

REPRESENTATIVE FOR THE PETITIONER:

Abraham M. Benson, Faegre Drinker Biddle & Reath LLP
David A. Suess, Faegre Drinker Biddle & Reath LLP

REPRESENTATIVE FOR THE RESPONDENT:

Eric Grossman, Tippecanoe County Assessor

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

Majestic Properties LLC)	Petition Nos.: 79-023-16-1-5-01460-17
)	79-023-17-1-5-02199-17
Petitioner,)	
)	Parcel No.: 79-06-01-100-008.000-023
)	
v.)	County: Tippecanoe
)	
Tippecanoe County Assessor,)	Township: Wabash
)	
Respondent.)	Assessment Years: 2016 & 2017

August 26, 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. Majestic had the burden to proof in valuing the residential property at issue. Both parties offered competing valuation opinions from qualified appraisers, one from Majestic and two from the Assessor. Although each of the appraisals had flaws, we are more persuaded by the Assessor’s evidence and find it to be sufficient support for the Assessment. Thus, we find for the Assessor and order no change to the 2016 assessment.

Based on the agreed appeal management plan we apply a trending factor to the 2016 determination to arrive at a value for 2017.

PROCEDURAL HISTORY

2. Majestic timely filed notices for review with the Tippecanoe County Property Tax Assessment Board of Appeals (“PTABOA”) for the 2016 and 2017 assessment years for a property located at 1902 Abnaki Drive in West Lafayette, IN. For 2016, the PTABOA did not issue a determination and Majestic appealed after waiting the required 180 days set forth by Indiana Code § 6-1.1-15-1.2(k). The assessment of record for 2016 was \$20,200 for land and \$65,710 for improvements for a total of \$85,910. For 2017, the PTABOA issued a determination on December 5, 2017, sustaining the assessment at \$20,200 for land and \$66,800 for improvements for a total of \$87,000. Majestic timely appealed this determination.
3. In total, Majestic appealed 52 different properties. The parties submitted an appeal management plan in which they agreed to try four individual properties, one from each of four specified groups. They agreed to stipulated trending factors for all the other properties in the four groups based on the results of these cases. This property was selected as a representative for one of those groups.
4. On July 27-28, 2021, Jennifer Thuma, the Board’s Administrative Law Judge (“ALJ”), held a remote, video-conference hearing on Majestic’s petitions. Neither the Board nor the ALJ inspected the subject property.
5. Appraisers Dale Webster, Deborah Lewellen, and John Sprunger, as well as Tippecanoe County Assessor Eric Grossman testified under oath.
6. The parties offered the following exhibits:
 - Petitioner Exhibit P-1: Appraisal Report prepared by Dale Webster of Cornerstone Appraisal Group,
 - Petitioner Exhibit P-2: Subject property record card,
 - Petitioner Exhibit P-3: Appeal Management Plan,

- Petitioner Exhibit P-4: Special Message to Property Owner forms for the subject property and 1910 Abnaki Drive in West Lafayette.¹
- Respondent Exhibit 2: Residential Appraisal Report prepared by John Sprunger of LightHouse Appraisals,
- Respondent Exhibit 3: Residential Appraisal Summary Report prepared by Deborah Lewellen of Appraisals by Deb Lewellen, Inc.
- Respondent Exhibit R-1: Numerous sales disclosure forms entitled from Webster's appraisal report,
- Respondent Exhibit R-2: Majestic GRM property review report,
- Respondent Exhibit R-3: Indiana Board of Tax Review cases: *Sherwin Friduss v. Dept. of Local Gov't Fin.* (IBTR January 23, 2006); *John Porter v. Tippecanoe County Assessor* (IBTR January 7, 2013); *Sayta Pal Singh v. Lake County Assessor* (IBTR January 26, 2011); and *Roger L. & Pamela K. Shoot v. Anderson Township Assessor (Madison County)* (September 11, 2007),
- Respondent Exhibit R-4: 2014-2015 Sales – LLC, Inc, Corp Buyer report,
- Respondent Exhibit R-5: 2014-2015 Sales – LLC, Inc, Corp Buyer Statistics report,
- Respondent Exhibit R-6: Appraisal Reports for Cooke Law Office and Wolfelt Properties prepared by Dale Webster of Cornerstone Appraisal.²

7. 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 ALJ; and (3) the two-volume hearing transcript.

