

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

Petitions: 71-031-20-1-5-00829-21 and 71-031-21-1-5-00830-21
Petitioner: Anthony (Andy) Rutten
Respondent: St. Joseph County Assessor
Parcel: 71-10-05-153-007.000-031
Assessment Years: 2020 and 2021

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

Procedural History

1. Anthony (Andy) Rutten contested the 2020 and 2021 assessments of his property. The St. Joseph County Property Tax Assessment Board of Appeals (“PTABOA”) issued Form 115 determinations for both years, reducing the assessments to the following values:

Year	Land	Improvements	Total
2020	\$37,900	\$300,900	\$338,800
2021	\$42,900	\$410,900	\$453,800

2. Still disagreeing with the assessments, Rutten filed Form 131 petitions with us for both years and elected to proceed under our small claims procedures. On August 24, 2022, our designated administrative law judge, Joseph Stanford (“ALJ”), held a telephonic hearing on Rutten’s petitions. Neither he nor the Board inspected the property.
3. Rutten represented himself. Frank Agostino appeared as counsel for the St. Joseph County Assessor. Rutten, appraiser Steve Sante, and Penn Township Assessor Michael Castellon testified under oath.

Record

4. The official record for this matter includes:

For 2020

Petitioner Exhibit A: Form 131 petition,
Petitioner Exhibit B: Form 115 determination,
Petitioner Exhibit C: Form 130 petition,
Petitioner Exhibit D: Invoice and an appraisal prepared by Paul Eric Matthews,
Petitioner Exhibit E: September 20, 2021 letter from Rutten to the PTABOA,
Petitioner Exhibit F: Subject property record cards (“PRCs”) for 2020 and 2022,
Petitioner Exhibit G: Appraisal prepared by Steve Sante,
Petitioner Exhibit H: PRC and map for 50869 Hawthorne Meadow,

Petitioner Exhibit I: PRC and map for 24101 Eagle Ridge Drive,
Petitioner Exhibit J: PRC and map for 53210 Sunset Marble Drive,
Petitioner Exhibit K: PRC for 11944 Lori Lane,
Petitioner Exhibit L: PRC for 55380 Cedar Trail,
Petitioner Exhibit M: PRC for 55400 Cedar Trail,
Petitioner Exhibit N: Photographs of 11944 Lori Lane, 55380 Cedar Trail, and
55400 Cedar Trail,
Petitioner Exhibit O: Map of the subject property's neighborhood,
Petitioner Exhibit P: Summary letter with photographs.

Respondent Exhibit 1: Form 131 petition,
Respondent Exhibit 2: Form 115 determination,
Respondent Exhibit 3: Form 134 report,
Respondent Exhibit 4: Form 130 petition,
Respondent Exhibit 5: Subject PRC,
Respondent Exhibit 6: Appraisal prepared by Paul Eric Matthews,
Respondent Exhibit 7: Appraisal prepared by Steve Sante,
Respondent Exhibit 8: Memorandum list.

For 2021

Petitioner Exhibit A: Form 131 petition,
Petitioner Exhibit B: Form 115 determination,
Petitioner Exhibit C: Form 130 petition,
Petitioner Exhibit D: Matthews appraisal and invoice,
Petitioner Exhibit E: Subject PRCs for 2021 and 2022,
Petitioner Exhibit F: Appraisal prepared by Steve Sante,
Petitioner Exhibit G: PRC for 13020 Fountain Court,
Petitioner Exhibit H: PRC and map for 30126 Copperwoods Drive,
Petitioner Exhibit I: PRC and map for 54629 Sacramento Meadows Drive,
Petitioner Exhibit J: PRC for 11944 Lori Lane,
Petitioner Exhibit K: PRC for 55380 Cedar Trail,
Petitioner Exhibit L: PRC for 55400 Cedar Trail,
Petitioner Exhibit M: Photographs of 11944 Lori Lane, 55380 Cedar Trail, and
55400 Cedar Trail,
Petitioner Exhibit N: Map of the subject property's neighborhood.

