

REPRESENTATIVE FOR PETITIONER: Patrick Stern, pro se

REPRESENTATIVE FOR RESPONDENT: Zachary Price, Attorney at Law

---

**BEFORE THE  
INDIANA BOARD OF TAX REVIEW**

PATRICK STERN,	)	Petition No.: 73-002-21-1-5-00068-22
	)	
Petitioner,	)	Parcel No.: 73-11-06-100-221.000-002
	)	
v.	)	County: Shelby
	)	
SHELBY COUNTY ASSESSOR,	)	Assessment Year: 2021
	)	
Respondent.	)	

---

October 11, 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. Patrick Stern contested his 2021 assessment. Because Stern failed to offer any probative evidence to show the true tax value of the subject property, he failed to make a prima facie case for a lower assessment. However, the Assessor offered an appraisal prepared in accordance with the Uniform Standards of Professional Appraisal Practice (“USPAP”) that provides a reliable, market-based opinion of the subject property’s true tax value. We therefore find for the Assessor and order the 2021 assessment changed to reflect the value conclusion from the appraisal.

## **PROCEDURAL HISTORY**

2. Stern challenged the 2021 assessment of his property located at 150 Habig Street in Shelbyville. On December 9, 2021, the Shelby County Property Tax Assessment Board of Appeals (“PTABOA”) issued its final determination valuing the subject property at \$44,400 (\$8,200 for land and \$36,200 for improvements).
3. Stern timely filed a Form 131 petition with the Board and requested the case be heard under our small claims procedures. The Board subsequently granted the Assessor’s motion to have the appeal heard under our standard hearing procedures. On June 22, 2022, our designated administrative law judge, David Smith (“ALJ”), held a telephonic hearing on the petition. Neither he nor the Board inspected the subject property.
4. Patrick Stern appeared pro se. Attorney Zachary Price appeared for the Assessor. Stern and appraiser Mark Ratterman testified under oath.
5. The Assessor submitted the following exhibits:

Respondent Ex. 1:	2021 Property Record Card for subject property (“PRC”)
Respondent Ex. 2:	Appraisal Report prepared by Mark Ratterman
Respondent Ex. 3:	Gross Rent Multiplier (“GRM”) comparables omitted from Appraisal Report
6. The record also includes the following: (1) all pleadings, briefs, motions, and documents filed in this appeal; (2) all notices and orders issued by the Board or our ALJ; and (3) an audio recording of the hearing.

## **FINDINGS OF FACT**

7. The subject property is located at 150 Habig Street in Shelbyville. It consists of a one-story, single-family modular home constructed in 1997 situated on a 0.16-acre lot. The home has 690 square feet of living area and includes two bedrooms and one bathroom. It is in average condition and is connected to public utilities. Due to its location in a

floodplain FEMA has identified as a flood hazard area, the home sits on concrete piers constructed out of rows of concrete block that elevate it about 4-5 feet to get the finished floor elevation above flood level. *Ratterman testimony; Resp't Ex. 1; Resp't Ex. 2 at 4-5, 12-14.*

#### STERN'S CONTENTIONS

8. Stern purchased a group of six properties, including the subject property, for a total of \$65,000. The six modular homes were towed up from Kentucky at least 30 years ago and put together with staples and glue. The properties were in bad shape when Stern purchased them, and nothing about the homes is standard. You have to go to a trailer store in Kentucky to get replacement bathtubs and windows because they are trailer parts. The homes are sitting on three levels of blocks and the wind blows the skirting off. They are cold in the winter and the pipes freeze because the wind gets under them. The homes are also in a floodplain and when the gravel driveway floods you cannot access them about half of the time. The school system is also lousy. *Stern testimony.*
9. Stern used the six properties as rental units. Stern allowed his brother-in-law to move into the subject property and he has lived there ever since. In lieu of rent, his brother-in-law acted as the property manager for the rental units and helped fix them up. However, most of Stern's tenants fell behind on rent and evicting people became a problem during COVID. It became such a nightmare that Stern contacted a realtor to help sell the properties. The realtor had them listed on the market for six months to a year, and every month she came back to Stern and told him he needed to lower the price because they smelled, their furnaces did not work, and the windows were cracked. Three of the properties also had their air conditioner units stolen. Stern tore the carpet out, painted the floors, and replaced the stolen air conditioner units. *Stern testimony.*
10. Stern agreed to sell five of the properties to an investor from Kentucky for \$140,000, but the inspection was so bad that the buyer reduced his offer to \$120,000, which Stern accepted. Nobody in their right mind would pay \$60,000 for one of these properties and

you cannot get financing on modular homes. Stern sold them to the investor at a fair market price in an arm's length transaction using a real estate broker for \$24,000 apiece. He could have sold the subject property for \$24,000 as well, but his brother-in-law would not have had a place to live. Stern is requesting an assessment of \$24,000. *Stern testimony.*

