

REPRESENTATIVE FOR PETITIONER: Christopher Bougie, pro se

REPRESENTATIVE FOR RESPONDENT: Kosciusko County Assessor Gail Chapman, pro se

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

CHRISTOPHER BOUGIE,)	Petition Nos.: 43-033-21-1-5-00869-21
)	43-033-22-1-5-00953-22
)	
Petitioner,)	Parcel No.: 43-11-16-200-069.000-033
)	
v.)	County: Kosciusko
)	
KOSCIUSKO COUNTY ASSESSOR,)	Assessment Years: 2021 and 2022
)	
Respondent.)	

June 1, 2023

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. Christopher Bougie contested his 2021 and 2022 assessments. Because Bougie did not offer any probative market-based evidence to show the true tax value of the subject property and did not prove his uniform and equal claim, he failed to make a case for reducing either assessment. However, the Assessor offered appraisals prepared in accordance with the Uniform Standards of Professional Appraisal Practice (“USPAP”) that provide reliable, market-based opinions of the subject property’s true tax value as of each assessment date. We therefore find for the Assessor and order the 2021 and 2022 assessments changed to reflect the value conclusions from the Assessor’s appraisals.

PROCEDURAL HISTORY

2. Bougie challenged the 2021 and 2022 assessments of his property located at 1016 Court Street in Winona Lake. The Kosciusko County Property Tax Assessment Board of Appeals (“PTABOA”) issued final determinations for both years valuing the subject property as follows:

Year	Land	Improvements	Total
2021	\$34,200	\$189,700	\$223,900
2022	\$39,000	\$243,000	\$282,000

3. Bougie timely filed Form 131 petitions with the Board. On February 1, 2023, our designated administrative law judge, David Smith (“ALJ”), held a telephonic hearing on the petitions.¹ Neither he nor the Board inspected the subject property.
4. Prior to the hearing, the Assessor sought an order pursuant to Ind. Code § 6-1.1-4-15(b) allowing her to inspect the interior and exterior of the subject property to which Bougie filed a written objection. On August 9, 2022, we issued an Order granting the Assessor’s inspection request. Bougie subsequently filed a motion to reconsider which we denied by Order dated October 3, 2022. Our Order denying Bougie’s motion to reconsider required him to permit the Assessor to perform a physical site inspection of the subject property on or before November 7, 2022. It further advised Bougie that failure to comply with the Order could result in discovery sanctions under 52 IAC 4-8-7.
5. At the beginning of the hearing on February 1, 2023, the Assessor asked our ALJ whether we were going to sanction Bougie for refusing to comply with our inspection Orders. Our ALJ denied the Assessor’s request for sanctions. During his subsequent testimony, Bougie cited his rights under the 4th Amendment of the U.S. Constitution and discussed

¹ On January 18, 2023, the Board received a letter from Bougie demanding a jury trial as provided for by Indiana Trial Rule 38, or alternatively a summary jury trial as described in Rule 1.3 of the Indiana Rules for Alternative Dispute Resolution. The Board is an administrative agency and not a court. It is charged with reviewing property tax appeals, I.C. 6-1.5-4-1, and is the trier of fact, I.C. 6-1.1-15-20. We therefore deny his jury trial demands.

several Supreme Court cases that he argued render Ind. Code § 6-1.1-4-15(b) and 52 IAC 4-8-7 unenforceable.

6. We adopt our ALJ's decision to deny sanctions. We do note, however, that the hearing record provides ample evidence demonstrating that Bougie's failure to comply with our inspection Orders unfairly hindered the Assessor's case by preventing her staff and her appraiser from inspecting the subject property to confirm its size, level of completion, and quality of construction, among other characteristics relevant to estimating its true tax value. Furthermore, Bougie then attempted to take advantage of his refusal to allow an inspection by challenging the basis of the Assessor's witnesses and valuation evidence during cross-examination. Under these circumstances, we find sanctions would have been warranted to exclude evidence regarding the condition of the interior. But as Bougie's vague testimony about the interior was consistent with the appraiser's assumptions, we adopt our ALJ's ruling.

