

REPRESENTATIVE FOR THE PETITIONER: Alfred H. Plummer III, *pro se*

REPRESENTATIVE FOR THE RESPONDENT: Gail Chapman, Kosciusko County Assessor

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**BEFORE THE  
INDIANA BOARD OF TAX REVIEW**

Alfred H. Plummer III,	)	Petition No.: 43-023-22-1-5-00826-22
	)	
Petitioner,	)	Parcel No.: 43-08-18-100-275.000-023
	)	
v.	)	County: Kosciusko
	)	
Kosciusko County Assessor,	)	Assessment Year: 2022
	)	
Respondent.	)	

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**August 30, 2023**

**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. Alfred H. Plummer III appealed the 2022 assessment of his lakefront property in Kosciusko County. Both parties offered USPAP-compliant appraisals. Both appraisals also had flaws. We find for Plummer because his appraiser more persuasively applied generally accepted appraisal principles in developing his opinion of value.

## PROCEDURAL HISTORY

2. Plummer appealed the 2022 assessment of his property located at 56 EMS T13F Lane in Leesburg, Indiana on June 3, 2022.
3. The Kosciusko County Property Tax Assessment Board of Appeals (“PTABOA”) sustained the assessment at \$831,900 for land and \$222,800 for improvements for a total of \$1,054,700. The Petitioner timely appealed to the Board.
4. On June 8, 2023, Dalene McMillen, the Board’s Administrative Law Judge (“ALJ”), held a telephonic hearing. Neither the Board nor the ALJ inspected the property.
5. Alfred Plummer III, Kosciusko County Assessor Gail Chapman, and Appraisers David Metz and Iverson Grove all testified under oath.
6. The Petitioner offered the following exhibits:
  - Petitioner Exhibit 1: Appraisal report of the subject property prepared by David Metz,
  - Petitioner Exhibit 2: Subject property record card,
  - Petitioner Exhibit 3: Property record card and Beacon information sheet for 66 EMS T13F Lane,
  - Petitioner Exhibit 4: Letter prepared by David Metz.
7. The Respondent offered the following exhibits:
  - Respondent Exhibit A: Subject property record card,
  - Respondent Exhibit B: Beacon aerial map,
  - Respondent Exhibit C: Petitioner’s appraisal report of the subject property prepared by David Metz,
  - Respondent Exhibit D: Four articles on basements prepared by Turner Associates, McKissock Learning, Urbanluxerealestate.com, and Appraisal Buzz,
  - Respondent Exhibit E: Multiple listing sheet for 12 EMS T18 Lane,
  - Respondent Exhibit F: Property record card sketches for 48 EMS T24 Lane and 12 EMS T18 Lane, and Marshall Valuation Service page on basements,

- Respondent Exhibit G: Warranty deed, Beacon aerial map and property record card front page for 12 EMS T18 Lane,
- Respondent Exhibit H: Multiple listing sheet for 77 EMS T32C Lane,
- Respondent Exhibit I: Photograph of vacant lot,
- Respondent Exhibit J: Multiple listing sheet for 101 EMS T41 Lane,
- Respondent Exhibit K: Assessor's questionnaire for 101 EMS T41 Lane,
- Respondent Exhibit L: Sales disclosure form for 48 EMS T24 Lane,
- Respondent Exhibit M: Vacant Tippecanoe lakefront land sales,
- Respondent Exhibit N: Appraisal report of the subject property prepared by Iverson Grove,
- Respondent Exhibit O: Multiple listing sheet for 48 EMS T24 Lane,
- Respondent Exhibit P: Beacon aerial map for 101 EMS T41 Lane and 14 EMS T20 Lane and plat map for parcels 005-028-127 and 005-028-126.A
- Respondent Exhibit Q: Multiple listing sheet for 14 EMS T20 Lane.

8. The record also includes the following: (1) all pleadings and documents filed in this appeal, (2) all orders, and notices issued by the Board or ALJ; and (3) the digital recording of the hearing.

#### **OBJECTION**

9. During the telephonic hearing, the Petitioner's witness, David Metz, attempted to introduce a revised version of his appraisal report and the Assessor objected to its admission. Although the Petitioner himself never properly offered the exhibit, we will address it. This report was not provided to the Board, and it appears it was never exchanged with the Assessor. Both our procedural rules and our hearing instructions require parties to exchange evidence and provide a copy to the Board. Failure to do so is grounds for the exclusion of the exhibit. For that reason, we sustain the Assessor's objection. We note that Metz's testimony about the substance of his revised appraisal remains in evidence.

