

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

**Petition:** 64-007-22-1-5-00014-23  
**Petitioners:** D. Gregory Hill & Amy Miller Hill  
**Respondent:** Porter County Assessor  
**Parcel:** 64-06-12-277-011.000-007  
**Assessment Year:** 2022

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

**Procedural History**

1. On May 25, 2022, D. Gregory Hill & Amy Miller Hill filed a Form 130 petition with the Porter County Assessor contesting their property's assessment. The Porter County Property Tax Assessment Board of Appeals ("PTABOA") issued a Form 115 determination sustaining the assessment of \$421,800 (\$55,800 for land and \$366,000 for improvements).
2. The Hills then filed a Form 131 petition with us, electing to proceed under our small claims procedures. On October 18, 2023, our designated administrative law judge, Joseph Stanford ("ALJ"), held a telephonic hearing on the Hills' petition. Neither he nor the Board inspected the property. D. Gregory Hill appeared *pro se*. Peggy Hendron, the Assessor's residential real estate director, represented the Assessor. Hill, Hendron, and deputy assessor Jackie Harrigan testified under oath.

**Record**

3. The official record for this matter includes the following:

Petitioners Exhibit 1:	Letter from D. Gregory Hill; 2021 Form 115 determination; 2022 Form 130 petition with attachments and mailing envelope; 2022 Form 11 notice,
Petitioners Exhibit 2:	Handwritten notes and narrative; Form 114 notice and mailing envelope; Form 134 joint report for 2021 appeal; 2021 Form 115 determination; 2022 Form 130 petition with attachments,
Petitioners Exhibit 3:	2022 Form 131 petition with attachments,
Petitioners Exhibit 4:	Letter from D. Gregory Hill to IBTR received October 16, 2023.
Respondent Exhibit 1:	Subject property record card,
Respondent Exhibit 2:	Aerial photographs of the subject property,

Respondent Exhibit 3: Photographs of the subject property,  
Respondent Exhibit 4: Appraisal of the subject property prepared by  
Ronald L. Boilini.

4. 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.

### **Objection**

5. The Assessor objected to the Petitioners' Exhibit 4 because, as Gregory Hill confirmed, the Hills did not provide her with that exhibit. *Herndon testimony and argument*. The ALJ sustained the objection and excluded the exhibit.
6. A party is entitled to a copy of any document that an opposing party seeks to offer at a hearing. *See* 52 IAC 4-4-6(a)(requiring all documents filed with or submitted to the Board or our administrative law judge be served on all parties or their representatives). And our procedural rules expressly prohibit ex parte communications. 52 IAC 4-4-5. Thus, for telephonic hearings, our hearing notices instruct parties to "mail or email their exhibits to the Board *and the opposing party*." In any case, Hill generally testified to the content of Petitioner's Exhibit 4 without objection. Even if we were to admit the exhibit, it would not affect our determination.

### **Findings of Fact**

#### **A. The Subject Property's Description and Recent Assessment History**

7. The subject property is a single-family residence containing four bedrooms, 2.5 bathrooms, and 2,606 square feet of finished living area. It sits on a 0.48-acre lot located at 1087 White Willow Lane in Chesterton. In 2021, the property was originally assessed for \$378,900. The Hills appealed that assessment, resulting in a decrease to \$327,400. The assessment increased to \$421,800 in 2022, the year currently under appeal. *Resp't Exs. 1, 4; Hill, Herndon, Harrigan testimony*.

### **Parties' Contentions**

#### **A. The Assessor's Contentions**

8. Boilini, a certified general appraiser, prepared an appraisal estimating the property's market value-in-use as of January 1, 2022. He fully inspected the home's interior and exterior and examined the local market, noting that prices in the subject property's neighborhood had increased 12% to 15% over the previous year. And he certified that he complied with the requirements of the Uniform Standards of Professional Appraisal Practice ("USPAP"). *Herndon testimony; Resp't Ex. 4*.