OBJECTIONS

8. Majestic objected to Respondent's Exhibit R-6, an exhibit containing two other appraisals prepared by Majestic's appraiser, Dale Webster, arguing that they are irrelevant because they are different properties and do not relate to the subject property at issue. The Assessor argued that "the failure to utilize similar methodology across their bodies of

¹ The Petitioner submitted Petitioner Exhibits P-8, P-9, P-10, and P-11 but did not enter them into the record. Petitioner Exhibits P-5, P-6 and P-7 were listed on Petitioner's Exhibit List, but no documents were submitted.

² The Respondent submitted Respondent Exhibits 1, 4 and R-7 but did not enter them into the record. The Respondent submitted Respondent Exhibit R-1 into the record with the exception of (Part 1 – Tab 1) entitled "All Majestic-owned Sales Disclosures."

work for similar purposes is evidence of bias, and relevant to this case.” The ALJ took the objection under advisement. We agree with the Assessor that other work by an Appraiser can be relevant to his credibility, and thus, his opinion of value. Thus, we overrule the objection and admit Respondent’s Ex. R-6 into evidence. *Resp’t Ex. R-6; Tr. at 69-71 & 38.*

9. Majestic objected on relevancy grounds to a number of questions the Assessor asked Webster regarding whether it was important to vet information obtained from an entity that may have a conflict of interest. The ALJ took the objection under advisement. We disagree with Majestic. The procedures an appraiser takes to vet the information they obtain is extremely relevant to their opinion of value. Thus, we overrule this objection and admit the testimony. *Tr. at 74-76.*
10. Majestic objected to several questions on the grounds that they were “putting words in the witness’s mouth” or an inaccurate characterization of the evidence. The ALJ took these objections under advisement. We overrule the objections but note that we do not consider the questions themselves to be evidence. *Tr. 141-142 & 164-165.*
11. Majestic made a number of objections to Respondent’s Exhibit R-1, numerous sales disclosure forms regarding sales used in the Webster appraisal. Majestic objected both to the exhibit in its entirety as well as to individual components. In particular, Majestic argued that the Assessor failed to lay sufficient foundation as to their authenticity and on the grounds that they were hearsay. The Assessor responded that the information was submitted to refute information used in Webster’s appraisal. We agree with Majestic that the Assessor did little to authenticate the exhibit. The Assessor also made no argument that the exhibit was not hearsay or fell within an exception to the hearsay rule. We also note that we do not strictly apply the rules of evidence. In this case we find the probative value of the exhibit outweighs any potential prejudicial effect and admit the exhibit pursuant to 52 IAC 4-6-9(d), which provides that we may admit hearsay that is objected to as long as it is not the sole basis for our determination. *Resp’t Ex. R-1; Tr. at 106-134; 376-78.*

12. Majestic objected to the admission of Respondent's Exhibits R-2, R-4, and R-5 on the grounds that they contained hearsay. We overrule the objections and admit the evidence pursuant to 52 IAC 4-6-9(d), which provides that we may admit hearsay that is objected to as long as it is not the sole basis for our determination. *Resp't Exs. R-2, R-4 & R-5; Tr. at 195-197 & 202-203.*
13. As the Assessor introduced Respondent's Exhibit R-3, Majestic objected "but I would say Mr. Grossman is not an attorney, and to the extent he's trying to draw legal conclusions, I would object to that." Mr. Grossman is representing himself in his official capacity as the County Assessor. Thus, he is entitled to make any arguments an attorney might make. To suggest otherwise runs counter to the principles of self-representation. For that reason, we overrule the objection. Majestic also objected to some of Mr. Grossman's testimony on the grounds that it was legal argument and not appropriate for direct examination. We note that we appropriately consider Mr. Grossman's arguments to be arguments, rather than testimony. *Resp't Ex. R-3; Tr. at 198-199 & 201.*
14. Majestic objected to testimony from the Assessor stating that corporate buyers of rental single-family homes were buying the properties for their income-generating potential on the grounds that the testimony assumed facts not in evidence. The ALJ took the objection under advisement. We find the objection goes more to weight rather than admissibility and overrule the objection. *Ex. R-4; Tr. at 204-205.*
15. Majestic objected to some of the Assessor's testimony on the grounds that he had not established that he was "any sort of statistician or expert with respect to statistics." The Assessor responded that he is not a statistical expert, but the math is independently verifiable, stands on its own and that it does not take special skills to understand "basic high school level math." We agree with the Assessor and overrule the objection. *Tr. at 206-208.*

