

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

**Petition:** 02-073-22-1-6-00761-22  
**Petitioner:** Martin Weislak  
**Respondent:** Allen County Assessor  
**Parcel:** 02-073-8017327-9  
**Assessment Year:** 2022

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

**I. Procedural History**

1. Martin Weislak contested the 2022 assessment valuing his mobile home at \$34,400. The Allen County Property Tax Assessment Board of Appeals (“PTABOA”) issued a Form 115 determination valuing the home at \$24,200. The PTABOA explained its determination by indicating (1) that the Allen County Assessor had the burden of proof and failed to support the current assessment, and (2) that “the Petitioner did provide sufficient evidence to support the reduction in value as stated.” *Form 115 determination attached to Form 131 pet.*
2. Weislak then filed a Form 131 petition with the Board and elected to proceed under our small-claims procedures. He again contested the home’s valuation, but he added allegations that the Allen County Assessor and PTABOA had assessed him for running gear the home did not have and for “non accession and intangible property.” He also alleged that the Assessor provided evidence at the PTABOA hearing showing that he should have been given a homestead deduction.
3. On January 11, 2023, our designated administrative law judge, Joseph Stanford (“ALJ”), held a telephonic hearing on Weislak’s petition. Neither he nor the Board inspected the property. Weislak represented himself. John Swihart, the Allen County Assessor’s property tax exemption deputy, represented the Assessor. Both testified under oath.
4. The official record for this matter includes:

Petitioner Exhibit A:	Indiana Code § 6-1.1-7-2,
Petitioner Exhibit B:	Indiana Code § 6-1.1-31-7,
Petitioner Exhibit C:	Indiana Code § 6-1.1-35.7-3,
Petitioner Exhibit C1:	Uniform Standards of Professional Appraisal Practice (“USPAP”), 2020-2021 edition,
Petitioner Exhibit C2:	“Questions and Answers” from the Appraisal Standards Board,
Petitioner Exhibit D:	Indiana Code § 26-1-9.1-102,

Petitioner Exhibit E: July 2003 memorandum from the Department of Local Government Finance (“DLGF”),<sup>1</sup>

Petitioner Exhibit F: Email correspondence between Weislak and Kayla Tilley,

Petitioner Exhibit G: J.D. Power Connect Help—Directions for Use,

Petitioner Exhibit G1: J.D. Power Connect Help—for Used Homes,

Petitioner Exhibit H: J.D. Power/N.A.D.A. value calculation,

Petitioner Exhibit I: Certificate of Title,

Petitioner Exhibit J: Verification of Manufacturer and Trade Name,

Petitioner Exhibit K: Form 1, Notice of Placing of Manufactured (Mobile) Home Upon Land or Lot,

Petitioner Exhibit L: J.D. Power Connect Help—Definitions, Base Structure Value, and Adjustments,

Petitioner Exhibit M: *The Grissim Ratings Guide to Manufactured Homes*, pages 52-53,

Petitioner Exhibit N: Photographs of the subject property’s ceilings,

Petitioner Exhibit O: Photographs of the subject property’s electrical outlets and light fixtures,

Petitioner Exhibit P: Photographs of the subject property’s plumbing fixtures,

Petitioner Exhibit Q: Photographs of the subject property’s windows,

Petitioner Exhibit R: Photographs of the subject property’s flooring and trim,

Petitioner Exhibit S: Photographs of the subject property’s walls and trim,

Petitioner Exhibit T: Assessor’s listing of properties in Carrington Pointe,

Petitioner Exhibit T1: Carrington Pointe map,

Petitioner Exhibit U: Email correspondence between Weislak and Eric Westermeyer,

Petitioner Exhibit V: Photographs of the subject property’s HVAC,

Petitioner Exhibit W: Quote from Masters Heating & Cooling Inc.,

Petitioner Exhibit X: Photographs of the subject property’s sliding glass door,

Petitioner Exhibit Y: Photographs of the subject property’s front door and door frame,

Petitioner Exhibit Z: Quote from Windows, Doors & More,

Petitioner Exhibit AA: Quote from Home Depot,

Petitioner Exhibit AB: Quote and receipt from Menards,

Petitioner Exhibit AC: Email correspondence between Weislak and Becca Redmond,

Petitioner Exhibit AC1: Photographs of Carrington Pointe basketball court and tennis court,

<sup>1</sup> Although Weislak provided an exhibit list identifying “Indiana DLGF Real Property Assessment Manual as Exhibit E1, he neither provided a copy of that exhibit nor offered it at the hearing.