7. The following people testified under oath:

For Bougie: Christopher Bougie
Bobbi Burkhart, Kosciusko County Field Assessor

For the Assessor: Gail Chapman, Kosciusko County Assessor
Kathy Strange, PTABOA Coordinator
Iverson Grove, Appraiser

8. Bougie submitted the following exhibits:

Petitioner Ex. A: Comments on the 4th Amendment
Petitioner Ex. B: Rebuttal of accusations
Petitioner Ex. C: Comparables from other building permits in the same neighborhood; and comparables from building permits outside the neighborhood
Petitioner Ex. D: Review of other assessments made in the same neighborhood
Petitioner Ex. E: Review of evidence supplied by the Assessor's Office

Petitioner Ex. F: Pictures and Property Record Cards (“PRCs”) from other properties in the same neighborhood
 Petitioner Ex. G: Material price comparison
 Petitioner Ex. H: Sales comparison analysis
 Petitioner Ex. I: Unfinished space comparison
 Petitioner Ex. K: Appraisal of 1208 W. Canal Street
 Petitioner Ex. L: Appraisal of 1012 Court Circle

9. The Assessor submitted the following exhibits:

Respondent Ex. A: Picture of subject property and PRCs for 2021 and 2022
 Respondent Ex. B: Beacon map
 Respondent Ex. C: Email and letter from Gene Seiman
 Respondent Ex. D: Notes and correspondence regarding Assessor’s attempts for site visit
 Respondent Ex. E: Emails from Bougie regarding site visit
 Respondent Ex. F: Board’s Order granting site visit and related correspondence
 Respondent Ex. G: 2015 Sales Disclosure Form and email correspondence
 Respondent Ex. H: PTABOA meeting minutes from October 4, 2021 and October 17, 2022
 Respondent Ex. I: PRCs and pictures of renovated properties with adjustments
 Respondent Ex. J: PRCs and pictures of site visits performed
 Respondent Ex. K: Building permit for subject property
 Respondent Ex. L: Real Property Assessment Manual Appendix A
 Respondent Ex. M: Emails regarding 2022 appeal and site visit
 Respondent Ex. N: Blank Form 114 Notice of Hearing
 Respondent Ex. O: Bougie’s letter to the IBTR dated January 6, 2023
 Respondent Ex. P: PTABOA report of decisions for 2022 and 2023
 Respondent Ex. Q: 2021 Appraisal Report prepared by Iverson C. Grove
 Respondent Ex. R: 2022 Appraisal Report prepared by Iverson C. Grove
 Respondent Ex. S: Pictures and PRCs of C-grade homes in subject neighborhood
 Respondent Ex. T: 2014 PRC for subject property
 Respondent Ex. U: Aerial photos and PRC for angles/cuts/windows/roof pitches
 Respondent Ex. V: Amended and original calculations of the subject property’s effective age and Department of Local Government Finance (“DLGF”) example
 Respondent Ex. W: Aerial photos and drawing for crawl space
 Respondent Ex. X: Picture of crawl space

10. 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.

OBJECTIONS

11. During the hearing, our ALJ ruled on several objections. We see no need to revisit those objections and we adopt our ALJ's rulings. However, our ALJ took some objections about the admissibility of certain evidence under advisement. We now turn to those objections.
12. The Assessor objected to the admission of pages 5 and 6 of Petitioner Exhibit B, a document listing the inspections required by the Lake County planning and building department. She argued that they are irrelevant because they are not from Kosciusko County. Bougie argued that the document demonstrates general building rules and guidelines. Because we find the document minimally relevant, we overrule the objection.
13. The Assessor also objected to the admission of Petitioner Exhibit G, individual material price sheets with handwritten calculations of material costs. She argued there was no evidence as to how much building material Bougie used or how much it cost. Bougie asserted that he was offering the exhibit to provide a sampling of material costs. Because the Assessor did not provide a legal basis for her objection, we overrule it.
14. Next, the Assessor objected to the admission of Petitioner Exhibit J claiming that Bougie had failed to exchange it until the day prior to hearing—a point Bougie did not contest. Our procedural rules require parties to exchange copies of their documentary evidence at least five business days prior to hearing. 52 IAC 4-8-1(b)(1). Because Bougie failed to do so, we sustain the Assessor's objection.
15. The Assessor additionally objected to the admission of Petitioner Exhibit L; an appraisal report Bougie commissioned for property located at 1012 Court Circle. The Assessor claimed that the appraisal is irrelevant because it relied on comparable sales from 2022

and valued the property as of January 19, 2023. Bougie explained that he had instructed the appraiser to appraise the property as of January 1, 2021 but that the appraiser misunderstood him and did not have time to amend it. Bougie further explained that he intended to use the appraisal (along with one he commissioned for another nearby property) as a “comparison” to the appraisal reports the Assessor obtained for the subject property. Because we find the appraisal minimally relevant, we overrule the objection.