### THE ASSESSOR'S CONTENTIONS

11. The Assessor offered an appraisal report from Indiana Certified General Appraiser Mark Ratterman, MAI, SRA. Ratterman graduated from Indiana University School of Business in 1977 and he has been an appraiser for 43 years. He is currently a partner in a firm with multiple appraisers called REsource, LLC. Ratterman holds a real estate broker's license and acts as the property manager for an office building. He is currently serving on the Indiana Real Estate Appraisal Licensing Certification Board and the Hendricks County PTABOA. Ratterman is an approved instructor for the Real Estate Commission, and he teaches some real estate classes to appraisers. He has also authored a variety of real estate-oriented books.<sup>1</sup> *Ratterman testimony; Resp't Ex. 2 at 33-36.*
12. Ratterman developed an opinion of value for the January 1, 2021 assessment date using the income approach (GRM method) and the sales comparison approach. However, due to the age of the improvement and the difficulty in valuing land located in a floodplain, he did not develop a cost approach. Ratterman valued the market value-in-use of the subject property's fee simple interest, and certified that his appraisal complies with USPAP. *Ratterman testimony; Resp't Ex. 2 at 3, 8, 15-16, 23, 33.*
13. Ratterman performed an exterior inspection of the subject property from the adjacent right-of-way. He described it as a fairly unusual property due to its location in a floodplain and placement on concrete block piers. The neighborhood is mostly

---

<sup>1</sup> Stern originally stipulated to Ratterman being qualified as an expert appraiser but later stated that his stipulation had been rejected when the Assessor opted to complete her qualification of Ratterman. Our ALJ took the request to recognize Ratterman as an expert under advisement. Based on Ratterman's qualifications and experience, we conclude that he is an expert in the field of real estate appraisal.

composed of older single-unit residences, some 2-4 family homes, some commercial uses, and municipal uses such as parks and baseball fields. It also has many industrial land uses including a used auto parts/junkyard that is located directly across the street from the subject property. Much of the neighborhood is in a FEMA flood hazard area. *Ratterman testimony; Resp't Ex. 2 at 4, 8, 10-11.*

14. Ratterman started his GRM analysis by identifying comparable rental properties from which to develop a market rental rate. Due to the unique location of the subject property, he attempted to find comparable rental properties located as close to it as possible. Ratterman selected eight comparable rental properties located on the same street as the subject property, including three duplexes and the five properties adjacent to the subject property that Stern sold in a bulk sale on December 24, 2020. Ratterman acknowledged that duplexes are not very comparable to a single unit home such as the subject property but explained that unlike in a sales comparison approach, tenants do not care much about being attached to another unit. As for five properties formerly owned by Stern, Ratterman noted that they are nearly identical to the subject property in terms of design and age. Although they have since been remodeled, the properties were also in about the same condition as the subject property on the effective date of his appraisal. The eight comparable rental properties had rents ranging from \$550-\$575/month and Ratterman ultimately selected a market rental rate of \$550/month. *Ratterman testimony; Resp't Ex. 2 at 16-20, 23.*
  
15. To develop the multiplier for his GRM analysis Ratterman picked six rental properties from the Shelbyville-area that sold during 2020. Five of the properties are one-story bungalows and one is a one-story ranch. Ratterman used their sales prices and monthly rental rates to calculate an indicated GRM for each property. In his experience, older buildings have lower GRM's since they require more maintenance to generate the same level of income. He therefore reconciled the individual GRM's using a weighted average based on the properties' ages, producing an average GRM of 110 (rounded). Ratterman then multiplied his market rental rate of \$550 by his GRM of 110, resulting in an

indicated value of \$60,500 for the subject property under the income approach.