16. Majestic objected to questions to Sprunger regarding the income approach to value on the grounds that it was “outside the scope of what the appraiser did.” Appraisers may testify about other possible methods of valuation that they considered in developing their opinion of value, and such testimony is extremely relevant to their conclusions and credibility. Majestic pointed to no authority, nor are we aware of any, that would limit an appraiser’s testimony to the confines of their appraisal report. Thus, we overrule this objection. *Tr. at 253-254.*

17. Majestic objected to several questions to Lewellen about why she developed a GRM for other similar properties but not the subject property on the grounds that it was not relevant. The Assessor responded that it is relevant for an appraiser to discuss similar scopes of work done for the same client and to compare the other appraisals to the subject property’s appraisal as it relates to the overall body of work. An appraiser’s decision regarding how to approach similarly situated properties is relevant to her credibility and overall opinion of value. Thus, we overrule the objection and admit the testimony. *Tr. at 296-297.*

FINDINGS OF FACT

I. The Subject Property

18. The subject rental property consists of a house and associated land located at 1902 Abnaki Drive in West Lafayette, Indiana. The ranch-style tract house was built in 1996 and is used as a rental property. It has 1,038 sq. ft. of finished living area on a slab foundation and a 400 sq. ft. attached garage. The roof is original asphalt shingles with aluminum gutters and downspouts. *Pet’r Exs. P-1 at 23 & P-2; Tr. at 25, 28 & 212.*

II. Webster’s Appraisal

19. Majestic hired Dale Webster, of Cornerstone Appraisal Group to appraise the market value-in-use of the fee simple interest in the property. Webster holds MAI, SRA, and CCIM designations and is an Indiana certified general appraiser. In his 45 years of appraisal experience, he has appraised a wide variety of properties, including single-

family homes, multi-unit apartments, commercial offices, and retail buildings. He certified that his appraisal complied with the Uniform Standards of Professional Appraisal Practice (“USPAP”). *Pet’r Ex. P-1 at 9; Tr. at 16-18.*

a. Webster’s Research and Overview

20. Webster valued the property as of the January 1, 2016, assessment date. He noted the homes in the subject property’s subdivision ranged from 1 years to 19 years old. Webster noted that it is close to a road outside the subject subdivision that produces noise and dust. He also found the subject property has a drainage ditch in the backyard. He noted that these external factors make the property less desirable. *Pet’r Ex. P-1 at 21; Tr. at 27-28.*
21. Webster considered all three generally recognized approaches to value—the cost, sales-comparison and income approaches. He ultimately developed only the income approach. Webster did not develop the cost approach because of the age, condition and obsolescence he observed. He did not develop the sales-comparison approach because the majority of the data was for owner-occupied single-family homes and there was little reliable data for single-family rental properties. He also believed that the sales comparison approach did not reflect the market participants motivation for rental property. *Pet’r Ex. P-1 at 27-30; Tr. at 32-33, 359-360, 364, 417 & 462-463.*

b. Webster’s Direct Capitalization Approach³

22. For his income approach, Webster began by estimating market rent. He looked to a variety of sources including data from Majestic, his own files, and national and regional databases. He concluded to a monthly rental rate of \$1,080. He also noted this reflected the actual rent of the subject property. He found no miscellaneous income, and calculated the annual income at \$12,840. *Pet’r Ex. P-1 at 28 & 31; Tr. at 40*

³ Webster sometimes referred to this as a “Mortgage Equity Analysis.” *Pet’r Ex. P-1 at 44.*