Respondent Exhibit 1: Form 131 petition,
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Respondent Exhibit 4: Form 130 petition,
Respondent Exhibit 5: Subject PRC,
Respondent Exhibit 6: Appraisal prepared by Paul Eric Matthews,
Respondent Exhibit 7: Appraisal prepared by Steve Sante,
Respondent Exhibit 8: Memorandum list.

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

Findings of Fact

A. The subject property

6. The property is located at 55304 Cedar Trail, Mishawaka, which is in Penn Township. It includes approximately 2.01 acres of un-landscaped land, a two-story home of between 3,208 and 3,434 square feet with an attached garage, vinyl siding, an unfinished partial basement, a garage, a deck, a patio and an in-ground pool. But it does not have a paved driveway. The basement is two feet below the flood line and has occasionally flooded. It therefore cannot be finished. *Rutten testimony; Pet'r Ex. D (2020, 2021); Resp't Exs. 5 (2020, 2021), 7 (2020, 2021).*
7. The land associated with the home was divided into two separate tax parcels through the 2020 assessment date. Parcel 71-10-05-153-007.000-031, which is the one that Rutten appealed, was approximately 1.01 acres and included the improvements. The other parcel was approximately one acre. The parcels were combined for the 2021 assessment. *Rutten testimony; Pet'r Exs. E (2021), F (2020); Resp't Exs. 8 (2020, 2021).*
8. Rutten, who is a homebuilder and contractor, built the home himself over time. As shown by an appraisal that Paul Matthews prepared for Rutten on May 4, 2021, there were no kitchen cabinets, and both the master bathroom and trim around the house were still unfinished at the time he inspected the property. There were even more unfinished items as of the January 1, 2020 assessment date. At a minimum the pool was not complete. Neither were 1,000 feet of flooring on the home's main level and siding on the home's east and north walls. In August 2019, Mark Modelin, a data collector for the Penn Township Assessor, noted that construction was 77% complete, which was the percentage used for the 2020 assessment. *Rutten testimony; Castellon testimony; Pet'r Exs D (2020, 2021), E (2020), P (2020); Resp't Ex. 8 (2020, 2021).*
9. In October 2020, Rutten "confirm[ed]" to a representative of the Penn Township Assessor that the property was "100% complete for 21/22." And when asked at hearing whether construction was complete as of the January 1, 2021 assessment date, Rutten repeatedly pointed out that the property record card showed the home as 100% complete. But after viewing Matthews' appraisal in August 2021, the Penn Township Assessor's office changed the completion percentage to 87%. Matthews' appraisal does not specify the date that he inspected the property. Nonetheless, we find that it is more likely than not that the appraisal depicts the home as it existed reasonably close to May 4, 2021, and therefore after the January 1, 2021 assessment date. *Rutten testimony; Castellon testimony; Pet'r Ex. D (2020, 2021); Resp't Ex. 8 (2020, 2021).*

B. Appraisals

10. Each side hired an appraiser to value the property. Rutten hired Matthews, a certified residential appraiser, and the Assessor hired Steve Sante, a certified appraiser with 31 years of experience who holds MAI and SRA designations. Sante prepared a separate appraisal report for each assessment year, while Matthews prepared one for 2020 only. Sante testified at our hearing, but Matthews did not. *Sante testimony; Pet'r Ex. D (2020, 2021); Resp't Ex. 7 (2020, 2021).*
1. Matthews' appraisal
11. Matthews relied on the sales-comparison approach to estimate the property's market value as of January 1, 2020. Although Matthews indicated that he also developed the cost approach to add support to his opinion, he indicated that the cost approach was "not applicable and not necessary." And his report does not include a value conclusion or analysis under that approach. *Pet'r Ex. D (2020, 2021).*
12. Matthews identified six comparable properties, all of which were from Penn Township and were between .89 and 3.95 miles from the subject property. The homes were 16, 26, 28, 57, 70, and 149 years old, respectively. They sold for unadjusted prices ranging from \$199,500 to \$322,500. Matthews then considered adjusting the sale prices to account for transactional differences between those sales and the posited sale of the subject property, as well as for differences in relevant physical characteristics between the properties. He ended up adjusting for various characteristics, including age, condition, room count and gross living area, and the existence or lack of a basement or finished rooms below grade. *Pet'r Ex. D (2020, 2021).*
13. His age adjustments ranged from \$5,000 for the 16-year-old home to \$70,500 for the 149-year-old home. Because of the flooding issues with the subject home's basement, Matthews treated it more like a crawl space with a high ceiling and adjusted the sale prices of properties with useable basements downward by \$1/sf. Matthews, however, did not explain how he quantified any of his adjustments. The closest he came to doing so was in two sections of his supplemental addendum. First, he made the general statement that he "adjusted dissimilarities between the subject and comparables according to the market reaction." Next, he indicated that his opinion "was most heavily based upon matched pair analysis." *Pet'r Ex. D (2020, 2021).*
14. Matthews' adjusted sale prices ranged from \$240,000 to \$294,900. He reconciled his adjusted sale prices to a value of \$280,000 for the subject property, explaining that he gave considerable weight to his first comparable sale, which was superior to the subject property and was the only other property that had a pool. The home on that property was 28 years old and its adjusted sale price was \$288,100. *Pet'r Ex. D (2020, 2021)*