9. Boilini relied on the sales-comparison approach. In developing his analysis under that approach, he identified five sales from Chesterton: 1053 Laurel Creek Dr., 1096 Lombardy Ct., 128 Beverly Drive, 1041 N. Meridian Rd., and 131 Beverly Drive. Boilini found that those properties shared “basic components of comparison with the subject in that, after allowing for economically adjusted differences, [they] would be capable of attracting the same potential market segment.” They all were located within a mile of the subject property and had 2.5 baths and three or four bedrooms. They sold in 2021 for prices ranging from \$349,000 to \$430,000. *Herndon testimony; Resp’t Ex. 4.*
10. Next, Boilini considered adjusting the sale prices to account for transactional differences between the sales and the posited sale of the subject property, as well as for differences in relevant physical characteristics between the properties that his research showed would support a market distinction. For example, he adjusted three of the sale prices for differences in lot size, including a \$60,000 downward adjustment for 1041 North Meridian Road, which had a 4.89-acre lot. He similarly adjusted three sale prices downward based on the properties’ superior condition. He also made significant adjustments to account for differences in gross living area and finished basement area, and smaller adjustments to account for differences in amenities, such as garages and fireplaces. *Herndon testimony; Resp’t Ex. 4.*
11. The adjusted sale prices ranged from \$376,100 to \$413,300, and Boilini settled on a value of \$395,000 for the subject property. Recognizing that Boilini’s appraisal was based on “market reaction,” the Assessor asked that the subject property’s assessment be lowered to the amount Boilini estimated. *Herndon argument; Resp’t Ex. 4.*

## **B. The Hills’ Contentions**

12. According to the Hills, the Assessor’s proposed assessment of \$395,000 is still too high. The Hills have not made any improvements to the home that would justify the substantial increase between the property’s 2021 and 2022 assessments. Based on Boilini’s estimated 12%-15% market increase from 2021 to 2022, the 2022 assessment should be no higher than \$370,000, which represents a 13.01% increase over the 2021 assessment of \$327,400 that was determined following their appeal. The Hills have never received an explanation for the original, elevated 2021 assessment of \$378,900. *Pet’rs Ex. 2; Hill testimony and argument.*
13. The Hills also proposed two other values, both of which were lower than the amount that Boilini estimated in his appraisal. One proposal assumed an 8.67% increase from the subject property’s 2021 assessment, for a 2022 value of \$355,800. The Hills based the 8.67% increase on “a low inflation rate during the COVID-19 pandemic . . . and an increase in market value.” The Hills’ other proposed value was \$364,500, which they based on an 11.32% increase over the 2021 assessment. They derived that percentage from the difference between the original 2021 assessment of \$378,900 and the current assessment of \$421,800. The Hills also prepared nine-year and 10-year linear regressions to analyze the increases in their assessments. *Hill testimony and argument; Pet’rs Exs. 1-2.*

14. Additionally, the Hills pointed to an analysis of the average increase in the per-square-foot cost for three properties that they claimed the Assessor had used in a computer-generated analysis. The three properties, which were located at 1094, 1095, and 1096 Lombardy Ct., increased by an average of 10.53% between 2021 and 2022. And the Hills computed an average cost of \$127.59/sf for three properties located at 128 Beverly Drive, 131 Beverly Drive, and 1609 South 5<sup>th</sup> St., which was lower than the \$148.41/sf average for the three Lombardy Ct. properties that the Assessor used. *Hill testimony and argument*<sup>1</sup>; *Pet'rs Ex. 3*.
15. The Hills also claimed that some of the properties the Assessor used were not comparable to the subject property. They claimed that the "Tamarack properties" have features that the subject property lacks, such as swimming pools, concrete decks, and brick, and that some of the properties are located on cul-de-sacs. The Hills were not always specific about which properties they were referring to and whether they were ones that Boilini included in his appraisal as opposed to properties that the Assessor had relied on at other points in the appeal process. The Hills also pointed to the fact that 1041 North Meridian Road, which Boilini used in his appraisal, has a 4.89-acre lot. *Hill testimony and argument*; *Pet'rs Exs. 2-3*.
16. Finally, the Hills pointed to sales of three similarly sized homes, including the two Beverly Drive homes that Boilini used in his appraisal, and computed an average sale price of approximately \$357,700 or \$139/sf. *Pet'rs Ex. 1*.

