

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

**Petitions:** 49-800-19-1-4-00739-21  
49-800-20-1-4-00797-21  
49-800-21-1-4-00798-21  
**Petitioner:** Baker Holdings, LLC  
**Respondent:** Marion County Assessor  
**Parcel:** 8054834  
**Assessment Years:** 2019-2021

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

1. Baker Holdings, LLC filed Form 130 petitions contesting its 2019-2021 assessments. The Marion County Property Tax Assessment Board of Appeals (“PTABOA”) issued Form 115 determinations lowering the assessment to the following values for each year on appeal:

Land	Improvements	Total
\$257,800	\$468,100	\$725,900 <sup>1</sup>

2. Baker Holdings then timely filed Form 131 petitions with the Board, electing to proceed under our small claims procedures. On February 7, 2023, Erik Jones, our designated administrative law judge (“ALJ”), held a telephonic hearing on Baker Holdings’ petitions. Neither he nor the Board inspected the property. Mark Baker appeared for Baker Holdings. John Lowrey and Brian Coppinger appeared as counsel for the Assessor. Baker and Melissa Tetrick were sworn as witnesses.

**RECORD**

3. The parties offered the following exhibits as part of the official record:

Petitioner Exhibit 1	Taxpayer summary supporting reclassification,
Petitioner Exhibit 2	Parcel information for Baker Holdings, LLC,
Petitioner Exhibit 3	Parcel information for Hulen Real Estate, LLC,
Petitioner Exhibit 4	Parcel information for Ocular Properties, LLC,
Petitioner Exhibit 5	Parcel information for 640 Partners, LLC,
Petitioner Exhibit 6	Parcel information for Northview Christian, Inc.,

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<sup>1</sup> Baker Holdings attached the same Form 115 determination, which was for the 2019 assessment year, to all three appeal petitions. But its Form 131 petitions for 2020 and 2021 indicate that the PTABOA determined the same values for all three years.

Petitioner Exhibit 7	Email exchanges between Jeremy Miller, Mark Baker, and Gabriel Deaton, from July 29, 2022, to Sept. 29, 2022,
Petitioner Exhibit 8	Nov. 4, 2022 email from Mark Baker to Melissa Tetrick,
Petitioner Exhibit 9	E-mail exchanges between Mark Baker, John Lowrey, and Melissa Tetrick, from Nov. 9, 2022, to Dec. 2, 2022,
Petitioner Exhibit 10	Mark Baker income documents,
Petitioner Exhibit 11	Email from Joe Alerding to Mark Baker (undated),
Petitioner Exhibit 12	Color photographs of subject property,
Petitioner Exhibit 13	Color photographs of Hulen Real Estate property,
Petitioner Exhibit 14	Color photographs of 640 Partners, LLC property,
Petitioner Exhibit 15	Color photographs of Ocular Properties, LLC property,
Petitioner Exhibit 16	Aerial rendering of subject property,
Petitioner Exhibit 17	Aerial photograph of Hulen Real Estate property,
Petitioner Exhibit 18	Aerial photograph of subject property with handwritten notes,
Petitioner Exhibit 19	Baker Holdings' responses to Assessor's Requests for Production of Documents.
Respondent Exhibit 1.A	Aug. 11, 2022 email from John Lowrey to Mark Baker,
Respondent Exhibit 1.B	Respondent's First Interrogatories,
Respondent Exhibit 1.C	Respondent's First Request for Production of Documents,
Respondent Exhibit 2	Respondent's Motion to Compel,
Respondent Exhibit 3	Order on Respondent's Motion to Compel,
Respondent Exhibit 4 <sup>2</sup>	Dec. 10, 2022 letter from Mark Baker,
Respondent Exhibit 5	Dec. 20, 2022 email from John Lowrey to Mark Baker with attached responses to Requests for Production of Documents,
Respondent Exhibit 6	Sketch of building footprint for the subject property,
Respondent Exhibit 7	Appeals detail for subject property,
Respondent Exhibit 8	Form 115 determination,
Respondent Exhibit 9	Form 131 petition.