16. The Assessor also made a hearsay objection to Bougie’s testimony about statements made to him by Susan Engelberth, the former Kosciusko County Assessor. We overrule the objection. Our procedural rules allow us to admit hearsay, with the caveat that we cannot base our final determination solely on hearsay that has been properly objected to and that does not fall within a recognized exception to the hearsay rule. 52 IAC 4-6-9(d). We do not base any part of our determination on the challenged testimony.
17. Finally, the Assessor objected to Bougie’s testimony regarding the level of finish in the subject property’s upstairs. Because she did not provide any legal basis for the objection, we overrule it.
18. For his part, Bougie made a relevance objection to Respondent Exhibit J because the Assessor removed all the information from the documents needed to identify the properties. He also made a hearsay objection. The Assessor explained that she offered the exhibit solely to show that her office had conducted interior field inspections of Kosciusko County properties in other appeals. Because we find the exhibit minimally relevant, we overrule Bougie’s relevance objection. We also overrule his hearsay objection. While portions of the exhibit are hearsay and the Assessor neither challenged that characterization nor argued that the exhibit falls within a recognized exception to the hearsay rule, as explained above, our procedural rules allow us to admit hearsay that does not fall within a recognized exception as long as we do not base our final determination solely on the hearsay. 52 IAC 4-6-9(d). We therefore admit the exhibit and note that it ultimately has no bearing on our final determination.

FINDINGS OF FACT

19. The subject property is located at 1016 Court Street on an island² in Winona Lake. Its improvements consist of a two-story residence with between 2,827 and 2,851 square feet and a one-car attached garage situated on a 0.16-acre non-waterfront lot. At the time Bougie purchased the property in 2014, the improvements consisted of a one-story manufactured home erected in 1971 containing approximately 1,200 square feet of finished area, an attached one-car garage, and a utility shed. On August 25, 2015, Bougie applied for and was granted a building permit by Gene Seiman, the Town of Winona Lake's Building Commissioner, for an addition to and reconstruction of the existing structure, along with an alteration to the roof. Bougie listed himself as the building contractor for the project and indicated that he would complete the renovations by August 1, 2016 at an estimated cost of \$25,000. On July 19, 2018, Seiman issued Bougie an updated building permit indicating that minimal trim, cosmetic trim, and siding were the only renovations left to complete and giving Bougie until December 1, 2019 to finish those items. *Bougie testimony; Pet'r Exs. B at 4, C at 3-4; Resp't Exs. A, K, Q, R, T.*
20. While Bougie argues that the subject property's second story is unfinished, we find that it was useable interior space as of the assessment dates at issue regardless of the actual level of finish. Beyond the fact that the updated building permit issued in July 2018 indicated that the only renovations left to complete were some trim and siding, Bougie admitted that he had installed window blinds, drapes, and a window air conditioning unit to keep the upstairs cooler. More importantly, he admitted that his family uses the upstairs for storage and as a place to let the kids run around. Bougie also acknowledged that they occasionally take their coffee upstairs to enjoy the view of the lake. The Board finds that the upstairs was substantially finished living area. *Bougie testimony; Pet'r Ex. C at 3-4.*

² The area is more accurately described as a peninsula that has been separated by a channel.

BOUGIE'S CONTENTIONS

21. Bougie provided assessment and building permit data for twelve Winona Lake properties that have previously undergone renovations. Bougie used it to develop a comparison of the pre- and post-renovation assessments for eight of those properties in relation to their estimated renovation costs. For each of the eight properties, Bougie started by calculating the value of the renovated improvement in the assessment year immediately following the renovation. To derive that value, Bougie took the Assessor's calculation of each property's remaining value (i.e., estimated replacement cost new minus normal depreciation) for the assessment year following the renovations and multiplied it by the neighborhood factor the Assessor applied in the assessment year prior to the start of renovations. After determining the post-renovation value, Bougie subtracted out the improvement's assessed value from the assessment year prior to renovation and divided the result by the estimated renovation costs listed on the corresponding building permit(s). The changes in the properties' pre- and post-renovation assessments ranged from -6.6% to 90.2% of their estimated renovation costs. Bougie argued that this showed the Assessor did not properly document renovations or accurately reassess renovated properties post-renovation. *Bougie testimony; Pet'r Exs. C11-C14B, C22-C24, C30-C32, CA1-CA2, CA7-CA8, D2, D4B, D4F, D5-D8H, F2-F10, F15-F20, F24-F29, F32-F33, F37-F40, F42-F43, F49-F53.*
22. Next, Bougie offered sales and assessment information for four properties the Assessor presented as comparable sales during the PTABOA hearing on his 2022 appeal. Bougie calculated the difference between the four properties' sales prices and their assessed values from 2022. His calculations showed that the four properties had assessed values 30%, 48.3%, 20%, and 28.3% below their respective sales prices. The average difference between their assessed values and sales prices was 31.65%. Bougie argued that his property should likewise have a 31.65% difference between its sales price and assessed value.³ *Bougie testimony; Pet'r Ex. E2.*

³ Although Bougie submitted an additional sales comparison analysis (Pet'r Ex. H), he did not offer any testimony about it.

