SF to \$103.39/SF. In contrast, the subject's building base rate was \$135.82/SF in both 2018 and 2019. This shows that the subject's base rates are way out of line with everything else in the neighborhood. Draheim also calculated what each of the four properties' total assessment would be if their land was assessed at either \$24/SF or \$30/SF and their buildings were assessed at \$0 to show the enormous difference that land values make. *Draheim testimony; Pet'r Exs. 22-26.*

31. Draheim used a Freedom of Information Request to find all of the freestanding dental offices in Center Township. She identified five such properties and prepared another assessment comparison analysis. The five properties are all within 4 miles of the subject property, and one (her old office at 1339 Madison) is only one block away. In 2018 and 2019, the five properties' land assessments ranged from \$1.24/SF to \$20.00/SF, while the subject's land assessment was \$25.50/SF in 2018 and \$24.00/SF in 2019. In those same years, the five properties' building base rates ranged from \$88.89/SF to \$133.49/SF. In contrast, the subject's building base rate was \$135.82/SF in both 2018 and 2019. And like her prior assessment comparison analysis, Draheim calculated what each of the five properties' total assessment would be if their land was assessed at either \$24/SF or \$30/SF and their buildings were assessed at \$0. *Draheim testimony; Pet'r Exs. 27-33.*
  
32. Assessing officials are statutorily required to hold a preliminary, informal meeting when they receive an appeal. But Draheim did not have any such meetings for her 2017-2020 appeals. A 2016 memo from DLGF Commissioner Schaafsma details the appeals process rules that assessors, county boards, and county attorneys must follow, but the Assessor has not followed them with respect to Draheim's appeals. The memo also encouraged assessors to be especially mindful of how a property is assessed in the year following a reduction in its assessed value. The Assessor should have carried the ruling from Draheim's 2012 appeal forward at least until he had evidence to back up a higher assessment. If the Assessor had operated in a fair and just way, the inflated \$465,000 assessment would have never carried forward for 2013, 2014, or 2015, and Draheim's

property would have been in line with other neighborhood properties and dental offices. Instead, the Assessor dug in further and made her appeal year after year. Indiana Code § 6-1.1-4-4.5 is a directive promoting uniform and equal assessment of real property within and across classifications. Because the Assessor only appraised Draheim's property individually and left the values of all the other properties in her neighborhood unchanged, her property's assessment outpaced theirs. *Draheim testimony; Pet'r Exs. 9, 34.*

#### ANALYSIS

33. 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); 2021 REAL PROPERTY ASSESSMENT MANUAL at 2, 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.
34. Evidence in an assessment appeal should be consistent with that standard. For example, market value-in-use appraisals that comply with USPAP often will be probative. *See id.; see also Kooshtard Prop. VI, LLC v. White River Twp. Ass'r*, 836 N.E.2d 501, 506 n.6 (Ind. Tax Ct. 2005). So may cost or sales information for the property under appeal, sales or assessment information for comparable properties, and any other information compiled according to generally accepted appraisal principles. *Id.; see also* I.C. § 6-1.1-15-18 (allowing parties to offer evidence of comparable properties' assessments in property-tax appeals but explaining that the determination of comparability must be made in accordance with generally accepted appraisal and assessment practices).
35. Regardless of the method used to prove true tax value, a party must explain how its evidence relates to the property's value as of the relevant valuation date. *O'Donnell v. Dep't of Local Gov't Fin.*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006). The valuation dates

for these appeals are January 1, 2018, January 1, 2019, and January 1, 2020. I.C. § 6-1.1-2-1.5(a).