Petitioner Exhibit AD: Carrington Pointe *Neighborhood News*, Summer 2022,

Petitioner Exhibit AE: Photographs of Carrington Pointe,

Petitioner Exhibit AE1: Photographs of homes for sale in Carrington Pointe,

Petitioner Exhibit AF: Photograph of underneath the subject property,

Petitioner Exhibit AG: Photograph of new home running gear,

Petitioner Exhibit AH: *N.A.D.A. Appraisal Guides*, page 16,

Petitioner Exhibit AI: Text of *In re Thornton*, 2016 WL 3092280 (Bankr. S.D. Ind. 2016),

Petitioner Exhibit AJ: *Manufactured Home Installation Manual* published by Manufactured Housing Research Alliance.<sup>2</sup>

Respondent Exhibit A: Form 131,

Respondent Exhibit B: Subject property record card,

Respondent Exhibit C: J.D. Power/N.A.D.A. Guide (November/December 2021) value calculation,

Respondent Exhibits D-K: Exterior photographs of the subject property,

Respondent Exhibit L: Listing of properties in Carrington Pointe,

Respondent Exhibit M: Appraisal of the subject property [REDACTED] (CONFIDENTIAL),

Respondent Exhibit N: 50 IAC 3.3-5-1,

Respondent Exhibit O: Mobile Home Permit,

Respondent Exhibit P: Addendum to Purchase and Sale Agreement,

Respondent Exhibit Q: List of 2021 sales in Carrington Pointe,

Respondent Exhibit R: Property record card for 7331 Kensington Drive West,

Respondent Exhibit S: Property record card for 7233 Kensington Drive West,

Respondent Exhibit T: Property record card for 7008 Kensington Drive West,

Respondent Exhibit U: Property record card for 7222 Kensington Drive West,

Respondent Exhibit V: Property record card for 4307 Laurel Terrace,

Respondent Exhibit W: Property record card for 4211 Hunters Pointe,

Respondent Exhibit X: Form 115,

Respondent Exhibit Y: *Tammie L. Taulbee v. Starke Cnty. Ass'r*, IBTR pet. no. 75-003-20-1-6-00581-20 (February 25, 2021),

Respondent Exhibit Z: N.A.D.A. Guide calculation submitted by the Assessor in *Taulbee*,

<sup>2</sup> For telephonic hearings, parties email their exhibits to us prior to the hearing. In addition to the exhibits listed, Weislak emailed Exhibits AK through AZ to our office. But he did not offer them, and we do not consider them. Weislak also emailed what he characterized as a verbatim written version of the testimony he planned to offer at the hearing. He did not introduce that document as an exhibit, and it does not appear that he copied the Assessor with his email. We therefore emailed both Weislak and the Assessor attaching Weislak's email and attached document and informing them that we would not consider that document in our determination. We reminded the parties to refrain from any ex parte communications with the Board or its employees.

Respondent Exhibit AA: Property record card submitted by the Assessor in the *Taulbee* case.

## II. Findings of Fact

### A. The Subject Property and Carrington Pointe mobile home park

5. The subject property is a 28' x 76' double-wide mobile home built by Four Seasons Housing in 1996. It sits on what appear to be concrete blocks that rest on concrete footers. It is located in Carrington Pointe Mobile Home Park in Fort Wayne. Carrington Pointe has 470 home sites, 32 (or 7.5%) of which are vacant and 438 of which have homes on them. The homes were built between 1991 and 2022, although almost half of them were built in 2014 or later. Several homes appear to suffer from varying levels of deferred maintenance. At some undisclosed point, 23 homes (or 5.25% of the total homes) were for sale. Six homes from Carrington Pointe sold in 2021. The median price was \$43,997.50, while the median unit price was \$18.39/sq. ft. *Wcislak testimony; Pet'r Exs. T-TI, AE-AE1; AF; Resp't Ex. Q.*
  