2. Sante's appraisals

15. Because Rutten did not allow Sante onto the property, he viewed it from a public right of way. It was difficult to see the home because it sits back from the road and there were a lot of trees. Sante therefore had to make assumptions about the home. For example, he assumed that someone who builds a home that size would use good quality materials. Sante prepared separate appraisals estimating the property's market value as of January 1, 2020, and January 1, 2021, respectively. For 2020, he appraised the property on the assumption that construction was 77% complete. For 2021, he appraised it as 100% complete. *Sante testimony; Resp't Ex. 7 (2020,2021)*.
16. Sante certified that he complied with the Uniform Standards of Professional Appraisal Practice ("USPAP"). Unlike Matthews, Sante clearly developed the cost and sales-comparison approaches, although he gave the greatest weight to his conclusions under the sales-comparison approach in reaching his opinion of value. He concluded values under the cost approach of \$433,400 and \$564,200 for 2020 and 2021, respectively. *Resp't Ex. 7 (2020,2021)*.
17. For his sales-comparison analyses, Sante identified three different comparable sales for each appraisal. He did not use the same sales for both years because the market increased between January 1, 2020 and the next year, when the pandemic lockdown waned, and people started buying houses. He therefore did not think that using the same comparable sales would have been appropriate. *Sante testimony; Resp't Ex. 7 (2020,2021)*
18. The sales were from South Bend, Elkhart, Granger, and Osceola. One property—54629 Sacramento Meadows Drive in Osceola—was located in Penn Township less than a mile from the subject property. The rest were between 4.5 miles and 14.99 miles away from the subject property, and at least four were more than two miles from the Penn Township boundary. Sante, however, explained that there is no appraisal principle requiring an appraiser to use properties from the same township as the property being appraised. *Sante testimony; Rutten testimony; Pet'r Exs. G-I (2020), H-J (2021); Resp't Ex. 7 (2020,2021)*.
19. The homes were all of good construction quality and were in good condition. Unlike Matthews, who used substantially older homes in his analysis, Sante's comparable homes were either brand new or between 7 and 13 years old at the time of sale. Indeed, Sante believed that several of the properties Matthews used in his appraisal were not comparable to the subject property because of the age disparities, and he did not think that Matthews' age adjustments were appropriate. *Sante testimony; Resp't Ex. 7 (2020,2021)*.
20. The properties from Sante's 2020 appraisal sold for prices ranging from \$390,000 to \$485,000, while the range from his 2021 appraisal was \$450,000 to \$540,000. Like Matthews, Sante considered adjusting those sale prices to account for relevant differences between the comparable properties and the subject property. Because all the comparable homes were of good quality and condition, he did not make any adjustments for those

factors.¹ And he testified that after seeing photographs of the subject home, he believed that one of the comparable homes from his 2021 appraisal—the brand-new home in Osceola—was more comparable to the subject property than he had originally thought. Sante did not believe that an adjustment was warranted for homes that had masonry exteriors or concrete driveways. He ended up adjusting for several differences, including age; location and site size; gross living area and room count; the existence or absence of basements or below-grade finished area; and the existence or absence of decks, patios, or pools. In 2020, he also adjusted all the sale prices downward to account for construction of the subject improvements being only 77% complete. *Sante testimony; Resp't Ex. 7 (2020,2021).*

