

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

Petition: 64-010-21-1-5-00762-22
Petitioners: Milo and Leona Ritchey
Respondent: Porter County Assessor
Parcel: 64-07-02-352-001.000-010
Assessment Year: 2021

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

Procedural History

1. In June 2021, Milo and Leona Ritchey filed a Form 130 petition contesting the 2021 assessment of their property located at 519 East 1100 North in Westville. The Porter County Property Tax Assessment Board of Appeals (“PTABOA”) issued a Form 115 determination setting the assessment at \$457,100 (\$63,200 for land and \$393,900 for improvements).
2. The Ritcheys then filed a Form 131 petition with us. On May 10, 2023, our designated administrative law judge, Joseph Stanford (“ALJ”), held a telephonic hearing on the Ritcheys’ petition. Neither he nor the Board inspected the property. The Ritcheys and Peggy Hendron, the Porter County Assessor’s real estate director, testified under oath.

Record

3. The official record for this matter includes the following:¹

Petitioners Exhibit 1:	Form 130; first page of Form 131; mix of pages from Form 115 and Form 134; Form 113,
Petitioners Exhibit 2:	Photographs of the subject property taken from the Assessor’s appraisals; aerial photograph of the subject parcel; plat map; photograph of wooded area; permit for the house and pole barn; interior photograph of the pole barn,
Petitioners Exhibit 3:	Subject property record cards (“PRC”); 2018-2021 Forms 11 and property tax statements,
Petitioners Exhibit 4:	Sale listing and assessment information for 945 N Meridian Rd., Chesterton; sale listing and assessment information for 1115-2 N 350 E, Chesterton; sale listing and assessment information

¹ The Ritcheys also provided a written summary of their testimony, which is included in the record but is not labeled as an exhibit.

- for 904 Spring Meadow Dr., Westville; assessment information for the subject property,
- Petitioners Exhibit 5: Assessment information for the subject property; assessment information for 517 E 1100 N, Westville; assessment information for 516 E 1100 N, Westville,
- Petitioners Exhibit 6: *Shocked and not shocked by 2022-pay-2023 Hoosier home assessments*, by Larry DeBoer (published June 1, 2022),
- Petitioners Exhibit 7: Subject PRC with notations; page from insurance policy.
- Respondent Exhibit 1: Subject PRC,
- Respondent Exhibit 2: Screenshot of the subject's "parcel overview,"
- Respondent Exhibit 3: Aerial photograph of the subject property,
- Respondent Exhibit 4: Aerial photograph of the subject property,
- Respondent Exhibit 5: Appraisal prepared by Ronald L. Boilini, as of January 1, 2021,
- Respondent Exhibit 6: Appraisal prepared by William L. Eenshuistra, Jr., as of January 1, 2019.

4. The record also includes: (1) all petitions and other documents filed in these appeals, (2) all notices and orders issued by the Board or the ALJ, and (3) an audio recording of the hearing.

Findings of Fact

5. The Ritcheys bought the 10.1-acre property in 2016 and built a ranch-style home on it. At least 4.23 acres are "wetland," with additional areas that the Assessor's real estate director, Peggy Hendron, characterized as "marshland." The home is on well water and a septic system. The property also contains an outbuilding that was previously assessed as a detached garage but is now assessed as a pole barn with an open-frame porch. *L. Ritchey testimony; Hendron testimony; Pet'rs Exs. 2-3, 7; Resp't Exs. 1, 5-6.*

Parties' Contentions

A. The Ritcheys' Contentions

6. The Ritcheys contend that they have been harassed and singled out with assessment increases that value their property higher than neighboring properties. The Ritcheys have appealed their assessments annually and have generally prevailed, but the Assessor always raises the assessment the following year. According to the Ritcheys, those increases are more than the market indicates. In their previous appeals, the Ritcheys have been told that they cannot compare their property to properties with two-story homes, yet the Assessor offered an appraisal doing just that. *L. Ritchey argument; Pet'rs Ex 6.*

7. The Ritcheys claim that their land and improvements are both overvalued. Before they bought the property, the land was assessed at only \$2,000 per acre. Now, the portion that includes wetlands is valued at over \$7,000 per acre. The Ritcheys built their pole barn for \$3,200 and built their home for \$245,000 - \$250,000. The home's exterior is made of "compressed wood with a coating over it." The improvements are insured for \$343,750,² which is lower than their assessments. The Ritcheys believe that the insured value more accurately reflects what the improvements are worth. *L. Ritchey argument and testimony; Pet'rs Ex. 7.*
8. The Ritcheys also contend that their assessment is higher than the assessments for comparable properties. Specifically, they point to a property at 945 North Meridian Road in Chesterton. That property has a ranch-style home and heritage barn on 10 acres of flat land, at least some of which is being farmed. Yet the owner's tax bill is approximately half of what the Ritcheys pay. *M. Ritchey, L. Ritchey argument and testimony; Pet'rs Ex. 4.*
9. Finally, the Ritcheys offered sale and assessment data for several properties, four of which sold during 2020 or 2021. All four properties sold for more than their 2021 assessments:

