

REPRESENTATIVE FOR PETITIONERS: Mark Matkovic, Taxpayer

REPRESENTATIVE FOR RESPONDENT: Lisa Garoffolo, Boone County Assessor

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**BEFORE THE  
INDIANA BOARD OF TAX REVIEW**

Courtney and Mark Matkovic,	)	Petition No.: 06-019-20-1-5-00647-20
	)	
Petitioners,	)	Parcel No.: 019-11060-00
	)	
v.	)	County: Boone
	)	
Boone County Assessor,	)	Assessment Year: 2020
	)	
Respondent.	)	

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Date 8-18-21

**FINAL DETERMINATION**

The Indiana Board of Tax Review, having reviewed the facts and evidence presented in the parties' arguments, and having considered the issues, now finds and concludes the following:

**Findings of Fact and Conclusions of Law**

**Introduction**

1. Petitioners Courtney and Mark Matkovic contested their 2020 assessment and argued that the subject property's October 2019 sale price best demonstrated its value. The Assessor disagreed and argued that other factors, such as trending, affected the property's value. We agree with the Matkovics and find that the assessment should be reduced to match the property's sale price.

## Procedural History

2. The Matkovics appealed the 2020 assessment for their property at 84 Dominion Drive in Zionsville. The Boone County Property Tax Assessment Board of Appeals (“PTABOA”) issued a decision valuing the property at \$184,500. The Matkovics timely appealed to the Board.
3. On June 2, 2021, Erik Jones, our designated administrative law judge (“ALJ”), held a hearing on the Matkovics’ appeal petition. Neither he nor the Board inspected the subject property. Mark Matkovic appeared *pro se*. Boone County Assessor Lisa Garoffolo represented herself. Matkovic, Garoffolo, and deputy assessor Peggy Lewis were sworn as witnesses and testified.
4. The parties offered the following exhibits:

Petitioners Exhibit A	Notice of Hearing on Petition – Reschedule,
Petitioners Exhibit P-1	Exhibit Cover Sheet with corrected hearing time,
Petitioners Exhibit P-2	Hearing Notice, dated January 29, 2021,
Petitioners Exhibit P-3	Closing Statement, dated October 31, 2019,
Petitioners Exhibit P-4	Form 131 p. 2,
Petitioners Exhibit P-5	Excerpts from two final determinations: <i>Mark J &amp; Nina F Matkovic v. Boone County Assessor</i> , Pet. No. 60-005-15-1-5-00604-16 at 1 (IBTR Jan. 29, 2018); and <i>Mark J. and Nina F. Matkovic v. Boone County Assessor</i> , Pet. No. 06-003-11-1-5-00101 at 12 (IBTR, Feb. 20, 2013).
Respondent Exhibit 1	Form 130 (page 1),
Respondent Exhibit 2	2020 property record card (“PRC”),
Respondent Exhibit 3	Boone County Appeal Worksheet,
Respondent Exhibit 4	PTABOA Notice of Preliminary Hearing on Appeal, dated June 17, 2020,
Respondent Exhibit 5	List of Sales in Olde Dominion from 1/1/19 – 12/31/19,
Respondent Exhibit 6	Sales card for subject property,
Respondent Exhibit 7	Form 114, dated Aug. 20, 2020,
Respondent Exhibit 8	Form 115 determination,
Respondent Exhibit 9	7 photographs of subject property,
Respondent Exhibit 10	Notice of Hearing on Petition, dated Jan. 29, 2021,
Respondent Exhibit 11	2020 PRC for 88 Olde Dominion Drive,

Respondent Exhibit 12 2020 PRC for subject property, with handwritten calculations,  
Respondent Exhibit 13 Trending document.

5. The record for this matter also includes the following: (1) all petitions, briefs, motions, and documents filed in this appeal; (2) all notices and orders issued by the Board or our ALJ; and (3) a transcript of the hearing.

### **Objections**

6. The Matkovics objected to Respondent's Exhibits 12 and 13 on grounds that the Assessor did not exchange those documents before the hearing. Exhibit 12 consists of an identical copy of Respondent's Exhibit 2, with additional handwritten calculations included. Exhibit 13 is a document outlining trending information for the 2020 assessment year. The Assessor conceded that she had not exchanged the documents, and the ALJ took the objections under advisement.
7. To avoid any unfair surprise, our procedural rules require parties to exchange "[c]opies of documentary evidence at least five (5) business days before the hearing." 52 IAC 4-8-1(b)(1). We therefore sustain the Matkovics' objections and exclude Respondent's Exhibits 12 and 13.