6. Carrington Pointe has paved streets and concrete sidewalks, although both require some resurfacing or other maintenance. Some of the streetlight poles have exposed wiring. The community has a playground, pool, and clubhouse. It also has volleyball, basketball, and tennis courts, although the community's off-site management had locked the gates to the basketball and tennis courts as a safety precaution while it waited on bids to have them resurfaced. The community does not have laundry facilities or pet restrictions. There has been an increase in vandalism and nuisance activities, and the city does not offer bus service to Carrington Pointe. *Wcislak testimony; Pet'r Exs. AC-AE1.*
  
7. Wcislak bought the subject home in August 2016 for \$28,000. The Allen County Treasurer issued a transfer of title permit on a form created by the now defunct State Board of Tax Commissioners. The form contained an uncompleted section relating to assessment deductions at the bottom:

Copy of site attached? YES		Current Control No. 073-0010013-9		New Control No.	
This Mobile Home Permit form may be used to apply for certain deductions for this property. Identify all of those that apply.					
Yes	No	Condition	Yes	No	Condition
<input type="checkbox"/>	<input type="checkbox"/>	1. Will this property be the buyer's primary residence? Provide complete address of primary residence, including county.	<input type="checkbox"/>	<input type="checkbox"/>	1. Homestead
Address (number and street)				<input type="checkbox"/>	<input type="checkbox"/>
City	State	Zip Code	County		
<input type="checkbox"/>	<input type="checkbox"/>	4. Does the buyer have a homestead in Indiana to be indicated for this residence? If yes, provide complete address of residence being indicated, including county.			3. Would you like to receive tax statements for this property via e-mail? (Provide contact information below. Not available in all counties.)
Address (number and street)					
City	State	Zip Code	County		

*Resp't Ex. O.*

8. The seller agreed to provide Weislak \$4,000 from the sale proceeds for repairs. Indeed, the home suffers from significant deterioration, including:

- water damage to ceilings,
- damage to several windowsills,
- damaged and separating carpet in several rooms,
- damage to flooring,
- miscut and damaged interior trim,
- damaged water fixtures and leaking toilets with accompanying damage to floors
- a subfloor just inside the front door that is rotting,
- a part of the ceiling around the furnace exhaust pipe that is falling,
- windowsills that are swelling,
- an unsafe furnace system with, among other things a rusted combustion chamber, and a rusted air-conditioner that is no longer in use, which have led Weislak to heat the home with space heaters and cool it with window air-conditioning units,
- ductwork in contact with soil beneath the home,
- a rusted, cracked door frame and misaligned sliding glass door, and
- damage to front and rear doors and doorframes.

*Weislak testimony; Swihart testimony; Pet'r Exs. H-S, V, X-Y; Resp't Exs. O-P.*

9. Weislak submitted estimates for replacing several items. A March 4, 2021 quote from Master Heating & Cooling, Inc. estimated a cost of \$10,115 for replacing the furnace, air-conditioner, water heater, portions of the duct work, and related items and labor. Another undated quote estimated a price of \$10,612 for replacing the front, rear, and sliding doors as well as storm doors. And a July 26, 2021 quote estimated a price of \$6,479 for installing carpet. In [REDACTED] appraisal prepared for Weislak's lender in connection with Weislak's chapter 13 bankruptcy proceeding, the appraiser [REDACTED] included an itemized list of repairs and replacements [REDACTED]

*Pet'r Exs. W, Z-AB; Resp't Ex. M.*

## **B. Valuation under the NADA Guide**

10. Both parties offered opinions of the home's value based on the National Automobile Dealers Association Guide. That guide was apparently acquired by J.D. Power. For ease of reference, we will refer to the guide as the "NADA Guide." In connection with the NADA Guide, J.D. Power offers a computer application called "MH Connect" to assist users in determining values for used mobile and manufactured homes.

11. The application allows users to determine a "Base Structure Value" based on the depreciated replacement cost of the home's make and model. The Base Structure Value represents depreciated replacement cost, in current-year retail dollars, for a home in average condition with traditional retailer mark-up and transportation and installation costs. In addition to other costs, that value includes bath and kitchen modules, window

coverings, furnace and ductwork, running gear and frame/chassis, a water heater and plumbing system, a freestanding range and refrigerator, standard metal siding and roofing, standard type doors, and average quality carpeting and vinyl floor covering.