23. Bougie also claimed that there are many homes in his neighborhood that have an equal or greater quality of design than his home, and that the Assessor nevertheless graded them as inferior to his home's assigned grade of 1.1. The Craftsman style is the standard home design in his neighborhood and the Assessor should use that style to determine the base quality grade for the neighborhood and for the subject property. Bougie compared the characteristics of his home with sixteen characteristics of Craftsman style homes and determined that his home meets twelve of them. He then compared the characteristics of ten homes from his neighborhood and highlighted their shared characteristics. Bougie also identified their assigned grades, which ranged from 0.85 to 1.05. He contends that this should spur the Board to at least look at how the Assessor determined grade. *Bougie testimony; Pet'r Exs. F8-F15, F21, F28, F30-F33, F38-F41; Resp't Exs. A, L.*
24. Bougie also provided material prices for several types of siding materials (vinyl siding, split face block, and concrete lintels). Because material prices are heavily involved in quality ratings and because it is another means of comparing grades, he then compared the total cost to complete the siding for the subject property and three other properties using those materials. Bougie calculated the total cost of siding materials for the subject property to be \$3,257, while the other three properties had totals of \$66,587, \$7,609.28, and \$9,996. *Bougie testimony; Pet'r Exs. F31, F33, F39, G.*
25. Another comparison Bougie presented looked at the difference in cost between constructing an unfinished basement and the cost for him to construct the subject property's upper story. He estimated the total cost to construct an unfinished basement with 8' walls and an 1,803 square foot concrete slab to be \$37,437 (not including costs for excavation or pouring a footer). Whereas Bougie estimated that his total cost to construct the subject property's unfinished upper story was \$16,300 (not including costs for a roof). *Bougie testimony; Pet'r Ex. I.*
26. To further demonstrate the alleged disparity between real world values and assessed

values, Bougie submitted appraisals prepared by Christopher Wagoner, an Indiana certified residential appraiser, for two properties in the subject property's neighborhood. The appraisal for 1012 Court Circle valued the lakefront property at \$437,000 as of January 19, 2023. The appraisal for 1208 W. Canal Street valued the channel view property at \$273,000 as of December 1, 2022. As additional support, Bougie also discussed a property located at 304 Auditorium Blvd. Its 2022 assessment was \$458,000, while the construction permit listed a value of \$628,983, meaning that its assessment is about \$200,000 less than the actual cost to construct it in the real world. *Bougie testimony; Pet'r Exs. C26-C29, F22-F23, K, L.*

27. Bougie is asking the Board to reduce the subject property's 2021 and 2022 assessments by 20.1%, which would bring its assessments more into conformity with the assessments for other properties in his neighborhood. *Bougie testimony.*

THE ASSESSOR'S CONTENTIONS

28. The Assessor followed the DLGF's Guidelines and associated rules in calculating the subject property's assessments. Assessing the subject property has been difficult due to Bougie's denial of access which prevented the Assessor from gathering basic information about the interior of his house. The Assessor has not treated Bougie any differently than other taxpayers and her office has conducted site visits on many other Kosciusko County properties. The only difference is that none of the other properties had an open-ended permit where the taxpayer increased their living space by 58% and then claimed for more than six years that they had not finished it. *Chapman testimony; Strange testimony; Resp't Exs. D, E, F, I, J, M.*
29. The Assessor offered appraisal reports prepared by Iverson C. Grove, MAI, SRA. Grove is an Indiana certified general appraiser and has been appraising property for more than 43 years. He also holds an Indiana instructor's license for how to prepare an appraisal for tax appeal purposes. He has been a member of the Elkhart County PTABOA since 2000,

and he has served as its President during most of that time. *Grove testimony; Resp't Exs. Q, R.*

30. Grove developed opinions of value for the subject property as of January 1, 2021 and January 1, 2022 using the sales comparison approach, and he certified that his appraisals comply with USPAP. Grove did not develop an income approach or a cost approach for either of his appraisals. He concluded that the income approach was not applicable because the subject property is owner-occupied, and he did not perform a cost approach because Bougie denied him access to inspect the interior of the subject property. *Grove testimony; Resp't Exs. Q at 3, 15-16, R at 3, 15-16.*
31. As part of his research, Grove performed an exterior inspection of the subject property. He also interviewed members of the Assessor's staff and Building Commissioner Seiman. Grove relied on the subject property's PRCs to determine its dimensions. He acknowledged that there were outstanding questions regarding the subject property's room count and the condition of the interior that he could not settle without an interior inspection. Nevertheless, based on his interviews, he concluded that the property's interior, including the upper level, is essentially complete and that a certificate of completion would be issued if requested. He treated the missing siding and potential lack of finish in the upper level as minor deferred maintenance because of their impact on value. *Grove testimony; Resp't Exs. Q at 3, 11, R at 3, 11.*
32. Because the subject property's neighborhood did not have sufficient sales, Grove expanded his search for comparable sales to cover the old portion of the Town of Winona Lake. He also asked the Assessor to provide him with a list of all sales of improved properties in his search area along with the relevant Land Order. After performing his own searches using Beacon and MLS, Grove did not identify any additional comparable sales. *Grove testimony.*