#### **FINDINGS OF FACT**

##### **A. Subject Property**

10. The subject property is a one-story home built in 1973 located on 0.56 acres of land with 145 feet of frontage on Tippecanoe Lake in Leesburg. *Pet'r Ex. 2; Resp't Exs. A & B.*

## **B. Metz Appraisal**

11. Plummer engaged David Metz of Metz Appraisal Offices to appraise the market value of the subject property as of May 1, 2022. To arrive at his opinion of value, Metz developed both the cost approach and the sales-comparison approach. He certified that his appraisal complied with the Uniform Standards of Professional Appraisal Practice (“USPAP”). Metz made an exterior inspection of the subject property but did not inspect the interior. *Pet’r Ex. 1; Metz Testimony.*
12. For his sales-comparison approach, Metz looked for properties that had similar lake frontage to the subject, which he considered a critical factor. He selected comparables that sold between February of 2021 and April of 2022 for prices ranging from \$699,000 to \$950,000. He adjusted the comparables for a number of factors including site size, gross living area, garage, pools, and lake frontage. He noted that there was a “diminishing return” on the value of lake frontage and properties with greater lake frontage sold for less per front foot. He reconciled the adjusted sale prices to a value of \$850,000 under the sales-comparison approach. *Pet’r Ex. 1; Metz Testimony.*
13. For his cost approach, Metz began by estimating a site value. He used three comparables that sold between September 2019 and September 2021. The properties had lake frontage ranging from 96 feet to 196 feet and sold for between \$2,755 and \$4,592 per front foot. He concluded to a value of \$610,000 for the subject land. Using data from Marshall and Swift, he estimated a depreciated cost of \$244,131 for the house, site improvements, and detached garage. He concluded to a value of \$854,131 under the cost approach. *Pet’r Ex. 1; Metz Testimony.*
14. For his reconciliation, Metz gave the most weight to the sales-comparison approach and concluded to a value of \$850,000 as of May 1, 2022. *Pet’r Ex. 1; Metz Testimony.*
15. We also note that the Assessor pointed out several factual errors in the data Metz used for several of his comparables. These include errors in the amount of lake frontage and bathroom count on certain comparables. The Assessor also testified that one of the

comparables was sold for just the value of the land because the house had mold issues. Metz testified that he revised his appraisal to remove the comparables with incorrect lake frontage and the mold issue, and correct the bathroom count, but that his opinion of value did not change. *Chapman testimony; Metz testimony; Pet'r Ex. 1; Resp't Ex. C.*

### **C. Grove Appraisal**

16. The Assessor engaged Iverson Grove, MAI, to appraise the retrospective value of the subject property as of January 1, 2022. He developed both the sales-comparison and cost approaches. He also performed an interior and exterior inspection. He certified that his appraisal complied with USPAP. *Resp't Ex. N; Grove testimony.*
  
17. Grove began his sales-comparison approach by evaluating the subject property's current land assessment. To do this, he reviewed each of the sales in the Assessor's land order. He found the sales had a central tendency of \$6,000 to \$7,000 per front foot. He determined this indicated the subject property's assessment of \$5,700 per front foot was "reasonable." For that reason, he used the subject property's current assessment for land as his land value. Turning to the improvements, he selected six comparable sales that sold between May and December of 2021 for prices ranging from \$600,000 to \$865,000. To isolate the value of the improvements, he "deleted" the land value. It's somewhat unclear from his report or testimony, but it appears he did this by removing the assessed value for land from the sale prices. He then made adjustments to each sale based on its assessment grade, using values from Marshall Valuation Service. He also adjusted for number of stories. He then assumed the subject property would be worth at least as much as the lowest comparable because that comparable was not superior to the subject. He then applied the adjusted value per square foot value from that comparable of \$181 to arrive at a value of \$361,400 for the subject improvements. He applied that value to the subject property's land assessment to arrive at a total value of \$1,193,300 under the sales-comparison approach. *Resp't Ex. N; Grove testimony.*
  
18. For his cost approach, Grove used the same site value (the subject property's current land assessment) that he used in his sales-comparison approach. He developed a depreciated

replacement cost using Marshall and Swift cost tables of \$214,600. This yielded a total value of \$1,046,500 under the cost approach. *Resp't Ex. N; Grove testimony.*

19. Grove reconciled these approaches to arrive at a value of \$1,193,000 as of January 1, 2022. *Resp't Ex. N; Grove testimony.*

### **BURDEN OF PROOF**

20. Generally, the taxpayer has the burden of proof when challenging a property 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.” Indiana Code § 6-1.1-15-20(a) (effective March 21, 2022).
21. 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, 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.*
22. 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 assessment is presumed to be equal to the property's true tax value.” I.C. § 6-1.1-15-20(f).
23. Here, the current assessment of \$1,054,700 is an increase of more than 5% over the previous assessment of \$900,400. Thus, the Assessor has the burden of proof.