21. Unlike Matthews, Sante explained how he quantified many of his adjustments. He adjusted for differences in location and site size by comparing the value of the subject site to the site value that he determined for each comparable sale. For his gross living area, basement, and pool adjustments, he used replacement cost from Marshall and Swift and deducted depreciation. He based his age adjustment on an annual depreciation rate of 1.3% that he determined for the subject home. And for 2020, he adjusted each sale price by \$111,000 to account for the subject property's partial completion. He based that amount on the difference between his estimates of the depreciated cost of the home and site improvements at 100% completion and at 77% completion. *Sante testimony; Resp't Ex. 7 (2020,2021).*
22. Sante's gross adjustments for his 2020 appraisal ranged from 59.4% to 65.3% of the properties' unadjusted sale prices. For 2021, the range was 23% to 30.5%. Sante, however, credibly testified that appraisal rules do not require adjustments to be under a specific percentage and that he was only concerned with making credible adjustments. *Sante testimony; Resp't Ex. 7 (2020,2021).*
23. In each appraisal, Sante reconciled his adjusted sale prices to match the rounded value of the sale that he believed was most like the subject property, and which in each instance also happened to represent the median adjusted sale price:

Year	Adjusted Price Range	Indicated Value
2020	\$331,500 - \$483,500	\$386,000
2021	\$551,324 - \$580,000	\$570,000

In each appraisal, Sante's ultimate value conclusion matched his conclusion under the sales-comparison approach. *Resp't Ex. 7 (2020, 2021).*

24. Both of Sante's appraisals included the entire 2.01 acres of the subject site, which on the January 1, 2020 assessment date was divided into two separate tax parcels. When asked about Rutten's claim that he had erred by valuing the entire site, Sante testified that if he had truly doubled the lot size, he would deduct \$31,000 from his original value

¹ In his adjustment grid, Sante listed the subject home's construction quality as "very good." But he explained that was an error and that he rated it as good, which is borne out by the lack of adjustments. *Sante testimony; Resp't Ex. 7 (2020,2021).*

conclusion and his opinion of value for 2020 would be \$355,000. *Resp't Ex. 7 (2020, 2021); Sante testimony.*

C. Other properties' assessments

25. Three nearby properties were assessed for the following amounts in 2020 and 2021:

Property	2020 Assessment	2021 Assessment
11944 Lori Lane	\$279,900	\$301,000
55380 Cedar Trail	\$225,300	\$223,000
55400 Cedar Trail	\$253,400	\$250,700

Although Rutten offered property record cards and photographs for those properties, he did little to compare them to the subject property. And he did not explain how any relevant differences affected their relative values. *Pet'r Exs. K-O (2020). J-N (2021).*

Conclusions of Law and Analysis

26. Generally, an assessment determined by an assessing official is presumed to be correct. 2021 REAL PROPERTY ASSESSMENT MANUAL at 3; 2011 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 Cnty. Assessor*, 177 N.E.3d 127, 131-32 (Ind. Tax Ct. 2022).

27. 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); MANUAL at 2. 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." 2011 and 2021 MANUALS at 2.

28. 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 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). Simply attacking the methodology used to determine an assessment, however, does not suffice; instead, a party must offer market-based evidence to show that the property's assessed value does not reflect its market value-in-use. *Piotrowski*, 177 N.E.3d at 132; 50 IAC 2.4-1-1(c).

29. 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). Otherwise, that evidence lacks probative value. *Id.* For 2020 and 2021 assessments, the valuation dates were January 1, 2020, and January 1, 2021, respectively.

A. Although both appraisals for the 2020 valuation date have problems that detract from their reliability, we find Sante's appraisal more reliable than Matthews' appraisal and order the assessment changed to match Sante's opinion of the appealed parcel's value.