33. For his 2021 appraisal, Grove started his land value analysis by reviewing the subject property's land assessment and comparing it to data from the sales in the Land Order. He identified nine land sales occurring between 2018-2020, with two from the island and seven from the mainland. Grove noted that the two sales from the island sold for more than twice the value of the mainland sales. However, he concluded that the subject property's 2021 land assessment of \$34,200 was still within a reasonable range of the land values from the Land Order. Although Grove ultimately adopted the \$34,200 land assessment as his land value conclusion, he noted that it "reflects a low side bias against the market indicators." *Grove testimony; Resp't Ex. Q at 12.*
34. To value the improvements, Grove selected five improved sales in Winona Lake that were the most similar to the subject property in terms of overall characteristics. Two of the sales were from the island and three were from the mainland. He removed the comparable sales' land values from his analysis to isolate and compare the improvements. Grove then adjusted his comparable sales' respective prices per square foot for differences in grade based on the quality grade factors contained in Appendix A of the DLGF's 2021 Real Property Assessment Guidelines ("Guidelines"). Although Grove believed the subject property should have a B grade due to the residence's external characteristics, he ultimately used the C+2 grade assigned by the Assessor. He explained that Bougie's denial of an interior inspection prevented him from confirming that the interior was a similar grade as the exterior. Grove also considered adjustments for garages, basements, and condition but he did not apply any quantitative adjustments. *Grove testimony; Resp't Ex. Q at 14-15.*
35. After adjustment, Grove's comparable sales had prices ranging from \$87.18/SF to \$171.23/SF. He concluded that the subject property fell at the low end of his adjusted sales and settled on a value of \$87/SF for the improvements. Applying that value to the subject property's 2,827 square feet produced a value of \$246,000 (rounded) for the improvements. Because the market includes utility infrastructure with the value of the improvements while the Assessor includes them in the land valuation, Grove reduced his

value conclusion for the improvements by \$1,200, resulting in a final improvement value of \$244,800. After adding in his land value conclusion of \$34,200, Grove reached a final value conclusion of \$279,000 as of January 1, 2021. *Grove testimony; Resp't Ex. Q at 14-15.*

36. Grove employed the same methods to appraise the subject property for 2022. To determine the value of the land, he selected five land sales from 2020 and 2021, with four from the mainland and one from the island. After reviewing the nine land sales he used in his analysis for 2021, he noted that the market values appeared to be increasing. He also noted that sales from the island were still selling for more than double the price of mainland sales. Grove ultimately adopted the subject property's 2022 land assessment of \$39,000 as his land value conclusion. He described it as reasonably consistent with the land values from the mainland but "woefully understated" compared to the land values from the island. And he again noted that it "reflects a low side bias against the market indicators." *Grove testimony; Resp't Ex. R at 12.*
37. To value the improvements, Grove selected seven improved sales from Winona Lake, with two from the island and five from the mainland. Like his 2021 appraisal, he then subtracted the comparable sales' land values and adjusted them for differences in grade using the Guidelines. Although he discussed adjusting for garages, basements, and condition, he again chose not to apply any quantitative adjustments. After adjustment, Grove's comparable sales had prices ranging from \$93.05/SF to \$169.09/SF. He concluded that the subject property fell toward the low end of his adjusted sales and that its value was consistent with the sale of 806 Court Street at \$114/SF. Applying that value to the subject property's 2,851 square feet produced a value of \$325,000 (rounded) for the improvements. And consistent with his 2021 appraisal, Grove again reduced his value conclusion for the improvements by \$1,200 to account for the utility infrastructure, resulting in a final improvement value of \$323,800. Adding in his land value conclusion of \$39,000 produced a final value conclusion of \$362,800 as of January 1, 2022. *Grove testimony; Resp't Ex. R at 14-15.*