### **Summary of Contentions**

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

8. The Assessor believes that the Matkovics bought the subject property and resold it to a family member the same day, although she admitted that she was not sure of that fact. According to the Assessor, those sales have less probative value because they were not at arm's length. The property had been listed by FC Tucker Co. for \$184,900 and sold for \$179,400. *Garoffolo testimony and argument; Resp't Exs. 2, 6.*
9. In any case, the Assessor argues that the price a given property sells for does not set its market value. In preparing appraisals that comply with the Uniform Standards of

Professional Appraisal Practice (“USPAP”), appraisers consider sales of comparable properties and account for factors such as grade, finish, and size. A property’s sale price does not guarantee that it will appraise for the same amount; there are reasons an appraiser may value the property for more (or less) than its sale price. Indeed, assessors are prohibited from simply assessing properties based on their sale prices. They attend continuing education classes emphasizing that prohibition. *Lewis testimony.*

10. According to the Assessor, the Matkovics’ reliance on their purchase price fails to consider various factors that affect the property’s value, including sales of other comparable properties during the assessment year and trending factors. The “State” must verify or amend those trending factors, which also may affect assessed value. It also provides cost tables for assessors to use. These tables are changed almost annually, causing some values to rise and others to fall. *Garoffolo testimony and argument.*
11. Sale prices in the subject property’s neighborhood, Olde Dominion, trended upward 7%. The 2020 assessment—the first one following the subject property’s sale—reflects this increase. The Assessor contends that a single sale is insufficient to establish trending. Instead, assessors must consider the sales of other comparable properties. This gives them a better understanding of neighborhood trends. *Garoffolo testimony; Resp’t Ex. 2.*
12. The Assessor’s only goal was to seek a fair and correct assessment. At the PTABOA hearing, Mark Matkovic was concerned that 88 Dominion Drive—a property with which the subject property shares a garage—was assessed for only \$180,400. But the Assessor explained that 88 Dominion Drive had an old \$7,000 adjustment to its assessment that she had accidentally failed to remove. The adjustment likely had stemmed from an appraisal that the PTABOA accepted in an appeal. *Garoffolo testimony; Lewis testimony; Resp’t Ex. 11.*
13. The Assessor pointed to two sales of what she regarded as appropriate comparable properties. Each was a ranch-style home and had a quality grade of C++, and their effective ages were identical. The similar grading accounts for various elements of the

homes, including how each is finished. Those two properties sold for an average of \$125/sf. The average sale price for all properties from Olde Dominion in 2019 was \$124/sf. Both are higher than the subject property's assessment. Based on those comparable sales, the Assessor contends that the subject property's assessment was correct and should not be lowered. *Garoffolo testimony and argument; Lewis testimony; Resp't Exs. 2, 5.*

## **B. Matkovics' Contentions**

14. The Matkovics argue that because the sale occurred just two months before the assessment date, the property should be assessed for its \$179,400 purchase price. The sale was not between relatives, it was not a short sale, and there was no other reason to deviate from what a willing buyer paid a willing seller for the property. According to the Matkovics, we have previously found that "you can't find any harder evidence than a sales agreement" for a property, which is prima facie evidence of the property's value. *Matkovic testimony and argument; Pet'rs Ex. P-5.*
15. The Matkovics challenge the accuracy of the Assessor's claim that the PTABOA would have accepted an appraisal, arguing that because the properties are connected condominiums, the actual sale price of one unit is a better indicator of value than the theoretical numbers the Assessor used. The sale price directly shows how a buyer and seller valued the property's utility, and it is therefore the most accurate evidence of its market value. *Matkovic argument; Pet'rs Exs. P-3, P-5.*
16. Because the Assessor offered no evidence that the sale price was flawed or that her own trending/market estimates yielded a more accurate value for the property, she failed to meet her burden of proof. *Matkovic testimony; Pet'rs Ex. P-5.*

### **Burden of Proof**

17. 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, regardless of the amount of increase. I.C. § 6-1.1-15-17.2(a)-(b), (d). If the assessor has the burden and fails to prove the assessment is correct, it reverts to the previous year's level or to another amount shown by probative evidence. *See* I.C. § 6-1.1-15-17.2(b).
18. The subject property's assessment increased by more than 5% between 2019 and 2020. The Matkovics therefore argued that the Assessor has the burden of proof, and the Assessor agreed.