*Pet'r Ex. L.*

12. Users can then adjust the Base Structure Value to account for the State in which the home is located and for several other factors, including:

- Features included in the Base Structure Value that are missing or damaged, or features that the home has but that are not included in the Base Structure Value,
- The home's condition and any necessary repairs,
- The relative quality of a land-lease community where the home is situated, and
- The home's wholesale value.

*Pet'r Ex. L.*

13. As to overall condition, MH Connect's help guide provides general descriptors for different condition levels, including:

- Average** - without inspection, the subject home is assumed to be a marketable product. **Being of no specific condition.** (average retail value)
- Fair** - minor deterioration is apparent due to climate and/or deferred maintenance. The subject home is less attractive but still useful.
- Poor** - Signs of structural deterioration are obvious, and there are missing and/or broken component items. The subject home is definitely undesirable, and only marginally useful.

*Pet'r Ex. L (emphasis in original).* The help guide further notes that "it is generally good practice to deduct for significant, necessary repairs and reconditioning." Rather than using the overall condition adjustment for those items, users should "consider using the repair/replacement costs featured in the Repair Section." *Pet'r Ex. L.*

14. According to the help guide, the Land-Lease Community Adjustment is "optional" and should be considered if users want to "account for the location by applying a general value guideline." But the help guide adds the caveat that "an individual local market-area adjustment for a specific land-lease community should only be made by a qualified appraiser." The help guide describes features for several levels of communities, ranging from "unique" to "poor."
15. Each level comes with a general description and a long list of representative features. For example, a "poor" community is "simply a minimum-standard rental/lease location." Among other things, "poor" communities have an "excessive" amount of vacant home sites. They usually lack recreation facilities, RV or shower facilities, laundry facilities, pet restrictions, home setbacks, off-street parking, and easy access to community

services. They have a mix of older single-wide homes, trailers, and RVs; poor streets, which may be dirt or gravel; problematic off-site management; and deferred maintenance. And permit violations or deficiencies may exist. *Pet'r Ex. L.*

16. By contrast, a "fair" community is a "below-standard land-lease community," which may be the only type of community that is available. Among other things, there will be some "for sale" signs and some home sites may be vacant. Such communities have a mix of older to newer homes, including many single-wide homes. They usually have shower and laundry facilities, although they have minimal, if any, recreational facilities. They may have paved streets, and there is acceptable access to local community services. Their owners or managers may live on-site, and they meet all local building/safety department regulations. *Pet'r Ex. L.*

17. The Base Structure Value, as adjusted, reflects depreciated cost in retail dollars. MH Connect allows users to apply a discount to determine a wholesale value, which the help guide explains is the amount a retailer would pay for a used home. There are three options for a wholesale discount: (1) "Consignment," which accounts for a retailer's commission and assumes that the home remains at the same location and has the same owner until the sale; (2) "Purchase," which accounts for a retailer's gross profit margin and assumes that a retailer buys the home outright for resale without moving it; and (3) "Moved for Resale," which assumes a retailer buys the home with the intent of moving it and accounts for the costs associated with that process along with the retailer's profit. *Pet'r Ex. L.*

### C. Valuation Opinions

18. Weislak and the Assessor each used MH Connect to generate a valuation report for the subject home, although Weislak made additional adjustments.

1. Weislak's NADA valuation report

19. We begin with Weislak's report:

Main Floor Area	<u>Width</u>	<u>Length</u>	<u>Total Value</u>	
	28	76	\$27,347.04	
Floor Value				\$27,347.04
Items Multiplier (N/S)				x N/A
<b>Base Structure Value</b>				<b>\$27,347.04</b>
State Location Adjustment Selected: Yes				x 102%
Total Book Retail Value (average condition)				\$27,893.98
Condition Adjustment Selected: Poor				x 70%
Condition Adjusted Value				\$19,525.79
Land-Lease Community Adjustment Selected: Poor				x 93%
Land-Lease Community Adjusted Value				<u>\$18,158.98</u>
Total Adjusted Value of Used Home				\$18,158.98
Total Additional Features				(\$5,875.00)

Total Repairs	\$0.00
<b>Total Adjusted (Retail) Value of Used Home and Optional Equipment</b>	<b>\$12,283.98</b>
Wholesale Value Selected: Consignment	<u>        x        93%</u>
	<b>\$11,424.10</b>