### 2018 Assessment

36. As discussed above, the Assessor had the burden to prove that the 2018 assessment was correct. But he did not provide any evidence demonstrating that the original assessment of \$383,100 was correct. The three properties he relied on for his assessment comparison approach were assessed at \$79,000, \$476,400, and \$526,600 in 2018, while his analysis trending the concluded value from Landeen's 2016 appraisal produced a value of \$378,658 for 2018. And the CoStar report the Assessor submitted is devoid of any valuation data relevant to the years under appeal. We therefore conclude that the Assessor failed to meet his burden of proof to show that the original assessment was correct.
37. Because the Assessor did not meet his burden of proof, we now turn to Draheim's evidence. Draheim made several distinct requests for relief. First, she requested that we reduce the size of her land to the square footage shown on a survey she submitted. Second, she asked us to reduce her 2018 assessment to reflect the depreciated value of her improvement and a land value she developed using the average land assessment rate for some of the commercial properties in her neighborhood. Third, she asked us to assign a permanent 60% influence factor to the value of her land due to its size/shape. Finally, Draheim developed two assessment comparison analyses to demonstrate that her property did not receive a uniform and equal assessment. We address each claim in turn.<sup>4</sup>
38. We start with her request to change the size of her land from the 5,968 square feet currently listed on the subject's PRCs to the 5,800 square feet shown in the 2010 survey she submitted. The Assessor not only failed to rebut Draheim's survey with evidence of

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<sup>4</sup>We have done our best to identify and address all of Draheim's claims and arguments that are colorable. But her testimony and arguments at the hearing were difficult to follow. It was Draheim's duty to walk us through her analyses. *Indianapolis Racquet Club, Inc. v. Washington Twp. Ass'r*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004). To the extent her lack of clarity led us to miss any salient claims or arguments, she must bear the consequences.

his own, but he also introduced what appear to be copies of the same survey in his case-in-chief and then elicited testimony from his witness describing the survey as helpful in determining lot size. Thus, we have little trouble concluding that the size of the subject parcel is in fact 5,800 square feet. We note, however, that this determination alone is insufficient to support a reduction in her assessment. To successfully make a case for a lower assessment, a taxpayer must use market-based evidence to “demonstrate that their suggested value accurately reflects the property’s true market value-in-use.” *Eckerling v. Wayne Twp. Ass’r*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006). And as discussed below, Draheim ultimately failed to introduce any probative market-based evidence demonstrating the value of her 5,800-square foot parcel.

39. There are several issues with Draheim’s request to reduce her 2018 assessment to reflect the depreciated value of her improvement and a land value she developed using the average land assessment rate for seventeen commercial properties in her neighborhood. For one, Draheim failed to use market-based evidence to calculate a depreciated value for the subject’s improvements, attempting instead to simply rely on a valuation and depreciation schedule used for federal income tax purposes. And the \$13.00/SF land value she advanced is based on assessed values the Assessor developed using mass-appraisal methods, not market-based evidence.
40. Indiana Code § 6-1.1-15-18(c)(2) authorizes the use of assessment data to prove the market value-in-use of non-residential property, but it requires parties to use generally accepted appraisal and assessment practices to demonstrate that the data comes from comparable properties. Conclusory statements that a property is “similar” or “comparable” do not suffice. Instead, taxpayers must explain how the properties compare to each other in terms of characteristics that affect market value-in-use. *Long v. Wayne Twp. Ass’r*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005).
41. Here, Draheim did little more than identify the zoning classifications for the seventeen commercial properties she relied on. Thus, we conclude Draheim failed to establish their

comparability to the subject property. She also admittedly used a mix of assessed values from 2018 and 2019 to calculate her \$13.00/SF average, which was improper because each tax year and each appeal process stands alone. *Fisher v. Carroll Cty Ass'r*, 74 N.E.3d 582, 588 (Ind. Tax Ct. 2017).