### **ANALYSIS**

24. The Indiana Board of Tax Review is the trier of fact in property tax appeals, and its 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 it.” I.C. § 6-1.1-15-20(f). The Board’s 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). “If the totality of the evidence presented to the Board is insufficient to determine the property’s true tax value,” then the “property’s prior year assessment is presumed to be equal to the property’s true tax value.” I.C. § 6-1.1-15-20(f)

25. In order to meet its burden of proof, a party “must present objectively verifiable, market-based evidence” of the value of the property. *Piotrowski v. Shelby Cty. Assessor*, 177 N.E.3d 127, 132 (Ind. Tax Ct. 2021) (citing *Eckerling v. Wayne Twp. Assessor*, 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 County Assessor*, 842 N.E.2d 899, 900, (Ind. Tax Ct. 2006). This is because the “formalistic application of the Guidelines’ procedures and schedules” lacks the market-based evidence necessary to establish the market value-in-use of a specific property. *Piotrowski*, 177 N.E.3d at 133.
26. 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. Assessor*, 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. Dept. of Local Gov’t. Fin.*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006).
27. Here, the Assessor offered a USPAP compliant appraisal prepared by Iverson Grove, MAI. We find several issues with Grove’s appraisal that undermine the reliability of his opinion of value. We begin with his site valuation, as that was crucial to both his sales-comparison approach and cost approach, and thus, his overall conclusions. As discussed

above, Grove did not develop his own estimate of site value. Rather, he chose to examine whether the current land assessment was “reasonable” by evaluating the county’s land order. He did not make adjustments for the relevant differences between the sold properties and the subject property as in a traditional sales-comparison analysis. Nor did he reconcile those sales to an estimate of value. We find his method lacks independence from the original assessment. In addition, by only concluding the current assessment was “reasonable,” his analysis is necessarily less precise than a traditional appraisal. Because his site value was crucial to both of his approaches, we find these flaws seriously impact the reliability of his conclusions.

28. Grove’s analysis also suffers from other issues, particularly in his sales-comparison approach. Grove chose to remove the land value from his comparable sales to arrive at a value for just the improvements. As discussed above, it appears he did this by removing the assessed value for land. But there is no indication that he independently examined whether the land values were accurate, or whether they were a good representation of the allocation that the buyers or sellers would have placed on the land value. Turning to the improvements, he only adjusted for the assessment grade and number of stories. But it is not evident that he independently verified that the comparables’ grades were accurate. Moreover, he made no adjustments for other factors such as age, number of bathrooms, garage, etc. Nor did he demonstrate that such adjustments were unnecessary. We find this seriously undercuts the reliability of his analysis.
29. We now turn to the Metz appraisal. We first note that Metz valued the property as of May 1, 2022, four months removed from the relevant valuation date of January 1, 2022. We find this somewhat undercuts Metz’s opinions of value, but do not find that it renders that opinion unreliable given the relatively short time period involved.
30. The Assessor criticizes Metz for not performing an interior inspection. Such an inspection can be helpful, but it is not required. In this case, there is no indication that an inspection would have changed Metz’s opinion of value, or that his assumptions about



the interior were inaccurate. Thus, we do not find the lack of inspection affects the reliability of his opinion.


31. As discussed above, the Assessor pointed to several errors in Metz's research and data. Metz admitted to those errors but stated that he had revised his report to account for them and his opinion of value did not change. We accept Metz's testimony in this regard. Nevertheless, we find that the existence of those errors somewhat detracts from Metz's credibility.
32. The Assessor also criticized Metz for using two sales from 2019 in his site valuation when there were multiple 2021 sales available. We agree with this criticism and find it detracts from the reliability of his site valuation and his cost approach.
33. Finally, the Assessor made several criticisms of Metz's adjustments in his sales-comparison approach. These included his adjustments for below grade living area and above and below grade bathrooms. Metz did not address these criticisms. We find the Assessor's assertions that Metz should have made different adjustments largely conclusory. Statements that are unsupported by probative evidence are conclusory and of no value to the Board in making its determination. *Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1118 (Ind. Tax Ct. 1998). While the Assessor did point to some support for his conclusions in industry publications, he did not provide reliable evidence indicating the general principals espoused in those publications would necessarily apply in this case. Ultimately, we credit Metz's expertise over the Assessor's criticisms.

### CONCLUSION

34. Both parties in this case presented USPAP compliant appraisals. Both appraisals had serious flaws. Grove's appraisal lacked sufficient market data independent from the assessment, while Metz's appraisal suffered from some factual errors and a lack of recent data in his site valuation. In the end, we are more troubled by the systemic problems in Grove's appraisal. Evidence in property tax appeals should be based on generally

accepted appraisal principles. *Peters* at 849. Grove has failed to persuade us that his unconventional method of relying heavily on the mass appraisal assessment data was a reasonable and generally accepted appraisal technique. In contrast, Metz developed a traditional sales-comparison approach. While it had flaws, we find it better represented generally accepted appraisal principles and was sufficient to support his opinion of value. Thus, we order the assessment reduced to the value from the Metz appraisal of \$850,000.

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

**- 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>>.