30. We begin our analysis by examining the evidence for Rutten's 2020 appeal. Both parties offered appraisals from certified appraisers who relied either primarily or exclusively on a generally accepted appraisal methodology—the sales-comparison approach. Although each appraisal has problems, we find that both are at least minimally probative of the subject property's market value-in-use. We must therefore weigh the two appraisers' valuation opinions.

1. Matthews used sales of several homes that were too old to be substitutes for the subject home, and he did little to explain any of his adjustments to his comparable properties' sale prices.

31. We begin with Matthews' appraisal. Matthews physically inspected the property in 2021 and included photographs of the home's interior and exterior as well as a description of items that still needed to be finished as of the inspection date. But he did not account for the fact that other items, such as flooring, siding, and the in-ground pool, were unfinished as of the January 1, 2020 valuation date.

32. Matthews' six comparable sales were all located relatively close to the subject property. All but one of the sales involved homes that were substantially older than the subject home, much of which was built less than four years before the valuation date. The age differences were extreme for three of the homes. Without Matthews available to explain why it was appropriate to use those three sales, we credit Sante's opinion that the age differences made those properties incomparable to the subject property regardless of the adjustments that Matthews made to account for those differences. Indeed, Matthews did little to explain how he quantified any of his adjustments, a shortcoming that also weighs against his appraisal's credibility.

33. Matthews might have ameliorated some of our concerns by supporting his conclusions with a credible analysis under the cost approach. The subject home was almost new on the assessment date. And the cost approach, which assumes that a buyer will pay no more for an existing property than it would cost to buy an equally desirable parcel of land and build equally desirable improvements, is often useful for estimating the market value of new, or relatively new, construction. 2021 MANUAL at 9; *Cont'l Retail, LLC v. Office of Appellate Courts*, 801 N.W.2d 395, 403 (Minn. 2011) (citing APPRAISAL INSTITUTE, THE APPRAISAL OF REAL ESTATE 382 (13th ed. 2008)). Yet Matthews' appraisal report does not include any analysis or conclusions under the cost approach.

34. Rutten sought to bolster Matthews' appraisal by pointing to the assessments of three nearby properties. But Rutten did little to compare relevant characteristics of those properties to the subject property, much less to explain how relevant differences affected the properties' relative values. We therefore give Rutten's raw assessment data no weight. *See Long*, 821 N.E.2d at 470-471 (holding that taxpayers' sales data for other properties lacked probative value where they failed to compare how the characteristics of those properties compared to their property and to explain how any differences affected market value-in-use); *see also, Indianapolis Racquet Club, Inc. v. Marion Cty. Ass'r*, 15 N.E.3d 150, 155 (Ind. Tax Ct. 2014).
2. Sante generally chose appropriate comparable properties and credibly explained many of his adjustments, but his ability to make informed judgments was hampered by his lack of access to the subject property.
35. We turn now to Sante's appraisal. Rutten criticized several aspects of that appraisal. We begin with a criticism to which we give little weight: the location of Sante's comparable sales. Rutten argued that Sante improperly used comparable sales from more than two miles outside of Penn Township. Sante, however, credibly testified that there is no appraisal rule imposing such a limitation, and Rutten did not explain the basis for his argument. He might have been referring to Ind. Code § 6-1.1-15-18, which was repealed on March 21, 2022. Before its repeal, that statute allowed parties to an appeal of a residential property's assessment to introduce evidence of the assessments of comparable residential properties, provided, among other things, that the properties were within two miles of the appealed property's taxing district. I.C. § 6-1.1-15-18(c)(1) (repealed 2022 Ind. Acts 174, § 33, effective March 21, 2022). But that statute does not apply for two reasons: (1) we must apply the law in effect at the time we held our evidentiary hearing, which is the operative event that triggers the repeal's application,² and (2) the statute applied only to evidence of comparable properties' *assessments*, whereas Sante used comparable *sales*.
36. Of course, that does not mean that the distance between the subject property and Sante's comparable sales is irrelevant. To the contrary, location undoubtedly affects both the market in which a property competes and its relative desirability within that market. But Rutten did not impeach Sante's implicit conclusion that the comparable properties competed in either the same, or comparable markets as the subject property. And he credibly explained how he adjusted for locational differences.
37. Rutten also pointed to other ways in which Sante's comparable properties differed from the subject property. Some of those comparable properties had concrete driveways and masonry exteriors, as opposed to the subject property's vinyl siding and lack of a driveway. They also had more complex rooflines. And assessing officials assigned higher quality grades to two of the three homes than the Penn Township Assessor assigned to the subject home. But Rutten did not offer any support for why those differences made the properties too dissimilar to serve as substitutes for the subject