Property	Sale Date	Sale Price	Assessment
945 N. Meridian Rd. Chesterton	Aug. 2020	\$408,000	\$322,100
1115-2 N. 350 E. Chesterton	May 2020	\$325,000	\$259,000
904 Spring Meadow Dr., Westville	May 2020	\$340,100	\$318,200
517 E. 1100 N. Westville	Dec. 2021	\$590,000	\$561,300

Pet'r Ex. 4.

B. The Assessor's Contentions

10. The Assessor ordered appraisals for both January 1, 2019, and January 1, 2021. William L. Eenshuistra, Jr., a certified appraiser, prepared the first appraisal. He developed the sales-comparison approach to estimate the property's value at \$420,000 as of January 1, 2019. *Hendron testimony; Pet'rs Ex. 3; Resp't Ex. 6.*
11. The second, and more relevant, appraisal was prepared by Ronald L. Boilini, also a certified appraiser. Boilini certified that he prepared his appraisal in conformity with the Uniform Standards of Professional Appraisal Practice ("USPAP"). Because the Ritcheys would not agree to let him inside their home, he inspected the property from the street. He noted no adverse site conditions or external factors concerning the land. He explained that wells and septic systems are typical for the area, and he did not notice any factors that would affect the property's marketability. *Hendron testimony; Resp't Exs. 1, 5.*

² The Ritcheys offered a premium statement that reflects coverage limits of \$312,500 for the dwelling and \$31,250 for "Other Structures." *Pet'r Ex. 7.*

12. Like Eenshuistra, Boilini relied solely on the sales-comparison approach and estimated the property's market value at \$520,000 as of January 1, 2021. He used five sales, two of which involved ranch-style homes and three of which involved two-story homes. The sites ranged from 2.27 acres to 4.92 acres. Boilini adjusted the sale prices to account for differences between the subject property and the comparable properties in terms of various characteristics such as site size, construction quality, room count, gross living area, basements, and garages. *Resp't Ex. 5.*
13. To quantify his site adjustments, Boilini prepared a separate land appraisal in which he examined the sales of five vacant sites ranging from 9.2 acres to 14.46 acres. There is no indication whether any of the comparable sites had wetlands. The sites sold for unadjusted prices ranging from \$9,500/acre to \$12,609/acre. Boilini settled on a value of \$11,000/acre for the subject site. He then used that unit value to adjust the improved properties' sale prices to account for their smaller sites. Those site adjustments ranged from \$57,000 to \$86,100, although one sale involved a property with a 10.12-acre site and received no adjustment. *Resp't Ex. 5.*
14. Based on the appraisals, the Assessor contends that the subject property is underassessed and asks us to increase the assessment to match Boilini's estimate of \$520,000. According to Hendron, the Assessor is not singling out the Ritcheys; she instead simply ordered appraisals like she generally does whenever taxpayers file appeals. Her assessments do not ignore past appeal results, but instead recognize that values in the subject property's area are surging. The difference between the 2019 and 2021 appraisal values illustrates that point. *Hendron argument and testimony; Resp't Exs. 5-6.*
15. Finally, in Hendron's opinion, the fact that the Ritcheys' property contains "wetland" and "marshland" does not necessarily mean the property is less valuable. She claimed that Beverly Shores contains properties that are mostly made up of wetland, yet land in that area sells for more than what it is assessed for. *Hendron argument and testimony.*

Conclusions of Law and Analysis

A Neither party offered sufficiently probative evidence to rebut the presumption that the assessment was correct.

16. Generally, an assessment determined by an assessing official is presumed to be correct. 2021 REAL PROPERTY ASSESSMENT MANUAL at 3. A petitioner has the burden of proving the assessment is incorrect and what the correct assessment should be. *Piotrowski v. Shelby Cty. Assessor*, 177 N.E.3d 127, 131-32 (Ind. Tax Ct. 2021).
17. 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); 2021 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.