4. The official record also includes (1) all documents filed by the parties, (2) all orders and notices issued by the Board or ALJ, and (3) an audio recording of the hearing.

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<sup>2</sup> Before the hearing, the Assessor complained about Baker Holdings' behavior in discovery. According to the Assessor, Baker Holdings ignored his written discovery requests, forcing the Assessor to file a motion to compel. We granted the motion and issued an order directing Baker Holdings to respond to those requests by December 1, 2022. It did not forward its responses until December 10. *See Resp't Ex. 4*. And in his response to the Assessor's Request for Production of Documents, the certificate of service was altered to read December 3, 2022 instead of the date that the Assessor had originally served the request. *See Resp't Ex. 5*. The Assessor accused Baker of deliberately trying to create the impression that he had timely responded to the Assessor's requests. We disagree. Counsel for the Assessor himself indicated that the discrepancy appeared to stem from the word processing program's automatic update feature in the requests that the Assessor provided for Baker Holdings' convenience in answering. *Resp't Ex. 4*. In any case, the Assessor neither claimed any prejudice from Baker Holdings' untimely response nor requested any sanction.

## OBJECTIONS

### A. The Assessor's Objections

5. The Assessor objected to Petitioner's Exhibits 7-9. Exhibit 7 is an email string from July through September 2022 between Baker, Jeremy Miller from [appealtaxes-now.com](http://appealtaxes-now.com), and Gabe Deaton in which Baker indicates to Miller his desire for the Assessor to reclassify the subject property from office to industrial warehouse. Exhibit 8 is a November 4, 2022 email from Baker to Melissa Tetric, the Assessor's deputy director for commercial and industrial assessments, indicating, among other things, that Baker had consulted with attorneys who suggested that he contact Tetric to try to resolve his issues without having to file an appeal for the 2022 assessment year. Exhibit 9 consists mostly of emails between Baker and the Assessor's counsel, John Lowery, in which Baker lays out an offer to resolve the current appeals and Lowry rejects Baker's offer. The Assessor objected to the exhibits on relevance and hearsay grounds as well as on grounds that they contain settlement discussions.
6. We sustain the objections. Evidence is relevant if it tends to make a fact of consequence "more or less probable than it would be without the evidence." Evid. R. 401. "This often includes facts that merely fill in helpful background information . . . even though they may only be tangentially related to the issues presented." *Hill v. Gephart*, 62 N.E.3d 408, 410 (Ind. Ct. App. 2016). The emails do little to make any fact of consequence more or less probable that it would be without them. Baker Holdings offered the emails to show Baker's attempts to get the Assessor to inspect his property and change its classification and assessment. But the fact that Baker unsuccessfully attempted to get the Assessor to change the property's classification does nothing to show whether the property was correctly classified or what its market value-in-use was. Nor do those attempts provide helpful background information.
7. At most, the emails contain a few factual assertions from Baker about the subject property and purportedly comparable properties. But to the extent Baker Holdings relies on those statements, they are hearsay, which is generally inadmissible. *See* Ind. Evid. R. 801 (defining hearsay as a statement not made while the declarant is testifying at hearing or trial that is offered to prove the truth of the matter asserted); *see also*, Evid. R. 802 ("Hearsay is not admissible unless these rules or other law provides otherwise."). Baker Holdings did not argue that the emails fit within any recognized exception to the hearsay rule. Although our procedural rules allow us to admit hearsay, they do not require us to do so. 52 IAC 4-6-9(d) (providing that we "may" admit hearsay evidence). Under these circumstances, where the hearsay is largely cumulative of other evidence that Baker offered and most of the hearsay comes from an email string with Assessor's counsel that contains settlement negotiations, we decline to exercise our discretion to admit the emails over the Assessor's objection. Having resolved on these grounds, we need not address whether they included settlement discussions.