23. Webster estimated the vacancy and rent loss at 7%. His appraisal report states that he used the vacancy rate from the “subject’s own history.” He testified that he used an average rate from Majestic’s portfolio of 60 properties. He thought Majestic was a good representation of the market. He also examined the local, regional and national markets. He estimated insurance, maintenance, office and miscellaneous expenses, management fees and reserves at 44.94%. He used insurance, maintenance, management, and miscellaneous expenses that were reported by the subject property’s owner, but did not verify the information. He also noted that some of the expenses were averages for all Majestic properties, and were not specific to the subject property. After applying the vacancy and rent loss, and deducting expenses, he arrived at a net operating income of \$6,575. *Pet’r Ex. P-1 at 31-32 & 34-35; Tr. at 42-47.*
24. Webster used a mortgage equity analysis to develop a capitalization rate. He also looked at Realty Rates for apartments – townhouses and sales of multifamily properties throughout Indiana to support his capitalization rate. Based on this information, he chose an overall rate of 6.912%. Next, he loaded the county’s property tax rate of 1.4883% for a total capitalization rate of 8.40%. After applying the loaded rate to his net operating income, he arrived at a rounded value of \$78,000. *Pet’r Ex. P-1 at 31-33 & 35-38; Tr. at 47-55.*

c. Webster’s GRM Approach

25. Webster also developed an income approach using the gross rent multiplier (“GRM”) method. The GRM is a common method to value properties with less than four units. Webster described the GRM as the factual relationship between the rent and sale price because it relates to the potential income a property could yield. He used this as a check on his other income approach. *Pet’r Ex. P-1 at 39; Tr. at 55-58.*
26. He began developing his GRM by identifying competing single-family homes that were similar in location, age, style, and similarity of generating tenants. He collected data

from Zillow, MLS, and sales disclosure forms filed in the Assessor's office. He selected 140 properties that sold between 2003 and 2016. *Pet'r Ex. P-1 at 39; Tr. at 55-58.*

27. Webster began developing his GRM by identifying competing single-family homes that were similar in location, age, style, and similarity of generating tenants. He collected data from Zillow, MLS⁴ and sales disclosure forms filed in the Assessor's office. He selected 140 properties that sold between 2003 and 2016. *Pet'r Ex. P-1 at 40-41; Tr. at 56-59.*
28. Webster calculated the GRM mean at 6.95 (rounded). The GRMs ranged from a minimum of 4.34 to a maximum of 10.30. He testified that when the GRM is at a 4 or 10, it suggests that the properties are not similar enough to compare. He ultimately settled on a GRM of 6.25 for the subject property. *Pet'r Ex. P-1 at 42; Tr. at 59-61 & 181.*
29. Webster then multiplied the subject property's annual rent by the GRM to arrive at a value of \$80,000 (rounded) for the subject property. *Pet'r Ex. P-1 at 42; Tr. at 61.*

d. Webster's Reconciliation

30. Webster reconciled these analyses, giving the most weight to his direct capitalization approach. He concluded to a market value-in-use for the subject property of \$73,000 as of January 1, 2016. *Pet'r Ex. P-1 at 44; Tr. at 62 & 472.*

III. Sprunger Appraisal

31. The Assessor hired John A. Sprunger, owner of LightHouse Appraisals, to appraise the market value of the fee simple interest of the subject property as of January 1, 2016. Sprunger is an Indiana certified residential appraiser with 17 years of experience. Sprunger certified that he prepared his appraisal in compliance with USPAP. *Tr. at 245-246 & 252.*

⁴ MLS is a database used by real estate professionals.