42. We likewise find no merit in her request that we assign a permanent 60% influence factor to the value of her land due to its size/shape. The choice to apply an influence factor is part of the methodology used by an assessor to develop an assessment. Simply attacking the methodology used to calculate an assessment or strictly applying the assessment guidelines is generally insufficient—taxpayers must provide their own independent market-based evidence of value. *Eckerling*, 841 N.E.2d at 678.
43. Draheim also developed two assessment comparison analyses in an attempt to demonstrate that her property did not receive a uniform and equal assessment. However, she again failed to use generally accepted appraisal and assessment practices to demonstrate that the assessment data she used came from comparable properties. In her first analysis, Draheim simply described the four nearby office properties as “very nice office buildings” and noted that like the subject, they all have stone exteriors. And in her second analysis, the only description she offered was that the purported comparables were all freestanding dental offices in Center Township. Because Draheim failed to establish comparability, her assessment comparison analyses lack probative value.
44. Even if Draheim had used comparable properties in her two assessment comparison analyses, we would still conclude that she failed to show she was entitled to an equalization adjustment. Uniformity and equality in assessment may be measured through an assessment ratio study. *Westfield Golf Practice Ctr., LLC v. Washington Twp. Ass'r*, 859 N.E.2d 396, 399 n.3 (Ind. Tax Ct. 2007). 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.” *Thorsness*, 3 N.E.2d at 51 (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. In providing guidance about how to compile and evaluate the data necessary for a ratio study, the DLGF has incorporated into law the IAAO Standard on Ratio Studies (July 2007). *See* 50 IAC 27-1-4; *see also*, *Thorsness*, 3 N.E.2d at 53-54 (citing to predecessor to 50 IAC 27-1-4).

45. In *Thorsness*, the taxpayer offered evidence showing that while his property was assessed at 99.9% of its sales price, six other properties in his subdivision were assessed at an average of 79.5% of their recent sales 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 lacked probative value to show his assessment exceeded the common level of assessment for the township. *Id.* at 54.

46. While Draheim analyzed some assessment data for nine purportedly comparable properties, she did not compare that data with any objectively verifiable data from the market such as their sales prices. Nor did she offer a statistically reliable sample of properties. Thus, she did not truly develop a ratio study, let alone one prepared in conformance with IAAO standards and the DLGF's rules.

47. Because neither party met their burden of proof, section 17.2's reversionary clause applies, and the subject's 2018 assessment must revert to its assessed value from 2017—\$361,900.

### 2019 Assessment

48. We now turn to the 2019 assessment. Because the 2019 assessment is higher than the resulting valuation from Draheim's successful appeal of her 2018 assessment, the Assessor retained the burden of proof for 2019. However, he failed to provide any

evidence demonstrating that the original assessment of \$374,100 was correct. He relied on the same three properties for his assessment comparison approach, which had assessments of \$85,600, \$458,000, and \$526,600 in 2019. He also presented his analysis trending the concluded value from Landeen's 2016 appraisal, which produced a value of \$384,532 for 2019. And as discussed above, the CoStar report does not provide probative valuation evidence for any of the years under appeal. Thus, the Assessor failed to meet his burden of proof to show that the original assessment was correct.

49. For her part, Draheim relied on the same evidence and arguments she presented for the 2018 appeal, and we therefore reach the same conclusion—she failed to prove the correct assessment. Because neither party met their burden of proof, the subject's 2019 assessment must revert to its assessed value from 2018—\$361,900.

#### 2020 Assessment


50. Finally, we address the 2020 assessment. Because the 2020 assessment is higher than the resulting valuation from Draheim's successful appeal of her 2019 assessment, the Assessor retained the burden of proof for 2020 as well. However, he failed to provide any evidence demonstrating that the original assessment of \$365,200 was correct. The three properties he relied on for his assessment comparison approach were assessed at \$94,600, \$471,100, and \$534,600 in 2020, while his trending analysis produced a value of \$394,094. And we note once again that the CoStar report he submitted lacks probative value with respect to the years under appeal. The Assessor therefore failed to meet his burden of proof to show that the original assessment was correct.
51. Draheim relied on the same evidence and arguments she presented for the 2018 and 2019 appeals once more, and we again conclude that she failed to prove the correct assessment. Because neither party met their burden, the subject's 2020 assessment must revert to its assessed value from 2019—\$361,900.

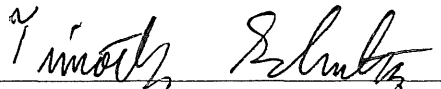
**FINAL DETERMINATION**

In accordance with the above findings of fact and conclusions of law, we order the 2018, 2019, and 2020 assessments reduced to \$361,900.

ISSUED: 3/15/2022

  
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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>>.