² *See Church v. State*, 189 N.E.3d 580 (Ind. 2022) (identifying defendant's act in seeking to depose a child victim as the operative event triggering application of a newly enacted deposition statute).

property, provided that Sante adjusted the sale prices where the market reacted to those differences.

38. Sante, however, did not adjust for those differences. He did not believe adjustments were warranted for concrete driveways or masonry exteriors. We are persuaded by Sante's judgment on that point, which is backed by his training and experience as an appraiser. But Sante did not directly address why he chose not to adjust for the other differences. By itself, we give little weight to the fact that two of the three comparable homes had higher quality grades than the subject home. Those are subjective judgments made by different assessing officials than the Penn Township Assessor, so they say little about the comparative quality of the homes.
39. The photographs from Sante's appraisal do show that the comparable homes had more complex roof designs and more ornamentation than the subject home. And it is unclear whether Sante consciously decided that the differences did not merit adjustment or was instead unaware of those differences because he did not get a good view of the subject property during his limited exterior inspection. We recognize that the limited inspection was not Sante's choice: Rutten did not allow him onto the property. But that is beside the point. When Sante's informal efforts to access the property proved fruitless, the Assessor could have served Rutten with a discovery request. *See* Ind. Trial Rule 34(A)(2) (allowing any party to serve another party with a request to enter land or other property for the purpose of, among other things, inspection and measuring); *See also*, T.R. 28(F) (entitling parties to use Rules 26 through 37 of the Trial Rules in administrative proceedings that involve adjudicatory hearings) and 52 IAC 4-8-3(2) (allowing parties to use discovery methods from the Trial Rules to discover relevant non-privileged matter). Had Rutten still refused to permit Sante access, the Assessor could have asked for an order compelling Rutten to provide that access. And if Rutten did not comply with our order, the Assessor could have asked for an appropriate sanction. But the Assessor did not take any of those steps, and Sante's inability to meaningfully inspect the property leaves us with some concern about whether he adequately accounted for differences in design and ornamentation.
40. Rutten also pointed to several interior and exterior items that were unfinished as of the January 1, 2020 valuation date. But Sante adjusted all the comparable properties' sale prices to account for the subject property's improvements being only 77% complete. He used the completion percentage estimated by a member of the Penn Township Assessor's data team who visited the property less than four months before the valuation date. That is the only estimate of the property's overall level of completion in the months leading up to the valuation date. And it is supported by evidence regarding individual items that remained unfinished on the valuation date, such as the master bathroom, flooring, siding, exterior trim, and the pool. We therefore find that Sante reasonably accounted for the fact that the improvements were not finished as of the valuation date.
41. Finally, Rutten criticized the overall level of Sante's adjustments. Indeed, Sante's gross adjustments were more than 50% of the unadjusted sale price for each comparable property. Although we generally credit Sante's testimony that there are no appraisal rules

limiting the overall level of adjustment to a property's sale price, we recognize a basic principle that the higher the level of necessary adjustments, the less appropriate it is to use the property as a substitute. In this case, however, Sante's adjustment for the subject property being incomplete disproportionately contributed to the high gross adjustments. Disqualifying Sante's appraisal on that ground would be tantamount to a finding that the sales-comparison approach does not apply to a property in the process of construction unless an appraiser can identify comparable properties that sold while they were in a similar stage of construction. Rutten does not point to any accepted appraisal principle to support that proposition.

3. We are more persuaded by Sante's appraisal than by Matthews' appraisal and find that the assessment should be changed to match Sante's estimate of the appealed parcel's value.