18. Evidence in an assessment appeal should be consistent with that standard. For example, a market-value-in-use appraisal prepared in accordance with USPAP 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, sales information for the property under appeal or for 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). 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 2021 assessments, the valuation date was January 1, 2021. *See* I.C. § 6-1.1-2-1.5(a).
19. The Ritcheys failed to make a prima facie case for reducing their assessment. While Leona Ritchey testified that the Ritcheys built their pole barn for \$3,200 and their home for \$245,000 - \$250,000 in 2016, they did not offer any evidence to relate those amounts to the January 1, 2021 valuation date. The cost estimates therefore lack probative value. So too does the Ritcheys' evidence that the subject improvements are insured for only \$343,750. Presumably, those policy limits reflect the opinion of the Ritcheys' insurer about the cost of replacing or reproducing the improvements. But it is wholly conclusory; we have no evidence to show how the insurer arrived at that value. *See Inland Steel Co. v. State Bd. of Tax Comm'rs*, 739 N.E.2d 201, 220 (Ind. Tax Ct. 2000) (holding that an appraiser's testimony that the producer price index must be used to discount obsolescence penalties lacked probative value where he did not explain what the index represented, how it was calculated, or why it was appropriate to use).
20. Finally, the Ritcheys point to the assessments of other properties. But they did little to compare the relevant characteristics of those properties to the subject property's characteristics, and they offered no evidence to show how relevant differences affected the properties' relative market values-in-use. The Ritcheys' comparative data therefore lacks probative weight. *See Long v. Wayne Twp. Ass'r*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005) (finding that the taxpayers' comparable sales data lacked probative value where they failed to explain how their property's characteristics compared to those of purportedly comparable properties, and how differences affected market value-in-use).
21. While the Ritcheys failed to make a prima facie case for reducing the assessment, our inquiry does not end there because the Assessor asks us to increase the assessment to \$520,000 based on Boilini's appraisal. We do not find Boilini's appraisal sufficiently probative to support raising the assessment. A significant amount of the subject site is wetland. Yet Boilini did not explicitly account for that wetland area in his appraisal. We cannot tell from the face of the report whether that was because he did not believe that the wetland area affected the site's value,³ or because he inspected the property from the street and therefore was unaware of the wetland. The uncertainty on that question

³ We give no weight to Hendron's unsupported opinion that wetland areas do not affect a site's value.

matters because the unit value Boilini assigned to the subject property's land greatly influenced his overall valuation opinion.

B. The Ritcheys failed to make a prima facie case for an equalization adjustment.

22. In addition to challenging the subject property's valuation, the Ritcheys also argue that they were treated unfairly compared to other homeowners whose properties were assessed for less and who therefore paid less in taxes than the Ritchies. We take that as a challenge to the uniformity and equality of assessments. As the Tax Court has explained, "[o]ne way to measure uniformity and equality in property assessment is through an assessment ratio study." *Thorsness v. Porter Cty. Ass'r*, 3 N.E.3d 49, 51 (Ind. Tax Ct. 2014). Such a study "compare[s] the assessed values of properties within an assessing jurisdiction with objectively verifiable data, such as sales prices or market value-in-use appraisals." *Id.* (citation omitted). Where a ratio study shows an actionable lack of uniformity, a taxpayer may be entitled to an equalization adjustment bringing its assessment to the common level shown by the study. *Id.*
23. In providing guidance about how to compile and evaluate the data necessary for a ratio study, the DLGF has incorporated the International Association of Assessing Officers' ("IAAO") Standard on Ratio Studies (April 2013). *See* 50 IAC 27-1-4; 50 IAC 27-4-5(a); *see also*, *Thorsness*, 3 N.E.2d at 53-54 (citing to a previous version of 50 IAC 27-1-4). In *Thorsness*, the taxpayer offered evidence showing that while his property was assessed at 99.9% of its sale price, six other properties in his subdivision were assessed at an average of 79.5% of their recent sale prices. *Thorsness*, 3 N.E.3d at 50. At the administrative level, we rejected the taxpayer's claim on grounds that it neither conformed to professionally accepted standards, nor was based on a statistically reliable sample of properties. *Id.* Although the Tax Court recognized that the taxpayer's evidence was relevant, it affirmed our conclusion that the evidence lacked probative value to show that his assessment exceeded the common level of assessment for the township. *Id.* at 54.
24. The Ritcheys did not make an actionable claim for an equalization adjustment. Because the Ritcheys did not offer any probative market-based evidence to show the subject property's market value-in-use, we cannot compare its ratio to the ratios for the four properties for which they provided timely sale and assessment data. *See Westfield Golf*, 859 N.E.2d at 396 (rejecting a claim of lack of uniformity and equality where taxpayer failed to show the market value-in-use of its property or any of the comparable properties on which it based its claim). Even if the Ritcheys had offered probative valuation evidence for the subject property, they did not analyze their data in accordance with the IAAO Standard or show that they used a statistically reliable representative sample. To the contrary, their sampling of sale and assessment information for only four properties is even less probative than the evidence offered by the taxpayer in *Thorsness*.

Conclusion

25. The Ritcheys failed to make a prima facie case for reducing their 2021 assessment. The Assessor similarly failed to make a case for raising the assessment. We therefore order no change.


Date: AUGUST 8, 2023



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>>.