32. Sprunger began by looking at MLS listings, reading descriptions, and looking at photographs. Next, he verified the sale price and transaction date with public records. Sprunger noted that he researched all available sales, but they do not always indicate whether the single-family home is vacant, owner-occupied or a rental. Especially when doing a retrospective appraisal, the occupancy is often hard to determine. *Tr. at 255-257 & 271-272.*
33. Sprunger's appraisal indicates that while the property is currently rented, a typical buyer for the property would be an owner-occupied buyer. He noted there are very few single-family rental homes in the subject neighborhood.
34. Sprunger only prepared a sales-comparison approach. He selected three comparable properties of similar size and features that were located near the subject property. The sale dates ranged from April to September of 2015. He made adjustments for a number of factors including fireplace, fence, concessions, and gross living area. After adjustment, the sale prices ranged from \$96,870 to \$116,235. Giving the most weight to the sales that required the least adjustment, he reconciled to a value of \$108,000 as of January 1, 2016. Sprunger also testified he did not develop a GRM because it can vary a lot and it is not a good indication of the property's value. *Resp't Ex. 2; Tr. at 254, & 276-77.*
35. Sprunger testified that a residential income producing property's operating expenses do not always affect the property's value. For example, if a rental home is placed on the market for sale in a neighborhood where the typical buyer will occupy the property, the buyer does not necessarily look at the rental property's tax liability, because the buyer can file for a homestead exemption⁵ and the property tax cap will be reduced from 2% to 1%. Sprunger posited that if a rental property and owner-occupied property with

⁵ Sprunger used the term "homestead exemption" during his presentation. There is no exemption that exempts homesteads from taxation. The Board infers that Sprunger is referring to the standard deduction for homesteads provided for under Ind. Code § 6-1.1-12-37, and we will use the term "homestead deduction" hereinafter.

identical features were both available for sale, the “values” would not differ. *Tr. at 264-267 & 280.*

IV. Lewellen Appraisal

36. The Assessor also hired Deborah Lewellen, owner of Appraisals by Deb Lewellen, Inc. to appraise the market value of the fee simple interest of the subject property as of January 1, 2016. Lewellen is an Indiana certified residential appraiser, who started her appraisal company in December of 2010. *Resp't Ex. 3; Tr. at 294-295, 297 & 302.*
37. Lewellen certified that her appraisal complied with the Uniform Standards of Professional Appraisal Practice (“USPAP”). She developed her opinion of value using the sales-comparison approach and the cost approach. Lewellen testified that she did not develop the GRM or income approach because she did not have credible rental rate information from the relevant time period. *Resp't Ex. 3; Tr. at 294-295, 297, 302, 348-353.*
38. In preparing her appraisal, Lewellen inspected the exterior of the subject property, but used MLS interior photographs from a previous listing for the interior. *Resp't Ex. 3; Tr. at 303.*
39. Lewellen testified from an appraisal perspective an income generating home and owner-occupied home both have the same use, as residential property. She further testified that the 1% & 2% tax caps do not lower the assessed value, but rather reduce the amount of taxes to be paid on the property. *Tr. at 304-306.*
40. For her sales-comparison approach, she looked for comparable sales located near the subject property. She looked for properties like the subject in terms of style, size, age, condition, quality, bedroom count, number of bathrooms and garage size in order to make minimal adjustments. She selected five comparables that sold from April to December of 2015 for prices ranging from \$84,000 to \$95,000. She adjusted the sales for factors such as fireplace, gross living area, garage, and terms of sale. She ultimately settled on a value

of \$96,000 as of January 1, 2016, under the sales-comparison approach. *Resp't Ex. 3; Tr. at 298-314.*

41. Lewellen also developed the cost approach. She estimated a total cost new of \$99,648 and a site value of \$23,600. She then deducted physical depreciation of \$27,490 to arrive at a value of \$106,070 under the cost approach. She did not analyze whether the subject property suffered from functional or external obsolescence and she gave no weight to the cost approach. Instead, she used it as a check on her sales-comparison approach. *Resp't Ex. 3; Tr. at 315-320.*
42. Based on her sales-comparison approach, Lewellen estimated a value of \$96,000 for the subject property as of January 1, 2016. *Resp't Ex. 3.*

