

REPRESENTATIVE FOR PETITIONER:  
John David Johnson, pro se

REPRESENTATIVE FOR RESPONDENT:  
Sarah Redman, Warrick County Assessor

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**BEFORE THE  
INDIANA BOARD OF TAX REVIEW**

John David Johnson,	)	Petition No.: 87-019-19-1-5-01166-19
	)	
Petitioner,	)	Parcel No.: 87-12-13-102-092.000-019
	)	
v.	)	County: Warrick
	)	
Warrick County Assessor,	)	Assessment Year: 2019
	)	
Respondent.	)	

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Appeal from the Final Determination of the  
Warrick County Property Tax Assessment Board of Appeals

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March 19, 2021

**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. John David Johnson contested his 2019 assessment. The Assessor bore the burden of proof but failed to make a prima facie case that the 2019 assessment is correct. Johnson is therefore entitled to have his assessment reduced to its 2018 assessed value. Johnson requested a lower value, but he failed to provide probative valuation evidence supporting a further reduction.

## **PROCEDURAL HISTORY**

2. Johnson challenged the 2019 assessment of his property located at 6200 Laurel Ridge Drive in Newburgh. The Warrick County Property Tax Assessment Board of Appeals (“PTABOA”) issued a determination upholding the original 2019 assessment of \$192,300 (land at \$28,600 and improvements at \$163,700).
3. Johnson timely filed a Form 131 petition with the Board. On January 6, 2021, the Board’s designated administrative law judge, Ellen Yuhan (“ALJ”), held a telephonic hearing on the petition. Neither she nor the Board inspected the subject property.

## **HEARING FACTS AND OTHER MATTERS OF RECORD**

4. Johnson and Warrick County Assessor Sarah Redman appeared pro se. Johnson, Redman, and Deputy Assessor Lana Lockhart testified under oath.
5. Johnson offered the following exhibits:

Petitioner Exhibit 1:	Comparable properties
Petitioner Exhibit 2:	Assessor’s denial letter
Petitioner Exhibit 3:	Percent increase of assessed value
Petitioner Exhibit 4:	Comparison of adjacent homes, median sales/SF
6. The Assessor offered the following exhibits:

Respondent Exhibit A:	Subject property record card
Respondent Exhibit B:	Comparable Sales Report and Valuation Calibration Analysis
Respondent Exhibit C:	Additional information including denial letter, sales to certified ratio and property record card
7. The record also includes the following: (1) all pleadings, motions, briefs, and documents filed in this appeal; (2) all orders and notices issued by the Board or our ALJ; and (3) the audio recording of the hearing.

## BURDEN OF PROOF

8. 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).
9. Here, the assessment increased from \$170,400 in 2018 to \$192,300 in 2019—an increase of more than 5%. The Assessor conceded that she bears the burden of proof.

## THE ASSESSOR'S CONTENTIONS

10. The Assessor submitted a Comparable Sales Report that includes five comparable sales from the subject's neighborhood. Her analysis produced a market value of \$205,000 for the subject, meaning that it is assessed slightly under its market value. *Redman testimony; Resp't Ex. B.*
11. The Assessor's original ratio study included sixteen sales from 2017, 2018, and 2019. The sales were houses with the same style and similar square footage as the subject. Their median sales value is \$108/SF, while the subject's 2019 assessed value is \$106/SF. So, it is assessed at 98% of market value. Throwing out the one sale from 2019 dropped the median sales value to \$107/SF, putting the subject's assessment at 99% of market value. *Redman testimony; Lockhart testimony; Resp't Exs. B, C.*
12. To see if values were increasing or decreasing, the Assessor also looked at thirteen sales from 2018 and 2019. They had a median sales value of \$109/SF, which shows the market value for 1-story homes with a crawl increased by approximately 1.87%. Johnson purchased the property in 2009 for \$182,000, or \$100/SF. In the 10-year period he has

lived here, the assessment has only gone up 6% from the purchase price. *Lockhart testimony; Resp't Ex. C.*

13. Johnson discussed comps from his neighborhood, Lake Ridge Crossing, but he is comparing assessments instead of sales. The Assessor derives her value from sales in the area. Additionally, some of his comparable properties were homes that had not even sold. Of the ones that did sell, three were much older than the subject. *Redman testimony; Pet'r Ex. 1.*

#### **JOHNSON'S CONTENTIONS**

14. The subject is assessed higher than seven adjacent properties on Laurel Ridge Drive. These seven properties are located in the subject's taxing district, they were all built around the same year (1997), and they have the same Grade B rating as the subject. Their average assessed value is \$92.66/SF, while Johnson's property is assessed at \$106/SF. Reducing the subject's assessment to the average assessed value produced by these seven comps results in a value of \$168,900 instead of \$192,300. *Johnson testimony; Pet'r Ex. 1.*
15. Using the same criteria as the Assessor, Johnson analyzed six properties adjacent to the subject that are approximately the same age, same grade, and similar square footage. They have a median sales price of \$95.50/SF. The difference between their median sales price and the subject's assessment of \$105.54/SF is \$10.04/SF, or \$18,300 in assessed value. Subtracting \$18,300 from the current assessment of \$192,300 produces a value of \$174,000 for 2019. *Johnson testimony; Pet'r Ex. 4.*