38. In response to Bougie's claims that assessments should reflect permit values, but the Assessor argued that would lead to inaccurate assessments due to voided permits, or where the estimated costs were over- or understated on the permits. Additionally, Bougie fails to recognize that assessment increases resulting from work done under a permit might not be reflected in only one year's assessment depending on when the work was completed. Bougie continues to attack the methodology of how the Assessor derived the subject property's assessment instead of providing evidence of what his assessment should be. His arguments about the uniformity and equality of grade are problematic because the properties he relied on are not all from the subject property's neighborhood, which is necessary to comply with the Guidelines. And while he contends that the Assessor's neighborhood factor is incorrect, his evidence only addressed a handful of sales, some of which are unusable because they were not arms-length transactions or because they included personal property. Further, Bougie did not develop any statistical measures to show a lack of uniformity or equality. Thus, he did not present an accurate or legitimate ratio study. *Chapman testimony.*
39. The Assessor requests the Board find in her favor and increase the subject property's 2021 and 2022 assessments to reflect the final value conclusions from Grove's appraisals. *Chapman testimony.*

ANALYSIS

40. 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.

Piotrowski v. Shelby Cty. Ass 'r, 177 N.E.3d 127, 131-32 (Ind. Tax Ct. 2021).⁴

41. 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.
42. Evidence in an assessment appeal should be consistent with that standard. For example, market value-in-use appraisals that comply with the 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 v. Wayne Twp. Ass'r*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006).
43. 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). The assessment dates for these appeals are January 1, 2021 and January 1, 2022. I.C. § 6-1.1-2-1.5(a).

⁴ The Legislature repealed the burden-shifting statute, I.C. § 6-1.1-15-17.2, on March 21, 2022. P.L. 174-2022 § 32 (repeal effective on passage). In the same bill, a new statute created a substitute burden-shifting statute, I.C. 6-1.1-15-20, for new appeals filed after the effective date of March 21, 2022. P.L. 174-2022 § 34 (effective on passage). Because Bougie filed his 2021 appeal with the PTABOA before March 21, 2022, and our hearing on this appeal occurred after the Legislature repealed I.C. § 6-1.1-15-17.2, neither the new nor the repealed statute apply to the 2021 appeal. We will address the applicability of I.C. 6-1.1-15-20 to the 2022 appeal after deciding the 2021 appeal.

2021 Assessment

44. Bougie contends we should reduce the subject property's 2021 assessment by 20.1%, but he failed to present any probative market-based evidence to support his requested reduction.

45. We start by rejecting Bougie's arguments regarding alleged errors made by the Assessor in documenting and assessing renovated properties. Bougie failed to show that his comparison of the pre- and post-renovation assessments to the estimated renovation costs complies with generally accepted appraisal principles. Even if it was an accepted valuation method, he ultimately failed to use the analysis to develop an estimate of the subject property's true tax value, much less one supporting his request for a 20.1% assessment reduction. Furthermore, his analysis suffers from several major problems that render it unreliable. As the Assessor correctly observed, Bougie failed to demonstrate that the estimated renovation costs listed on the building permits he presented accurately reflect the actual costs incurred by the property owners. He also failed to explain how his assessment and building permit data, almost all of which came from years predating 2021, relates to the subject property's value as of the January 1, 2021 assessment date.

46. We now turn to Bougie's evidence regarding material prices and the difference in cost between constructing a basement and constructing his upper story. The cost approach is one of the three standard valuation methods used in appraisal practice and cost information for a property under appeal can be probative valuation evidence. However, there is no indication that Bougie's estimates comply with generally accepted appraisal principles. And his evidence about the cost of the subject property's siding materials and the cost to construct its upper story is clearly not a comprehensive accounting of the material and labor costs needed to properly estimate the depreciated cost new of the improvements. It also wholly ignores the need to value the land to arrive at a total estimate of value. And we fail to see the point of comparing either cost element to the cost of siding materials for other properties or the cost of constructing a hypothetical basement. Thus, we have little trouble concluding that it is not probative evidence of the

subject property's true tax value.