Additional Adjustments Selected: No

*Pet'r Ex. H.*

20. Wcislak justified his choice of “poor” for his condition adjustment by pointing to all the damage and deferred maintenance described above, including the issues with the heating and air-conditioning systems that made them unusable. He also adjusted for a “poor” land-lease community, pointing to Carrington Pointe’s vacancy and “for sale” rates, its lack of shower and laundry facilities and pet restrictions, the deferred maintenance that caused off-site management to close the basketball and tennis courts while it sought bids to resurface them, and management’s lack of what he viewed as an appropriate response to the increased nuisance activity. *Wcislak testimony.*
21. For the “Additional Features” adjustment, Wcislak removed the costs of what he referred to as running gear (“Brake Axle w/hub,” “Removable Hitch/Tow Bar,” and “Wheel Rim, and Tire”) a 12-cubic-foot refrigerator, a 30-inch freestanding range, window coverings, a heating system (including furnace), and a plumbing system (including water heater). To justify his decision, he pointed to *In re Thornton*, No. 15-6762-RLM-13, 2016 Bankr. LEXIS 2089 (Bankr. S.D. Ind. May 23, 2016), which he believes stands for the proposition that mobile home values in Indiana must exclude refrigerators, ice makers, ovens, and washers and dryers, as well as accessories such as skirting, steps, porches, and decks. *Wcislak testimony; Pet'r Exs. H, AI.*
22. Because he is a consumer instead of a retailer, Wcislak also selected the “Consignment” wholesale adjustment, which left a value of \$11,424.10. But in Wcislak’s view, that did not account for items that needed to be repaired or replaced. He pointed to the quotes he received for replacing the heating and cooling systems, doors, and carpeting [REDACTED]. [REDACTED] Subtracting for those repairs and replacements left a negative value, so Wcislak valued the home at the nominal amount of \$1. *Wcislak testimony; Pet'r Ex. U; see also Pet'r Exs. W, Z-AB.*

2. The Assessor’s NADA valuation report

23. The Assessor arrived at a much different value in her report:

Main Floor Area	<u>Width</u>	<u>Length</u>	<u>Total Value</u>	
	28	76	\$27,347.04	
Floor Value				\$27,347.04
Items Multiplier (N/S)				x N/A
<b>Base Structure Value</b>				<b>\$27,347.04</b>
State Location Adjustment Selected: Yes				x 102%



Total Book Retail Value (average condition)	\$27,893.98
Condition Adjustment Selected: Fair	x 82%
Condition Adjusted Value	\$22,873.06
Land-Lease Community Adjustment Selected: N/A	x N/A
Land-Lease Community Adjusted Value	<u>\$22,873.06</u>
Total Adjusted Value of Used Home	\$22,873.06
Total Additional Features	+ \$1,369
Total Repairs	\$0.00
<b>Total Adjusted (Retail) Value of Used Home and Optional Equipment</b>	<b>\$24,242.06</b>
Wholesale Value Selected: No	N/A
Additional Adjustments Selected: No	N/A

*Resp't Ex C.*

24. Instead of "poor," the Assessor selected "fair" to describe the home's condition. The Assessor's deputy, John Swihart, believed that the office's exterior inspection of the home confirmed that choice. In his view, the home's condition was average in comparison to other homes of a similar age and size. The "fair" rating was simply an effort to account for Wcislak's proposed repairs, most of which Swihart characterized as cosmetic issues that addressed ongoing maintenance rather than issues that needed to be fixed for the home to be occupied. *Swihart testimony; Resp't Exs. C-D.*
  
25. Based on the exterior inspection, the Assessor also included a central air conditioning system and skirting as additional features. But she did not make any of Wcislak's proposed negative adjustments. According to Swihart, if the Assessor had made those adjustments, she would have also had to make upward adjustments for additional interior features, [REDACTED] Because nobody from the Assessor's office inspected the home's interior, the Assessor could not determine what those adjustments would be. *Swihart testimony; Resp't Ex. C.*
  
26. Unlike Wcislak, the Assessor did not select a Land-Lease Community Adjustment. Swihart characterized that option as "mostly a choice," pointing to another appeal (*Taulbee v. Starke Cnty. Ass'r*, pet. no. 75-003-20-1-6-00581-20 (IBTR Feb. 25, 2021)) where we accepted an assessor's NADA-generated valuation that did not select Land-Lease Community option either. The Assessor similarly opted not to select an adjustment for Wholesale Value. *Swihart testimony; Resp't Exs. C, Y-Z.*
  