*Ratterman testimony; Resp't Ex. 2 at 20-23, Resp't Ex. 3.*

16. Before getting into his sales comparison approach, Ratterman briefly addressed Stern's proposed use of the bulk sale of the five adjacent properties Stern sold on December 24, 2020 for \$122,000 (\$24,400 per unit) as the sole indicator of the subject property's value. In Ratterman's opinion, the sale of five units in a single transaction is not comparable to a sale involving a single unit such as the subject property because the potential pool of buyers are different and bulk sales are almost always discounted. Additionally, he explained that appraisers use multiple comparable sales and avoid relying on any single sales transaction as an indicator of value. When appraising single-unit homes like the subject property, appraisers use a minimum of three sales to ensure that they do not place too much emphasis on a single sale that might be an anomaly due to unknown conditions of sale or motivations that may have influenced the purchase price such as a highly motivated buyer or seller or a non-arm's length transaction. *Ratterman testimony; Resp't Ex. 2 at 23.*
  
17. For his sales comparison approach, Ratterman looked for sales of comparable homes that were the most proximate and most similar to the subject property. He selected six single-unit properties located in Shelbyville. Although they are all in the same township as the subject property, none of them are in its neighborhood. Nor do any of them sit in a floodplain. They range in size from 960 to 1,200 square feet and are all situated on less than 0.25 acres of land. The properties sold between May 2019 and August 2020 for prices ranging from \$89,000 to \$103,000. Ratterman adjusted them for financing concessions, date of sale, site size, view/amenity, design (style), quality of construction, age, condition, number of bathrooms, gross living area (above grade), heating and cooling, garage area, porch/patio/deck, and flood hazard. He considered Comparable Sale #1 to be the best comparable because it is a modular home, and he gave it more weight when calculating a weighted average from the six comparables' adjusted values. His weighted average calculation produced an indicated value of \$60,000 (rounded) for

the subject property under the sales comparison approach. *Ratterman testimony; Resp't Ex. 2 at 23-31.*

18. After reconciling the results of his two valuation approaches, Ratterman reached a final value conclusion of \$60,000 as of January 1, 2021. The Assessor is requesting the Board increase the subject property's 2021 assessment to match Ratterman's concluded value. *Ratterman testimony; Resp't Ex. 2 at 31.*

## ANALYSIS

### A. Objections

19. During the hearing, our ALJ ruled on multiple objections from both parties. We need not revisit those objections and we adopt our ALJ's rulings. However, Stern also made two objections that our ALJ took under advisement.
20. Although Stern complained that a Realist Report containing information about the subject property that Ratterman reproduced on pages 4-6 of his appraisal is hearsay, he stated multiple times that he was not objecting. We therefore conclude that he waived any objection he was attempting to make. Regardless, we note that unless an appraisal report is inadmissible on grounds besides a hearsay objection, we are required to admit it. Ind. Code § 6-1.1-15-4(p).
21. Stern also objected to Ratterman's use of the GRM valuation method. However, the question of whether Ratterman used an appropriate method to value the subject property has no bearing on the admissibility of his appraisal or his related testimony. It instead goes solely to the weight the evidence carries, which is the province of the Board. We therefore overrule the objection.

### B. Burden of Proof

22. Generally, an assessment determined by an assessing official is presumed to be correct.

2021 REAL PROPERTY ASSESSMENT MANUAL at 3. The petitioner has the burden of proving that the assessment is incorrect and what the correct assessment should be. *Eckerling v. Wayne Twp. Ass 'r*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006). Until its repeal on March 21, 2022, however, Ind. Code § 6-1.1-15-17.2, commonly known as the “burden-shifting statute,” created an exception to the general rule. That statute required an assessor to prove that a challenged assessment was “correct” where, among other things, the assessment represented an increase of more than 5% over the prior year’s assessment. I.C. § 6-1.1-15- 17.2(a)-(b) (repealed by 2022 Ind. Acts 174, § 32 effective on passage).

23. In this case, Stern argued that the Assessor should bear the burden of proof because the subject property’s assessment increased by more than 5% from 2020 to 2021. The Assessor disagreed, arguing that the burden-shifting statute was no longer applicable due to its repeal.
24. We agree with the Assessor. We apply the law as it existed at the time of the evidentiary hearing, which is the operative event that triggers the repeal’s application. *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). Here, because the burden-shifting statute had already been repealed at the time we convened our hearing, we conclude that it does not apply. Consequently, Stern bears the burden of proof.

### **C. True Tax Value**

25. The goal of Indiana’s real property assessment system is to arrive at an assessment reflecting the 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). It is instead 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.