### **Conclusions of Law and Analysis**

#### **A. Because the subject property's assessment increased by more than 5% between 2021 and 2022, the Assessor had the burden of proof.**

17. 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).
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 that do not apply here, 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

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<sup>1</sup> At least some of the properties the Hills identified sold in 2021. But the Hills were not clear about whether they were referring to assessed values or sale prices in computing their unit costs. For the properties where the record indicates a sale price (the ones used by Boilini in his appraisal), the Hills' computed unit values do not align with the sale price. We therefore find that the Hills were referring to assessed values. *See Pet'r Ex. 3; Resp't Ex. 4.*

assessment is presumed to be equal to the property's true tax value." I.C. § 6-1.1-15-20(f).

20. The subject property's assessment increased from \$327,400 in 2021 to 421,800 in 2022, an increase of more than 5%. The Assessor therefore has the burden of proof.

**B. Boilini's appraisal is the most persuasive evidence of the subject property's true tax value.**

21. 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 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).
22. 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). 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.
23. In order 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." *P/A 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.
24. 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 2022 assessments, the valuation date was January 1, 2022. I.C. § 6-1.1-2-1.5(a).

25. Boilini's USPAP-certified appraisal report is objective, market-based evidence. Relying on a generally accepted valuation methodology—the sales-comparison approach—Boilini estimated the property's value at \$395,000 as of January 1, 2022. Based on that appraisal, the Assessor made a prima facie case that the property's 2022 assessment should be \$395,000.
26. The Hills did little to effectively impeach or rebut Boilini's appraisal. They pointed to differences between the subject property and properties relied on by Bolini and the Assessor, claiming that differences in those properties rendered them incomparable. Because the Hills did not always differentiate between properties that Bolini used in his appraisal and those that the Assessor relied upon at other points in the appeal process, it is difficult to evaluate their claims with much specificity. At a minimum, however, the Hills complained about some of Boilini's properties being located on cul-de-sacs and about the property on Meridian Rd. having a substantially larger lot. The Hills' conclusory assertions, however, do little to make us doubt Boilini's determination that his comparable properties were capable of competing for the same market segment as the subject property. In any case, Boilini adjusted his comparable properties' sale prices to account for relevant ways in which they differed from the subject property, including a substantial adjustment to the Meridian Rd. property's sale price to account for its superior lot.
27. The Hills' own valuation evidence similarly carries little probative weight. The Hills largely focused on the percentage of increase in the subject property's assessed value from 2021 to 2022. They argued that the 28.27% increase was excessive and proposed three alternative increases ranging from 8.67% to 13.01%. Simply computing an increase in the previous year's assessment does little to prove the property's market value-in-use on the assessment date in question. As the Tax Court has explained, "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). 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 St. 2001). Indeed, there is nothing to show that the prior years' assessments, which form the basis of the Hills' claims, accurately reflected the subject property's true tax value for those years.
28. While the Hills also pointed to the sale prices for three properties (two of which Boilini used in his appraisal), they did nothing to analyze how those properties differed from the subject property in relevant ways that affect their relative values. The Hills instead simply calculated the average overall sale prices and unit values from those sales. That falls well short of the type of analysis necessary for the sales data to carry probative weight. See *Long v. Wayne Twp. Ass'r*, r, 821 N.E.2d 466, 470-71 (Ind. Tax Ct. 2005) (holding that taxpayers' sales data for other properties lacked probative value where they failed to compare how the characteristics of those properties compared to their property and to explain how any differences affected market value-in-use). By contrast, Boilini adjusted the sale prices for his comparable properties, including the two that the Hills included in their analysis, to account for market reactions to various differences between those properties and the subject property.

29. We therefore find that Boilini's valuation opinion of \$395,000 is the most persuasive evidence of the subject property's true tax value.

### Conclusion

30. We find for the Assessor and order that the subject property's 2022 assessment be reduced to \$395,000.

Date: 1-16-24

  
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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>>.