

REPRESENTATIVE FOR PETITIONER: Ovidiu Ciceu

REPRESENTATIVE FOR RESPONDENT: Kelley Hopwood, Knox County Assessor

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**BEFORE THE  
INDIANA BOARD OF TAX REVIEW**

OVIDIU CICEU / AJJ HOLDINGS, LLC <sup>1</sup> ,	)	Petition No.:	42-022-21-1-5-00720-21
	)		
Petitioner,	)	Parcel No.:	42-12-21-309-029.000-022
	)		
v.	)	County:	Knox
	)		
KNOX COUNTY ASSESSOR,	)	Assessment Year:	2021
	)		
Respondent.	)		

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**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. Ovidiu Ciceu contested his 2021 assessment. The Knox County Assessor had the burden to prove that the assessment was correct, but she failed to present probative market-based evidence supporting the assessment. Ciceu likewise failed to present reliable evidence in support of either of his requested assessments. Accordingly, the 2021 assessment must revert to the property’s 2020 assessed value of \$21,300.

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<sup>1</sup>Ciceu is a member of AJJ Holdings, LLC. Although AJJ Holdings owns the subject property, Ciceu listed himself as the Petitioner on the Form 131. For that reason, we refer to Ciceu as the Petitioner for purposes of this determination.

## PROCEDURAL HISTORY

2. Ciceu challenged the 2021 assessment of his property located at 102 S. 8<sup>th</sup> Street in Vincennes. On September 29, 2021, the Knox County Property Tax Assessment Board of Appeals (“PTABOA”) issued a final determination valuing the subject property at \$38,000 (\$5,800 for land and \$32,200 for improvements).
3. Ciceu timely filed a Form 131 petition with the Board. On March 9, 2022, David Smith, our designated administrative law judge (“ALJ”), held a telephonic hearing on Ciceu’s petition. Neither he nor the Board inspected the property.
4. Ciceu and Knox County Assessor Kelley Hopwood both appeared pro se and testified under oath.
5. Ciceu submitted the following exhibits:

Petitioner Ex. 1:	Letter from Ciceu, dated February 24, 2022
Petitioner Ex. 2:	2021 Form 131 petition
Petitioner Ex. 3:	2020 Form 11 notice
Petitioner Ex. 4:	2021 parcel information for 3105 N. Old Fort Knox Road
Petitioner Ex. 5:	2021 Form 130 notice and attachment
Petitioner Ex. 6:	Title Insurance coverage letter and Special Warranty Deed
Petitioner Ex. 7:	2021 Property Record Card (“PRC”) for 903 Seminary Street
Petitioner Ex. 8:	2021 PRC for 20 N. 3 <sup>rd</sup> Street
Petitioner Ex. 9:	Letter from Ciceu, dated March 2, 2022 <sup>2</sup>

6. The Assessor submitted the following exhibits:

Respondent Ex. A:	Sales Disclosure Form (“SDF”) for subject property
Respondent Ex. B:	2021 PRC for subject property
Respondent Ex. C:	2021 Form 130 notice
Respondent Ex. D:	First page of 2021 Form 115 notice
Respondent Ex. E:	2021 Form 131 petition
Respondent Ex. F:	Letter from Ciceu, dated May 29, 2021

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<sup>2</sup>On May 5, 2022, ALJ Smith received two emails from Ciceu with attachments containing additional documentary evidence. The Board’s procedural rules provide that no post-hearing evidence will be accepted unless it is requested by the ALJ or the Board. 52 IAC 4-6-15. Because neither the ALJ nor the Board requested post-hearing evidence, Ciceu’s emails and attachments were not made part of the record or considered by the Board in deciding this appeal.

Respondent Ex. G: Screenshot of text messages<sup>3</sup>

7. 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.

### **BURDEN OF PROOF**

8. Generally, a taxpayer seeking review of an assessing official's determination has the burden of proof. Indiana Code § 6-1.1-15-17.2<sup>4</sup> creates an exception to that general rule and assigns the burden of proof to the assessor in two circumstances—where the assessment under appeal represents an increase of more than 5% over the prior year or where it is above the level determined in a taxpayer's successful appeal of the prior year's assessment. I.C. § 6-1.1-15-17.2 (b) and (d).
9. If the assessor has the initial burden to prove the original assessment was correct and fails to meet it, the burden shifts to the taxpayer to prove the correct assessed value. If neither party meets its burden, the assessment reverts to the prior year's level. I.C. § 6-1.1-15-17.2(b); *Southlake Ind., LLC v. Lake Cnty. Ass'r*, 174 N.E.3d 177, 179 (Ind. 2021). Furthermore, the statutory term “correct assessment” referenced in I.C. § 6-1.1-15-17.2 refers to “an accurate, exact, precise assessment.” *Southlake Ind., LLC v. Lake Cty. Assessor*, 181 N.E.3d 484, 489 (Ind. Tax Ct. 2021). Thus, to meet the burden under I.C. § 6-1.1-15-17.2, an assessor must provide probative, market-based evidence that the assessment is “*exactly and precisely*” correct. *Id.* (emphasis in original).
10. Here, the Assessor stipulated that the subject property's assessment increased by more than 5% from 2020 to 2021. Accordingly, the burden shifting provisions of I.C. § 6-1.1-15-17.2 apply and the Assessor has the burden to prove the 2021 assessment is correct.