26. Evidence in an assessment appeal should be consistent with that standard. For example, market value-in-use appraisals that comply 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). So may cost or sales information for the property under appeal, sales or assessment information for comparable properties, and any other information compiled according to generally accepted appraisal principles. *Eckerling*, 841 N.E.2d at 678. However, the GRM method is the preferred method of valuing real property that has one (1) to four (4) rental units. Ind. Code § 6-1.1-4-39(b).
27. Regardless of the method used to prove true tax value, a party must explain how its evidence relates to the property’s value as of 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 the 2021 assessment, the valuation date was January 1, 2021. I.C. § 6-1.1-2-1.5(a).

#### **D. Valuation Evidence**

28. As discussed above, Stern argued that the subject property’s assessment should be \$24,000 based on the per unit price he received in a bulk sale of five adjacent rental properties. We conclude, however, that the bulk sale is not probative evidence of the subject property’s true tax value.
29. While the bulk sale closed about a week before the assessment date and involved properties that are by all accounts nearly identical to the subject property, we find Ratterman’s description of the potential perils associated with relying on such a transaction as the sole indicator of value persuasive. As Ratterman explained, bulk sales attract different buyers than sales of individual properties and tend to sell at a discount. Appraisers also use a minimum of three sales to avoid placing too much emphasis on a

single sales transaction that could be an outlier and thus not reflective of the broader market. And based on Stern's comments regarding his inability to collect rent and his ownership of the five properties becoming such a nightmare that he decided to sell them, we are concerned that he was precisely the type of highly motivated seller that Ratterman warned could produce an abnormal sales price.

30. Even if we gave the bulk sale any probative weight, we would still conclude that Ratterman's USPAP-compliant appraisal offers the best evidence of the subject property's true tax value. Ratterman relied on an income approach developed using the GRM method and a sales comparison approach in estimating the subject property's market value-in-use to be \$60,000 as of January 1, 2021.
31. In an effort to impeach Ratterman's appraisal, Stern argued that the GRM method is inapplicable to the subject property because his brother-in-law occupies it and is not paying rent. We note, however, that Stern later admitted his brother-in-law worked for his rent by serving as Stern's property manager and providing maintenance services for the five adjacent rental properties until Stern sold them to an investor on December 24, 2020. While his brother-in-law's payments of in-kind rent arguably ended once Stern completed the sale of the five rental properties, their continued use as rental units demonstrates that the subject property retains its potential to be used as an income-producing property. Thus, we conclude that Ratterman's use of the GRM method was an appropriate way to value the subject property regardless of whether Stern continued to collect some form of rent from his brother-in-law through the assessment date.
32. Beyond the alleged inapplicability of the GRM method to the subject property, Stern also criticized Ratterman's selection of comparable rental properties. Stern argued that Comparable Rental #'s 1-3 are not comparable to the subject property because they are doubles built using frame on slab construction and have brick veneers. We agree with Stern that single-unit rentals built using similar construction methods and materials would be preferable. However, Ratterman's inclusion of the five nearly identical

properties that Stern previously owned (Comparable Rental #'s 4-8) diminishes our concern, which is further alleviated by the fact that Ratterman's estimated market rental rate (\$550/month) was identical to the individual monthly rental rates for all but one of his eight comparable rental properties and lower than that one outlier (Comparable Rental #2 at \$575/month).

33. Stern made similar criticisms of Ratterman's selection of comparable sales in the sales comparison approach. In addition to pointing out differences in construction methods and materials, he complained that in contrast with the subject property, the comparable sales have outbuildings, garages, paved driveways, better locations in residential areas, nicer landscaping, more square footage, extra bathrooms, and paved access roads with better snow removal. We conclude, however, that Ratterman credibly explained how he accounted for these differences by adjusting his comparable sales. And although Stern went on to criticize Ratterman's adjustments for quality and condition, he failed to offer any market-based evidence demonstrating that any of Ratterman's specific adjustments were improper. We also note that after adjusting his comparable sales, Ratterman calculated a weighted average and placed the most weight on the sale of a modular home (Comparable Sale #1) in arriving at an indicated value. Consequently, Stern's criticisms do little to detract from the reliability of Ratterman's appraisal.

#### **CONCLUSION**

34. Stern failed to make a prima facie case supporting his requested assessment. Although Stern pointed out some problems that slightly detract from the reliability of Ratterman's appraisal, we ultimately conclude that it provides a reliable, market-based opinion of the subject property's true tax value. We therefore find for the Assessor and order the 2021 assessment changed to \$60,000.

This Final Determination of the above-captioned matter is issued by the Indiana Board of Tax Review on the date first 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>.