#### **ANALYSIS**

16. Indiana assesses property based on its "true tax value," which is determined under the rules of the Department of Local Government Finance ("DLGF"). I. C. § 6-1.131-5(a); I.C. § 6-1.1-31-6(f). 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) and (e). 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.” 2011 REAL PROPERTY ASSESSMENT MANUAL at 2. Evidence in an assessment appeal should be consistent with that standard. For example, USPAP-compliant market value-in-use appraisals often will be probative. *See id*; *see also Koostard Property VI, LLC v. White River Twp. Ass’r*, 836 N.E.2d 501, 506 n.6 (Ind. Tax Ct. 2005).

17. 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); *see also Long v. Wayne Twp. Ass’r*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). The valuation date for this appeal is January 1, 2019. Ind. Code § 6-1.1-2-1.5(a).
18. As discussed above, the Assessor had the burden of proof. Her primary valuation evidence is a Comparable Sales Report. To effectively use the sales-comparison approach as evidence in a property assessment appeal, the proponent must establish the comparability of the properties being examined. Conclusory statements that a property is “similar” or “comparable” to another property do not constitute probative evidence of the comparability of the two properties. *Long*, 821 N.E.2d at 470. Instead, the proponent must identify the characteristics of the subject property and explain how those characteristics compare to the characteristics of the purportedly comparable properties. *Id.* at 471. Similarly, the proponent must explain how any differences between the properties affect their relative market values-in-use. *Id.*
19. The Assessor’s Comparable Sales Report consists of a cursory one-page analysis that she submitted into the record without providing any discussion or explanation of its contents. Thus, we have insufficient information to determine whether her comps are truly comparable to the subject. Even if we were to accept her comps as sufficiently

comparable, the Assessor nevertheless failed to demonstrate that she based her adjustments on objective, market-based data.<sup>1</sup> We therefore conclude that the Assessor's Comparable Sales Report is insufficiently reliable to be probative evidence of the subject's market value-in-use.

20. The Assessor also presented several per square foot valuations produced by different groupings of sales data. According to the Assessor, the sales from these ratio studies were within the valuation date and support the assessed value of the subject property. Like her Comparable Sales Report, however, she failed to provide sufficient information to demonstrate the comparability of the properties to the subject. And she did not even attempt to account for any relevant differences. Consequently, we give her analyses no weight.
21. Because the Assessor did not offer probative valuation evidence, she failed to make a prima facie case that the 2019 assessment is correct. Johnson is therefore entitled to have his assessment reverted to the previous year's value of \$170,400.
22. That does not end our inquiry, however, because Johnson sought a lower value through one of his two valuation approaches. Johnson presented an assessment comparison approach relying on seven purportedly comparable properties from his neighborhood and requested that we reduce his assessment to \$168,900. Taxpayers may introduce this type of evidence to prove market value-in-use in a proceeding concerning residential property assessments as long as the "*comparable properties* [are] located in the same taxing district or within two (2) miles of a boundary of the taxing district." Ind. Code § 6-1.1-15-18(c)(1) (emphasis added).

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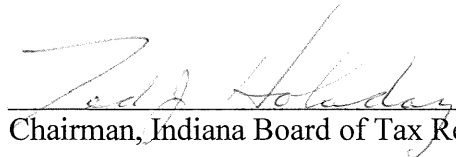
<sup>1</sup> While the Assessor's adjustments may not appear to differ significantly from those made by a certified appraiser in an appraisal report, an appraiser's assertions are backed by his or her education, training, and experience. An appraiser also typically certifies that they complied with USPAP. Thus, the Board, as the trier-of-fact, can infer the appraiser used objective data, where available, to quantify the adjustments. And where objective data was not available, the Board can infer the appraiser relied on their education, training, and experience to estimate a reliable quantification.

23. Johnson testified that all seven properties are in the same taxing district as the subject, but a party offering assessment data must also show the properties are comparable using generally accepted appraisal and assessment practices. I.C. § 6-1.1-15-18(c); *see also Long*, 821 N.E.2d at 470-71. While Johnson described the properties as being built around the same time and as having the same grade, his testimony failed to provide sufficient information regarding their specific characteristics to demonstrate comparability. Additionally, he did not even attempt to adjust for any relevant differences between his property and the purportedly comparable properties. Consequently, his assessment comparison approach lacks probative value.
24. Because Johnson failed to offer any probative valuation evidence to support his requested value, he failed to make a case for a further reduction.

#### CONCLUSION

In accordance with the above findings of fact and conclusions of law, we order the 2019 assessment reduced to \$170,400.

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

  
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Chairman, Indiana Board of Tax Review

  
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Commissioner, Indiana Board of Tax Review

  
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Commissioner, Indiana Board of Tax Review

**- APPEAL RIGHTS -**

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5 and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required not later than forty-five (45) days after the date of this notice. The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>. The Indiana Tax Court's rules are available at <<http://www.in.gov/judiciary/rules/tax/index.html>>.