47. We likewise find no merit to Bougie's argument about the Assessor's determinations of grade. The choice to assign a particular grade to a given property is part of the methodology used by an assessor to develop an assessment. Simply attacking the methodology used to calculate an assessment or strictly applying the assessment guidelines is generally insufficient—taxpayers must provide their own independent market-based evidence of value. *Eckerling*, 841 N.E.2d at 678; *see also Piotrowski v. Shelby Cty. Ass'r*, 177 N.E.3d 127, 132 (Ind. Tax Ct. 2021). Even if such challenges were viable, we note that Bougie only discussed external characteristics of Craftsman-style homes when construction quality grades account for the overall quality of workmanship, the cost of interior and exterior materials, and design elements.
48. Bougie's attempt to demonstrate the alleged disparity between real world values and assessed values fails no better. Although he submitted two appraisals for properties located in the subject property's neighborhood, he failed to show that they are comparable to the subject property, and he did not offer any evidence or analysis to show how relevant differences affected value. *See Long*, 821 N.E.2d at 470-71 (holding that taxpayers were responsible for explaining their property's characteristics, how they compared to the characteristics of purportedly comparable properties, and how any differences affected value). Nor did he use the appraisals to develop an estimated value for the subject property. Bougie similarly failed to demonstrate comparability or adjust for relevant differences during his discussion of 304 Auditorium Blvd., and he again failed to show that the estimated cost of construction listed on the property's building permit accurately reflected the actual costs incurred by the property owner.
49. Finally, Bougie presented sales and assessment data from four purportedly comparable properties in his neighborhood and argued that his assessment should have the same 31.65% difference between its sale price and assessed value. We view this evidence as a challenge to the uniformity and equality of the assessment as mandated by I.C. § 6-1.1-2-

2 and Article 10 of the Indiana Constitution. Uniformity and equality in an assessment may be measured through an assessment ratio study. *Westfield Golf Practice Ctr., LLC v. Washington Twp. Ass'r*, 859 N.E.2d 396, 399 n.3 (Ind. Tax Ct. 2007). An assessment ratio study “compare[s] the assessed values of properties within an assessing jurisdiction with objectively verifiable data, such as sales prices or market value-in-use appraisals.” *Id* (citation omitted). Such studies, however, should be prepared according to professionally acceptable standards. *Kemp v. State Bd. of Tax Comm'rs*, 726 N.E.2d 395, 404 (Ind. Tax Ct. 2000). They should also be based on a statistically reliable sample of properties that actually sold. *Bishop v. State Bd. of Tax Comm'rs*, 743 N.E.2d 810, 813 (Ind. Tax Ct. 2001) (citing *Southern Bell Tel. and Tel. Co. v. Markham*, 632 So.2d 272, 276 (Fla. Dist. Co. App. 1994)).

50. When a ratio study shows that a given property is assessed above the common level of assessment, the property’s owner may be entitled to an equalization adjustment. *See Dep’t of Local Gov’t Fin. v. Commonwealth Edison Co.*, 820 N.E.2d 1222, 1227 (Ind. 2005) (holding that taxpayer was entitled to seek an adjustment on grounds that its property taxes were higher than they would have been if other property in Lake County had been properly assessed). The equalization process adjusts the property assessments so “they bear the same relationship of assessed value to market value as other properties within that jurisdiction.” *Thorsness v. Porter Co. Ass'r*, 3 N.E.3d 49, 52 (Ind. Tax Ct. 2014) (citing *GTE N. Inc. v. State Bd. Of Tax Comm'rs*, 634 N.E.2d 882, 886 (Ind. Tax Ct. 1994)). Article 10, Section 1(a) of Indiana’s Constitution, however, does not guarantee “absolute and precise exactitude as to the uniformity and equality of each individual assessment.” *State Bd. of Tax Comm'rs v. Town of St. John*, 702 N.E.2d 1034, 1040 (Ind. 1998).
51. Bougie’s evidence is insufficient to support a uniform and equal challenge. He has failed to convince us that his analysis complies with the professional standards for ratio studies or that his data set of four properties constitutes a statistically reliable sample of properties that sold within the subject property’s assessment neighborhood. Bougie also

failed to provide any supporting documentation such as sales disclosure forms or PRCs to confirm the sales prices and assessments he used to develop his ratio. We also note that the four sales came from two different assessment years, with three from 2021 and one from 2022. Yet, Bougie calculated his ratios for all four sales using their assessed values from 2022. We therefore conclude that Bougie failed to prove he is entitled to an equalization adjustment.⁵

52. Because Bougie did not offer any probative market-based evidence to demonstrate the subject property's true tax value and did not prove his equalization adjustment claim, he failed to make a prima facie case for lowering his 2021 assessment.
53. We now turn to the Assessor's evidence. The Assessor presented Grove's USPAP-compliant appraisal and requested we increase the 2021 assessment to reflect his concluded value. Grove relied on the sales comparison approach in estimating the subject property's value to be \$279,000 as of January 1, 2021.
54. In an effort to impeach Grove's appraisal, Bougie primarily argued that Grove relied on speculation regarding the condition and finish of the subject property's interior. However, given Bougie's refusal to grant Grove access to perform an interior inspection, we do not fault Grove for having to make some assumptions. And as Grove credibly explained, he decided to treat the interior as finished area after completing an exterior inspection of the subject property and interviewing members of the Assessor's staff and Building Commissioner Seiman regarding its state of completion. Furthermore, we conclude Grove adequately addressed the potential lack of finish in the upper level by treating it as minor deferred maintenance. While Bougie questioned whether Grove sufficiently adjusted for deferred maintenance, we credit Grove's explanation that he accounted for the subject property's deficiencies by valuing its improvements at the low