3. [REDACTED]
  
27. The Assessor also offered a copy of [REDACTED] appraisal, where he estimated the home's market value at [REDACTED] Like Wcislak and the Assessor, [REDACTED] included a computer-generated report from MH Connect, although he does not appear to have relied on that report. He also prepared a more detailed appraisal report using the NADA guide. [REDACTED]

- [REDACTED]
28. [REDACTED] made various adjustments in his more detailed report. [REDACTED] Those adjustments appear to have been itemized on pages that are not included in the report that was submitted at the hearing. [REDACTED] *Swihart testimony; Resp't Ex. M.*

### III. Conclusions of Law and Analysis

29. In his Form 131 petition, Wcislak both contested the valuation of the subject home and claimed that he was improperly denied a homestead deduction. We begin with his valuation claim.
- A. Wcislak failed to meet his burden of proving that the subject home was assessed for more than its true tax value.**
1. The true tax value of an annually assessed mobile home is the lowest value determined using the NADA Guide, the price from a recent sale of the home, and sales data for comparable homes.
30. 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 Cnty. Ass'r*, 177 N.E.3d 127, 131-32 (Ind. Tax Ct. 2021).
31. Indiana has specific statutes and regulations that provide different methods for assessing mobile homes. If the home has a certificate of title issued by the Indiana Bureau of Motor Vehicles under Ind. Code § 9-17-6 and is not on a permanent foundation, the Department of Local Government Finance (“DLGF”) defines it as an “annually assessed mobile home.” 50 IAC 3.3-2-2. But if the mobile home has a recorded affidavit of transfer to real property or has a certificate of title issued by the Indiana Bureau of Motor Vehicles under Ind. Code § 9-17-6 and is attached to a permanent foundation, the DLGF identifies it as a “real property mobile home.” 50 IAC 3.3-2-4. The DLGF defines a “permanent foundation” as “any structural system capable of transposing loads from a structure to the earth at a depth below the established frost line.” 50 IAC 3.3-2-3.5.
32. In assessing mobile homes, assessors must use the standard of true tax value. 50 IAC 3.3-5-1(a). 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.” 2021 REAL

PROPERTY ASSESSMENT MANUAL at 2. Real property mobile homes are to be assessed using the residential cost schedules in the 2021 Real Property Assessment Guidelines. 50 IAC 3.3-3-1(b). By contrast, the true tax value of an annually assessed mobile home and of all exterior features, yard structures, and improvements owned by the mobile homeowner is the lowest value determined using:

- (1) the National Automobile Dealers Association Guide;
- (2) the purchase price of the mobile home if the:
  - (A) sale is of a commercial enterprise nature;
  - (B) buyer and seller are not related by blood or marriage; and
  - (C) sale date is within one (1) year prior to or subsequent to the January 1 valuation date; or
- (3) sales data for generally comparable mobile homes.

50 IAC 3.3-5-1; *see also* 50 IAC 3.3-3-1(d) and I.C. § 6-1.1-31-7(b)(6).

33. Although the subject home has a foundation, there is no evidence addressing whether that foundation is capable of transposing loads to the earth at a level below the established frost line, as is necessary under the DLGF's definition for a real property mobile home. Instead, the parties treat the home as an annually assessed mobile home, and we will do the same.<sup>3</sup>

2. Neither the untimely sale of the subject home nor the raw sales data for other Carrington Pointe homes is probative.

34. While the Assessor offered evidence of the home's purchase price, the sale was from more than five years before the January 1, 2022 valuation date. Similarly, Swihart admitted that he could not verify the circumstances for the Assessor's sales information for other homes in Carrington Pointe. Even if we were to assume that all the sales were arm's-length market-value transactions, the Assessor simply offered some raw data about the homes. Neither she nor Swihart explained how relevant differences between those homes and the subject home affected their relative values. *See Long v. Wayne Twp. Ass'n*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005) (finding that comparable sales data was not probative where taxpayers failed to explain how differences in characteristics between the sold properties and the property under appeal affected value).