42. Thus, on one hand, we have an appraisal from Matthews, who (1) used sales of properties with homes as old as 149 years to value a property with a newly built home, (2) did not explain how he quantified his adjustments, (3) either failed to develop, or failed to report his conclusions under, the cost approach, and (4) did not appear at the hearing to explain any of those decisions. On the other hand, we have an appraisal from Sante, who (1) developed both the sales-comparison and cost approaches, (2) used sales of properties with homes that were much more comparable to the subject home's age, and (3) credibly explained and supported many of his adjustments. Nonetheless, Sante's ability to make informed judgments was hampered by his lack of access to the property. Of the two minimally credible valuation opinions, we find Sante's opinion more persuasive.

43. That determination, however, leads us to an additional issue. Sante valued the entire approximately 2.01-acre site, which on the 2020 assessment date was split into two separate tax parcels. And Rutten appealed only the parcel with roughly 1.01 one acre of land and the improvements. But there is no evidence to suggest that Rutten used the other parcel for a different purpose; rather it appears that the entire property was a single economic unit. We therefore find that Sante's inclusion of the entire site was an appropriate way to value the property. To the extent there is a problem, Rutten created it by appealing only the parcel to which the home was assessed. At most, that creates an issue about how to properly craft relief. One option would be to order the assessments for both parcels to be changed so that the total equals Sante's valuation opinion. Sante, however, presented us with a second option by testifying that he would change his opinion to \$355,000 if it turned out he had doubled the site size, that is to say, if he were valuing only the parcel under appeal. We choose the second option and order the assessment of the parcel under appeal for 2020 to be changed to \$355,000.

B. Because neither party offered probative evidence of the property's value as of January 1, 2021, we order no change to the 2021 assessment.

44. We reach a different conclusion on Rutten's 2021 appeal. Unlike the previous year, we find neither Matthews' appraisal nor Sante's 2021 appraisal probative. In addition to the problems with Matthews' appraisal that we have already identified, we add two more.

First, the two parcels were combined for 2021, meaning that Matthews' appraisal excludes roughly an acre of land. Second, and more important, Matthews valued the property as of January 1, 2020. And Rutten did not offer any evidence to relate Matthews' opinion to a value as of January 1, 2021. At most, he pointed to reductions in the property's assessment stemming from his appeals or from corrections made by the Penn Township Assessor to account for new information about the property. Those things say nothing about how Matthews' 2020 valuation opinion related to the property's value under market conditions that existed a year later. That shortcoming is particularly important given Sante's undisputed testimony about the differences in the market between those two periods. Even if there were no other issues with Matthews' appraisal, we would therefore still find that it lacks probative value. And for the reasons we have already explained, Rutten's raw assessment data for three nearby properties does nothing to rehabilitate Matthews' appraisal or serve as independent evidence of the subject property's market value-in-use.

45. Unlike Matthews, Sante did offer an opinion as of the appropriate valuation date. But the shortcomings we identified from Sante's 2020 appraisal were magnified in his 2021 appraisal. Because Sante did not inspect the home, he erroneously assumed that it was 100% complete as of January 1, 2021. But the master bathroom was substantially unfinished, there were still no kitchen cabinets, and the exterior trim was not complete. Sante's statement that after viewing photographs of the subject property from Matthews' appraisal, he believed that one of his comparable sales was even more like the subject property than he had previously thought, does little to assuage our concerns. We therefore find that Sante's 2021 appraisal was insufficiently reliable to be probative of the subject property's market value-in-use.
46. Because neither party offered probative evidence to show the property's market value-in-use as of January 1, 2021, we order no change to the assessment for that year.

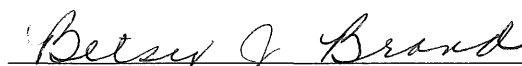
Conclusion

47. We order that the subject property's 2020 assessment be changed to \$355,000. We order no change for 2021.

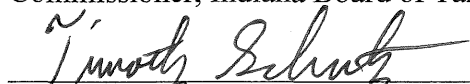
Date: 1/31/2023



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>>.