⁵We have done our best to identify and address all of Bougie's claims and arguments that are colorable. But his testimony and arguments at the hearing were difficult to follow. It was Bougie's duty to walk us through his analyses. *Indianapolis Racquet Club, Inc. v. Washington Twp. Ass'r*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004). To the extent his lack of clarity led us to miss any salient claims or arguments, he must bear the consequences.

end of the square foot prices produced by his adjusted sales.

55. Bougie also criticized Grove's use of four comparable sales with unfinished basements because the square footage totals Grove relied on did not include the properties' unfinished basements. However, Grove clarified that appraisers do not typically add basement square footage to a property's total area like the Assessor—they instead identify and report the square footage of above-grade areas.
56. While there may be some issues with Grove's appraisal, Bougie's criticisms ultimately do little to detract from its reliability. Thus, we conclude that it provides a reliable, market-based opinion of the subject property's true tax value. Accordingly, we order the subject property's 2021 assessment changed to \$279,000.

2022 Assessment

57. We now turn to the 2022 assessment. In 2022, the General Assembly passed Indiana Code § 6-1.1-15-20. The new statute provides that if a property's assessment increased more than 5% over its assessment for the prior tax year, the assessment loses the presumption of correctness, and the assessing official has the burden of proof. I.C. § 6-1.1-15-20(b).⁶ However, the burden-shifting provisions do not apply if the assessment on appeal is based on substantial renovations or new improvements, zoning, or uses that were not considered in the assessment for the prior year. I.C. § 6-1.1-15-20(d). Additionally, the new burden-shifting statute only applies to appeals filed with the township assessor, or the county assessor if the township is not served by a township assessor, after March 21, 2022. I.C. § 6-1.1-15-20(h).
58. Because Bougie filed his 2022 appeal with the Assessor after March 21, 2022, we must

⁶Unlike the repealed burden-shifting statute, I.C. 6-1.1-15-17.2, the new statute allows us to determine a value based on the totality of the evidence presented by the parties. Only where the burden of proof has shifted to the assessing official under I.C. § 6-1.1-15-20(b) and the totality of the evidence presented to us is insufficient to determine a property's true tax value does the assessment revert to the prior year's assessed value. I.C. § 6-1.1-15-20(f).

apply the new statute and analyze its impact. As explained above, the burden-shifting provisions apply where an assessment has increased by more than 5% over the prior year's assessment, which, as relevant here, is the final value we determined for the 2021 assessment year. I.C. § 6-1.1-15-20(c)(3). Because the 2022 assessment of \$282,000 does not represent an increase of more than 5% over the new 2021 assessment of \$279,000, the 2022 assessment is presumed to be equal to the subject property's true tax value until rebutted by evidence presented by the parties. I.C. § 6-1.1-15-20(a). Accordingly, Bougie retains the burden of proof.

59. Bougie relied on the same evidence and arguments he presented for his 2021 appeal, and we therefore reach the same conclusion—he failed to make a prima facie case for a lower assessment. We must now examine whether the valuation evidence presented by the Assessor supports a different true tax value for the 2022 assessment year.
60. For 2022, the Assessor presented a USPAP-compliant appraisal prepared by Grove and requested we increase the 2022 assessment to reflect his concluded value. Grove again relied on the sales comparison approach in estimating the subject property's value to be \$362,800 as of January 1, 2022. Bougie largely relied on the same criticisms we rejected in our analysis of Grove's 2021 appraisal, and we see no reason to depart from our conclusion that they fail to detract from its reliability. The only new criticism Bougie lodged against Grove's 2022 appraisal was that two of Grove's comparable sales had renovations the Assessor had failed to properly account for in their assessments. But as Grove aptly pointed out, their assessments played no part in his determination of the subject property's market value under the sales comparison approach—what mattered was their sales prices.
61. Because Bougie failed to successfully impeach the credibility of Grove's appraisal, we conclude it provides probative, market-based evidence of the subject property's true tax value. We therefore order the subject property's 2022 assessment changed to \$362,800.

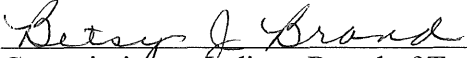
FINAL DETERMINATION

In accordance with the above findings of fact and conclusions of law, we find for the Assessor and order the subject property's 2021 and 2022 assessments changed to \$279,000 and \$362,800, respectively.

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