3. None of the NADA Guide-based valuation opinions show that the subject home was assessed for more than its true tax value.

*a. Weislak failed to support most of the adjustments in his valuation opinion.*

35. That leaves us with the various valuation opinions prepared using the NADA Guide. We begin with Weislak's opinion. We have no qualms with Weislak's computation of the

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<sup>3</sup> Our determination of Weislak's appeal would not change if we were to treat the home as real property. His valuation using the NADA Guide's depreciated-replacement-cost approach would still lack probative value, and he offered no other market-based valuation evidence.

home's total book value (\$27,838.98). Indeed, the Assessor reached the same conclusion. But we find that Weislak failed to support several of the adjustments he made to that value.

36. We begin with Weislak's related adjustments for condition and repairs. Weislak offered photographs showing deterioration. Some of the deterioration can aptly be termed as structural, and there are broken component items, such as the furnace, air-conditioning unit, and ductwork. Many of the issues, however, are best characterized as minor deterioration stemming from deferred maintenance. Overall, the home straddles the line between the help guide's descriptions of fair and poor condition.
37. But Weislak essentially double counted most aspects of the home's deterioration. He subtracted for repairs, pointing to quotes for replacing several items, such as the furnace, air-conditioner, water heater, doors, and carpeting [REDACTED]. If the repairs were made or the items replaced, however, the home would no longer straddle the line between poor and fair condition but would instead be more properly characterized as fair or average. So Weislak effectively double counted the effects of the home's deterioration. In a few instances, he triple counted those effects. For example, a central air-conditioning unit is not included in the replacement costs for the home's Base Structure Value, and Weislak did not add it as an additional feature. Yet he pointed to its deterioration in justifying his condition rating, and it is one of the items included in his repair costs. The same is true for the home's heating and plumbing systems, which Weislak affirmatively deducted from the Base Structure Value, but included in justifying his condition rating and in his repair costs.
38. We likewise find that the evidence does not support Weislak's Land-Lease Community adjustment. Several homes in Carrington Pointe suffer from deferred maintenance and there are no pet restrictions, both of which are consistent with the help guide's description of a "poor" community. Much of the other evidence, however, points to a "fair" community. For example, there are paved streets and recreation areas, although both suffer from deferred maintenance. The homes are a mix of old and new, with almost half having been manufactured in 2014 or later. Although some homes were for sale and 7.5% of the homesites were vacant, both of those things are consistent with a "fair" community. Indeed, Weislak did not offer anything to show that the vacancy rate was excessive for a mobile home community.
39. We give no weight to Weislak's reliance on Carrington Pointe's lack of laundry, shower, or vehicle washing facilities. Those appear to relate more to differentiating between levels of parks that cater to recreational vehicles than to ones that cater to mobile or manufactured homes. And while there is no bus stop by Carrington Pointe, that fact by itself says little about whether there are nearby community services that residents may access. Similarly, while Carrington Pointe's management is located offsite, we hesitate to characterize it as "problematic." At most, Weislak showed that management had delayed some maintenance, such as resurfacing some roads and recreational areas and repairing exposed wiring on some streetlights, and that Weislak was not personally satisfied with its response to increased nuisance activities. In short, the evidence does not

depict a community that is “simply a minimum-standard rental/lease location,” which is what the Guide defines as “poor.”

40. We similarly find that Wcislak’s “Consignment” adjustment was inappropriate. As Wcislak admits, he is not a retailer, but rather a consumer. It is not apparent how he is entitled to the adjustment. Moreover, he failed to explain whether wholesale value comports with market value-in-use.

b. [REDACTED] value conclusion is too far removed from the relevant valuation date and the Assessor’s valuation opinion does not support a lower value.

41. That leaves the NADA Guide-based valuations from the Assessor and [REDACTED]. We give no weight to [REDACTED] conclusions [REDACTED]. And the Assessor’s opinion, when rounded to the nearest \$100, matches the challenged assessment. Even if we were to fully credit that value conclusion, it would not support Wcislak’s request for lowering the assessment.

42. Wcislak argued that he was taxed for items that either the home did not have, (running gear), or that were not taxable, (refrigerator, range, and window coverings). But nothing in the record indicates that those items were included in the assessment as issued by the PTABOA. It is no matter whether the items were included in the NADA calculations by [REDACTED] or the Assessor because we do not rely on either valuation.