## **B. Baker Holdings' Objection**

8. Baker Holdings objected to Respondent's Exhibit 6—a sketch with the dimensions of the subject building's footprint—on grounds that the Assessor referred to the sketch as a “floorplan.” According to Baker Holdings, calling the sketch a floorplan is misleading because it does not show the divisions in the building's interior. But the Assessor did not offer the sketch to show those divisions, and the document speaks for itself. We therefore overrule the objection.

### **FINDINGS OF FACT**

9. The subject property is located at 6442 Rucker Road in Indianapolis. It has a 12,177-square foot building that sits on a 101,843-square-foot lot. *Pet'r Ex. 2.*

### **SUMMARY OF CONTENTIONS**

10. **Baker Holdings' Contentions:**
  - a. Mark Baker is the president of Baker Holdings, which owns the property. The property includes a single, wood-frame building with wood joist ceilings that housed Baker Machinery from 1999 until that company's closure in 2017 or 2018. Since Baker Machinery stopped operating, Baker is the only person who has used the building. *Baker testimony.*
  - b. The building includes both office and warehouse space. The entire property is heated, but only portions have air conditioning. The warehouse sections are finished with carpet and drywall walls, although the 18-foot ceilings are unfinished. The office space is finished with carpet, drywall, and a drop ceiling. *Baker testimony.*
  - c. The Assessor has classified the property as office space. While it was used for that purpose at one point, it no longer is. Baker now uses only a single office, and the rest of the building is storage. He occasionally uses the warehouse portion to refurbish used equipment. He therefore believes that the property should be classified as an industrial warehouse. *Pet'r Ex. 1; Baker testimony.*
  - d. Baker offered photographs of four nearby properties. He also offered assessment information for them, including their use classifications and building sizes:

	<b>Location</b>	<b>Bldg. Size</b>	<b>Classification</b>	<b>Assessed Values</b>
Subject	6442 Rucker Rd., Indianapolis	12,117 sf	Office Building	\$725,900
Comp A	6464 Rucker Rd., Indianapolis	11,600 sf.	Indus. Warehouse	2019: \$190,800 2020: \$197,300 2021: \$207,700
Comp B	6468 Rucker Rd., Indianapolis	12,633 sf	Indus. Warehouse	2019: \$135,600 2020: \$139,800 2021: \$146,500
Comp. C	5167 E. 65 <sup>th</sup> St., Indianapolis	52,150 sf	Light Manuf. & Assembly	2019: \$1,440,900 2020: \$1,944,100 2021: \$1,944,100
Comp D	5440 E. 65 <sup>th</sup> St., Indianapolis	46,273	Exempt – Religious Org.	2019: \$2,162,300 2020: \$2,116,900 2021: \$2,116,900

*Pet'r Exs. 1-6, 13-15; Baker testimony.*

- e. Baker did not know what type of construction, such as masonry or steel, was used for each building. He acknowledged that comparable D was a church. He questioned why that should excuse the owner from paying property taxes but agreed that was a question for “another day.” *Baker testimony.*
- f. Baker also disputed the Assessor categorizing the subject property as “unique,” arguing that the Assessor should not punish Baker Holdings for the subject property’s non-standard finishes, like the carpeted warehouse. *Pet'r Ex. 6; Baker testimony.*

## 11. The Assessor’s Contentions

- a. Baker Holdings failed to make a prima facie case to reclassify the subject property as an industrial warehouse. The building was assessed using cost data for office space and utility storage. According to Tetrick, industrial warehouse properties, the classification Baker Holdings wants for its property, have several distinguishing features that the subject building lacks. Among other things, they typically range from 750,000 to 1 million square feet of total floor space. They are largely of “kit” construction, meaning they are made of prefabricated wood, steel, or concrete that is assembled on-site. Their layouts usually dedicate 80%-90% of available floor space to storage, and just 10-20% to offices. Finally, industrial warehouses are rarely, if ever, finished with carpet or drywall. By contrast, the subject property is much smaller, has a much higher percentage (roughly 47%) of its overall floor space configured as offices, is non-prefabricated wood construction, and has carpet and drywall finishing. *Pet'r Ex. 2; Resp't Ex. 6; Tetrick testimony.*
- b. Similarly, Baker’s purportedly comparable buildings are all dissimilar to the subject building. Comparable buildings A and B are steel-frame kit construction. Comparable building C is a masonry and steel kit building, but it is used for manufacturing, not warehousing. Building assessments are based on cost, and it is

cheaper to build a kit building than an equivalently sized non-kit building. *Pet'r Exs. 2, 13-15; Tetrick testimony.*