### **Analysis**

19. The goal of Indiana's real property assessment system is to arrive at an assessment reflecting a property's true tax value. 50 IAC 2.4-1-1(c); 2011 REAL PROPERTY ASSESSMENT MANUAL at 3. True tax value does not mean "fair market value" or "the value of the property to the user." I.C. § 6-1.1-31-6(c), (e). 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." MANUAL at 2.
20. Evidence in a tax appeal should be consistent with that standard. For example, a USPAP-certified market-value-in-use appraisal often will be probative. *See id.*; *see also*, *Kooshtard Property VI, LLC v. White River Twp. Ass'r*, 836 N.E.2d 501, 506 n.6 (Ind. Tax Ct. 2005). A party may also offer actual construction costs, sale or assessment

information for the property under appeal or comparable properties, and any other information compiled according to generally accepted appraisal principles. *See Eckerling v. Wayne Twp. Ass'r*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006); *see also* I.C. § 6-1.1-15-18 (allowing parties to offer evidence of comparable properties' assessments to determine an appealed property's market value-in-use). Regardless of the method used, a party must explain how its evidence relates to the relevant valuation date. *Long v. Wayne Twp. Ass'r*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). For 2020 assessments, the valuation date was January 1, 2020. *See* I.C. § 6-1.1-2-1.5(a)(2).

21. The Assessor did not make a prima facie case for maintaining the assessment at its current level. At best, she pointed to sales of two other properties from the subject property's subdivision and to average sale prices. A party offering sale or assessment data must show that the properties from which the data is drawn are comparable to the property on appeal. *See* I.C. § 6-1.1-15-18(c); *see also Long*, 821 N.E.2d at 470-71. Conclusory statements that properties are "similar" or "comparable" to each other do not suffice; instead, parties must explain how the properties compare to each other in terms of characteristics that affect market value-in-use. *Long*, 821 N.E.2d at 471. They must similarly explain how relevant differences affect values. *Id.*
22. The Assessor's comparison analysis fell well short of what is required by generally accepted appraisal principles and caselaw. She offered some information about a few characteristics for each property, including its quality grade and effective age. But she did not compare other relevant characteristics, and she failed to explain how any relevant differences affected the relative values of the properties.
23. In any case, the Matkovics bought the subject property for \$179,400 on October 31, 2019—just two months before the assessment date. As the Matkovics point out, a property's sale price can be compelling evidence of its market value-in-use.
24. The Assessor attempted to impeach the sale price by testifying that she believed the property had sold twice on the same day, presumably to a family member. But aside

from the Assessor's speculation, there is no evidence to suggest that is true. Mark Matkovic denied that the sale was between family members, and the closing statement lists the Matkovics as borrowers and two other people with a different last name as sellers.

25. While the Assessor testified that sale prices in Olde Dominion trended upward by 7% in 2019, that testimony does little to impeach the October 31 sale price. She did not explain how she arrived at her trending factor. Nor did she explain whether her analysis showed that the market appreciated at a uniform rate. She certainly did not show the degree, if any, that market conditions changed in the two months between when the Matkovics bought the subject property and the relevant January 1, 2020 valuation date.
26. We disagree with the Assessor's claim that a sale price cannot be used to set a property's value. While it may be true that assessors cannot select properties for reassessment based solely on the fact that they have sold, the Tax Court has explained that a property's sale price may be considered as evidence of its value in an appeal. *See Hubler Realty Co. v. Hendricks Cnty. Ass'r*, 938 N.E.2d 311, 314-15 (Ind. Tax Ct. 2010) (explaining that market value-in-use evidence includes sales information for a property under appeal and rejecting argument that county PTABOA's consideration of sale constituted sales-chasing or selective reappraisal).
27. The Assessor's witness, Peggy Lewis, may be right that an appraiser would not rely solely on a property's sale price when performing a USPAP-compliant appraisal of that property. But a timely, arm's-length sale of a property after it has been exposed to the market is still potent evidence of the property's market value-in-use, even if it is not unassailable. Whether it would be more persuasive than a USPAP-compliant appraisal that considers additional comparable sales is not before us. The Assessor did not offer a USPAP-compliant appraisal to rebut the subject property's sale price, and her own sales-comparison analysis falls well short of what is required by generally accepted appraisal principles.



28. Because the subject property's October 31, 2019 sale price is the best evidence of its market value-in-use, we order that its 2020 assessment must be reduced to that amount.

**Conclusion**

29. The subject property's October 31, 2019 sale for \$179,400 is the best evidence of its market value-in-use. Its assessment must therefore be reduced to that amount.

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Chairman, Indiana Board of Tax Review

*Betsy J. Brand*  
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Commissioner, Indiana Board of Tax Review

*Jonathan R. Elrod*  
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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 of 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>>.