**B. Wcislak is not entitled to relief on his claim that he was improperly denied a homestead deduction.**

43. Finally, Wcislak claims that he was improperly denied a homestead deduction because the Assessor failed to properly complete the bottom section of the transfer of title permit from Wcislak’s purchase of the home. According to Wcislak, the Assessor withheld the fact that she had not completed that section until she produced a copy of the permit at the PTABOA hearing. Wcislak therefore argued that he should receive the homestead deduction retroactively for all tax years since 2016. Although Wcislak did not identify the statutory basis for his claimed deduction, we assume he was referring to the standard homestead deduction provided by Ind. Code § 6-1.1-12-37.

44. We find that Wcislak failed to show that he is entitled to a homestead deduction for 2022 or any of the preceding tax years. First, he cited to no authority that the Assessor had a duty to complete the bottom section of the transfer of title permit on his behalf. Nor did he testify that he provided her with the information necessary for completing the section. Indeed, Wcislak neither testified that the home was his or his wife’s principal place of residence, nor offered any evidence to show whether they were claiming a homestead deduction on another property in Indiana. Both of those are essential elements to proving eligibility for the deduction. See I.C. § 6-1.1-12-37(a)(2) (defining “homestead,” in part, as an individual’s “principal place of residence”); see also I.C. § 6-1.1-12-37(h) (prohibiting auditor from granting an individual or married couple a homestead deduction

on a property if they filed applications claiming the deduction on a different property for the same year).

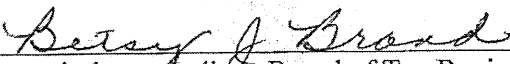
45. Second, Wcislak failed to show that a taxpayer could apply for the homestead deduction through an unsigned transfer of title permit. To the contrary, the applicable statutes lay out two ways for taxpayers to apply for the deduction. They can file a certified statement with the county auditor on a form prescribed by the DLGF. I.C. § 6-1.1-12-37(e). The DLGF created Form HC10 for that purpose. 50 IAC 24-4-2. To obtain a deduction for a desired year in which taxes are first due and payable, taxpayers must complete and sign Form HC10 within the preceding calendar year and file that form on or before January 5 of the year for which the deduction is sought. I.C. § 6-1.1-12-37(e). Alternatively, taxpayers can claim the deduction using the sales disclosure form completed at the time they buy the property. *Id.*; I.C. § 6-1.1-12-44. In either case, taxpayers must provide the relevant information and attest to its truth. *See* I.C. § 6-1.1-12-37(e) (requiring a taxpayer requesting the homestead deduction to file a certified statement on forms prescribed by the DLGF); I.C. § 6-1.1-5.5-9 (requiring person signing sales disclosure form to attest in writing to the truth of the information on the form subject to the penalties of perjury).
46. Even if we were to assume that the Assessor or another local official had a duty to complete the section on the transfer of title permit addressing deductions and that doing so would have sufficed to meet the statutory requirements for claiming a homestead deduction, Wcislak's remedy was to timely appeal the denial of his deduction, beginning at the local level. *See* I.C. § 6-1.1-15-1.1(a) (providing that a taxpayer may appeal an assessment, including an error in the denial or omission of a deduction, by filing a written notice with the township or county assessor). He did not do so for 2022; instead, he raised the issue for the first time in his Form 131 petition to us. Nor is there any evidence to show that he appealed the issue for any of the previous years, none of which are before us on appeal. For all those reasons, Wcislak has failed to prove that he was entitled to the homestead deduction either for the year before us on appeal or for any previous year.

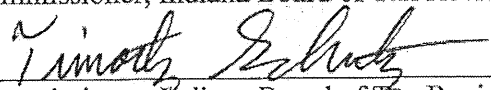
#### IV. Conclusion

47. Wcislak failed to prove that the assessment is incorrect and what the correct assessment should be. As for Wcislak's claim that he was denied the standard homestead deduction, he failed to (1) follow the statutory procedures to apply for the deduction, (2) properly appeal the omission or denial of the deduction, or (3) prove that he qualified for it. We therefore find for the Assessor and order no change to the assessment as determined by the PTABOA.

Date: 6/12/23

  
\_\_\_\_\_  
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>>.