#### ANALYSIS

12. 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 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).
13. The goal of Indiana's real property assessment system is to arrive at an assessment that reflects a property's true tax value. 50 IAC 2.4-1-1(c); 2011 REAL PROPERTY ASSESSMENT MANUAL at 3. "True tax value" does not mean "fair market value" or "the value of the property to the user." I.C. § 6-1.1-831-6(c), (e). It is instead determined under rules promulgated by 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 MANUAL at 2.<sup>3</sup>
14. All three standard appraisal approaches—the cost, sales-comparison, and income approaches—are "appropriate for determining true tax value." 2011 MANUAL at 2. In an assessment appeal, the parties may offer objectively verifiable market-based evidence relevant to a property's true tax value, including appraisals prepared in accordance with generally recognized appraisal principles. *Id.* at 3; *Piotrowski*, 177 N.E.3d at 131-32; *see also Eckerling v. Wayne Twp. Ass'r*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006) (reiterating that a market value-in-use appraisal that complies with USPAP is the most effective method for rebutting the presumption an assessment is correct).
15. Baker Holdings did not offer any market-based evidence to prove the subject property's overall market value-in-use. At most, Baker pointed to the assessments for four purportedly comparable properties. But he did little to compare those properties to the subject property, much less to explain how relevant differences affected the properties' market values-in-use. The comparable properties' assessments therefore do not suffice to prove either that the subject property's assessments are wrong, or what its correct assessments should be. *See Long v. Wayne Twp. Ass'r*, 821 N.E.2d at 466, 470-471 (Ind. Tax Ct. 2005) (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 Cnty. Ass'r*, 15 N.E.3d 150, 155 (Ind. Tax Ct. 2014).

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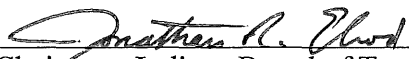
<sup>3</sup> We cite to the version of the Real Property Assessment Manual that was in effect when the property was first assessed. The cited provisions do not substantively differ from the current version of the MANUAL. *See* 2021 REAL PROPERTY ASSESSMENT MANUAL at 2.

16. To be fair, Baker Holdings did not offer information about the purportedly comparable properties primarily to show a specific value for the subject property, but rather to support its argument that the property should have been classified as industrial warehouse and its building assessed as warehouse space. But that is simply a challenge to the Assessor's methodology in computing the assessment. And the Tax Court has repeatedly held that a taxpayer does not make a prima facie case merely by pointing to an assessor's incorrect application of assessment regulations but must instead offer market-based evidence to show that the assessment does not reflect its property's market value-in-use. *E.g., Piotrowski*, 177 N.E.3d at 132.
17. In any case, neither Baker's testimony about the subject property's use after Baker Machinery ceased operations nor the assessments of the purportedly comparable properties, which were mostly built using kit construction, shows that the subject property should have been classified as industrial warehouse or that its building should have been assessed using different cost models. To the contrary, cost models are "conceptual tools used to assist in estimating the replacement cost new of a given structure." 2011 REAL PROPERTY ASSESSMENT GUIDELINES, ch. 7 at 7. Those models "assume that there are certain elements of construction for a given use type," and the DLGF's assessment guidelines therefore instruct assessors to select the model that best represents the structure being assessed. *Id.* Baker Holdings failed to show that cost models for industrial warehouses better represented the subject building than the models for office and utility storage that the Assessor used.

#### CONCLUSION

18. Baker Holdings failed to make a prima facie case for changing its assessment. We find for the Assessor and order no change to the assessments.

Date: MA 08, 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 of 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>.