V. Grossman Testimony

43. The Assessor, Eric Grossman, also offered testimony based on his own research. First, he analyzed the 141 sales used in the Webster appraisal's gross rent multiplier calculation. He noted that Webster's report did not include the date of sale, or a buyer or seller. After examining the sales disclosure forms, he found that 47 of the properties were owned by Majestic,⁶ 42 properties were sheriff sales, and 38 sales were "bank sales or REO transactions." *Resp't Exs. R-2 & R-3; Tr at 197-202, 386 & 441.*
44. Grossman also developed a report analyzing the "difference in distress sales level of value versus undistressed sales." To determine this, he looked at sales in the 24 month period prior to the January 1, 2016, assessment date. He found that distressed sales showed a different range of values than typical sales. Grossman admitted that he never verified the sales data with the buyers, sellers, brokers, or the sheriff. *Resp't Ex. R-4 & R-5; Tr. at 203-206.*

BURDEN OF PROOF

⁶ Grossman stated in his Brief that 63 of the properties were purchased by Majestic. *Resp't Br. at 13.*

45. Generally, a taxpayer seeking review of an assessing official's determination has the burden of proof. Indiana Code § 6-1.1-15-17.2⁷ created an exception to that rule and assigned the burden 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, regardless of by how much. I.C. § 6-1.1-15-17.2(a)-(b), (d).
46. Here, the parties agreed the assessed value of the subject property did not increase by more than 5% from 2015 to 2016. Accordingly, the burden shifting provisions of Ind. Code § 6-1.1-15-17.2 do not apply and the burden remains with the Petitioner.

ANALYSIS

47. Indiana assesses real property based on its "true tax value" which is determined under the rules of the Department of Local Government Finance ("DLGF"). Ind. Code § 6-1.1-31-5(a); Ind. Code § 6-1.1-31-6(f). "True tax value" does not mean either "fair market value" or "the value of the property to the user." Ind. Code § 6-1.1-31-6(c) and (e). In accordance with these statutory directives, 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.
48. The cost, sales-comparison, and income approaches are three generally accepted ways to determine true tax value. MANUAL at 2. In an assessment appeal, parties may offer any evidence relevant to a property's true tax value, including appraisals prepared in accordance with generally accepted appraisal principles. *Id.* at 3; *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 an

⁷ I.C. § 6-1.1-15-17.2 was repealed by P.L.174-2022 on March 21, 2022. We analyze the law as it existed at the time of the evidentiary hearing.

assessment's presumed accuracy). Regardless of the method used, a party must explain how the evidence relates to 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). For 2016 assessments, the valuation date was January 1, 2016. *See* Ind. Code § 6-1.1-2-1.5.

49. Regardless of the method used, a party must explain how the evidence relates to 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). For 2016 assessments, the valuation date was January 1, 2016. *See* Ind. Code § 6-1.1-2-1.5. In addition, I.C. § 6-1.1-4-39 provides that the GRM “is the preferred method of valuing...real property that has at least one (1) and not more than four (4) rental units....”
50. Here, the parties agreed that Majestic had the burden of proof for the 2016 assessment year. Majestic presented a USPAP compliant appraisal prepared by Dale Webster that valued the subject property at \$73,000. As the Assessor points out, there are significant problems with Webster's opinion. The most significant of these are (1) his reliance on historical data from the subject property and Majestic, (2) his lack of explanation for some of the most important components of his valuation, and (3) the use of distressed sales in his GRM analysis. We address each issue in turn.
51. As discussed above, many of Webster's conclusions were based on “historical data.” This included data from the subject property, such as the actual rental rate, or the average of data from Majestic's “portfolio,” such as for his vacancy and expense estimates. While the use of historical data can be useful, it should always be coupled with an examination of the relevant market. *Indiana MHC, LLC v. Scott County Ass'r*, 987 N.E.2d 1182, 1185-86 (Ind. Tax Ct. 2013). Webster did offer some explanation for how he considered the local market in certain aspects of his appraisal, while in other cases we are left to speculate. We find this failure detracts from the reliability of his opinion.

52. We also note that Webster provided scant explanation for some of his opinions. Although he listed a litany of sources from which he developed his rental estimates, he did little to show how those sources supported his conclusions. He provided similarly vague explanations for a number of his other decisions. We find this failure seriously detracts from the reliability of his opinion.
53. We also note that Webster provided scant explanation for some of his opinions. Although he listed a litany of sources from which he developed his rental estimates, he did little to show how those sources supported his conclusions. He provided similarly vague explanations for a number of his other decisions. We find this failure seriously detracts from the reliability of his opinion.
54. Finally, we note that the Assessor demonstrated that many of the properties Webster used in his GRM analysis were distressed sales. Webster provided little explanation for how he verified his sales, or why it was acceptable to use such sales in a GRM analysis. We find this concerning, but note that Webster did not primarily rely on his GRM approach.
55. Taken together, we find these concerns seriously undercut the reliability of Webster's opinion. But we also recognize that Webster is a licensed appraiser with a great deal of experience. Overall, we find Webster's appraisal to be a minimally reliable opinion of value. We now turn to whether the Assessor's evidence is more persuasive.
56. Majestic criticized both the Sprunger and Lewellen appraisals because they valued the market value instead of the market value-in-use of the subject property. Majestic claims this is fatal to their opinions. We disagree. In markets where a properties of the same type are frequently exchanged and used by both the buyer and seller for the same general purpose, the market value-in-use will equal the value-in-exchange. *Trimas Fasteners*, 923 N.E.2d496, 497 (Ind Tax Ct. 2010.) In this case, the evidence demonstrates that properties like the subject do frequently exchange for the same general purpose: residential use. Thus, it was not erroneous for Sprunger and Lewellen to appraise the market value.


57. This brings us to Majestic's next major criticism of Sprunger and Lewellen. Namely, that they valued the subject property as an owner-occupied property rather than as a rental property. But we do not construe the use of the subject property so narrowly. The subject property is used for residential use, as are owner-occupied homes. Both Sprunger and Lewellen, as well as Webster, valued the property for its residential use. To limit an appraiser to only relying on income data when valuing a property that is typically owner-occupied, but happens to be a rental property in one particular case risks violating I.C. § 6-1.1-31-6(e), that states "True tax value does not mean the value of the property to the user."
58. We agree with Majestic that there can be some differences in how rental properties are valued. Most notably in this case, the GRM is the preferred method of valuation under I.C. § 6-1.1-4-39. But it is not the only method of valuation. In this case, where the evidence shows that the majority of properties like the subject were owner occupied, it was not erroneous for Sprunger and Lewellen to use sales and data from transactions between owner-occupants. Nor do we fault them for their decisions not to develop the income approach, as both determined there was insufficient data to draw reliable conclusions.
59. Like Webster, both Sprunger and Lewellen offered little explanation for many of their decisions, most notable the adjustments to their comparables. But we credit them for selecting properties that most closely matched the subject so as to require little adjustment. Ultimately, we find both appraisers provided minimally credible opinions of value.

CONCLUSION

60. As discussed above, the GRM is the preferred method of valuation under I.C. § 6-1.1-4-39. But no appraiser in this case relied primarily on that method. And Webster's GRM suffered from a lack of reliable data. Thus, under these circumstances, we find it appropriate to look to other methods of valuation. We are more troubled by the other

issues with the Webster appraisal, notably his choice to rely primarily on historical data, than we are by Sprunger and Lewellen's lack of explanation. In reality, Webster's valuation treated the property as a component in a large portfolio—an investment value inconsistent with the sales data in the predominantly owner-occupied neighborhood. Overall, we find both Sprunger and Lewellen presented a more credible opinion of value than did Webster. The Assessor has not asked to raise the assessment. *See Pet'r Br. at 24.* Sprunger valued the subject property at \$108,000 while Lewellen valued the subject property at \$96,000. We find both appraisals are sufficient support for the assessment. Thus, we order the 2016 assessment of \$85,910 remain unchanged as requested by the Assessor. In accordance with the agreed appeal management plan, we apply a trending factor of 1.01 rounded to the nearest \$100 to arrive at the value for 2017. Thus, we order the 2017 assessment changed to \$86,800.⁸

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



Chairman, Indiana Board of Tax Review



Commissioner, Indiana Board of Tax Review



Commissioner, Indiana Board of Tax Review

⁸ \$85,910*1.01 = \$86,769.10 rounded to \$86,800.

- 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>>.