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<sup>3</sup>Although the Assessor submitted a document labelled as Exhibit H with her exhibit packet, it was not offered or admitted into the record.

<sup>4</sup>Indiana Code § 6-1.1-15-17.2 was repealed by P.L. 174-2022 on March 21, 2022. However, we analyze the law as it existed at the time of the evidentiary hearing.

## THE ASSESSOR'S CONTENTIONS

11. The Assessor had an issue with the overuse of obsolescence—with over 3,000 properties in Knox County receiving obsolescence adjustments. Based on information the Assessor received at the 2020 Indiana Assessor's Association Conference, she decided to remove the obsolescence adjustments from all properties and reevaluate them. The subject property happened to be one of those properties. Ciceu purchased it at a tax sale or sheriff's sale in 2017, and the previous assessor marked it as an invalid sale. Not only was it a distress sale, using the price Ciceu paid for it would represent sales chasing, which is illegal. Shortly after Ciceu purchased the property, the previous assessor placed a -55% obsolescence adjustment on it and lowered its grade and condition. Ciceu was in a relationship with the previous assessor at that time. *Hopwood testimony; Resp't Exs. A-C, F.*
  
12. In August 2017, there were two building permits issued for the subject property in the amounts of \$3,000 and \$8,300. In 2019, Ciceu asked for the property to be reevaluated. At that time, the Assessor had it resketched and updated the property's effective age. In 2020, the property was viewed by the Assessor's cyclical assessment team, who changed the grade/condition back to D+2 (fair condition), which is what it had been prior to Ciceu's purchase. In July 2021, the Assessor's field deputy reviewed the property. He took pictures that revealed that the home had air conditioning, heat, and a fireplace—none of which the Assessor had previously known about. After the PTABOA hearing, the PTABOA asked for another field visit and the Assessor's field deputy inspected the property and took photos. While there, he was not allowed into the kitchen. After the field visit, the PTABOA determined that they would grant the subject property a 40% obsolescence adjustment for one year. Prior to Ciceu's purchase of the subject property, it was assessed at \$45,900. The PTABOA's final value of \$38,000 is probably about where the subject property's assessment should be. *Hopwood testimony; Resp't Exs. B, D.*

13. The Seminary Street house Ciceu identified as a comparable suffered a fire, which is why its assessment went down. The Assessor's own land value went down because she sold off part of her land. Her other property was "basically destroyed inside" at the time she purchased it and she had it reviewed after completing the purchase. The reduced assessment was temporary, and its assessed value will go back up next year because it has been totally redone. *Hopwood testimony.*

#### CICEU'S CONTENTIONS

14. Ciceu purchased the subject property for \$13,000 in May 2017 following a foreclosure. He then removed all the bathtubs, toilets, and sinks from it. The roof leaks, and the house is in very poor condition. Ciceu did install new windows in the house at a cost of \$3,000, but the \$8,300 permit the Assessor discussed was for work done to his personal residence, not the subject property.<sup>5</sup> *Ciceu testimony; Pet'r Ex. 6.*
15. Prior to burning down, the property at 903 Seminary Street was very similar to the subject property. It was a two-story home with similar land that was assessed at \$15,000 for many years. The subject property's assessment was higher even though it was in worse condition than 903 Seminary Street was prior to the fire. *Ciceu testimony; Pet'r Ex. 7.*
16. The Assessor has shown bias against Ciceu previously, and Ciceu believes that is part of the problem. The Assessor's own land value has gone down in recent years, but she is increasing his values. The assessed value of the property should be either \$16,000, representing the \$13,000 he paid for it plus the \$3,000 worth of windows he installed, or \$15,000 based on the assessment for 903 Seminary Street. *Ciceu testimony; Pet'r Ex. 4.*

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<sup>5</sup>Although the SDF documenting the 2017 sale of the subject property to Ciceu described the subject as a residential rental property, there is no evidence demonstrating that Ciceu was using it as a rental during the year at issue.

## ANALYSIS

17. 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); 2021 REAL PROPERTY ASSESSMENT 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 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.
  
18. Evidence in an assessment appeal should be consistent with that standard. For example, market value-in-use appraisals that comply with USPAP often will be probative. *See id.*; *see also Kooshtard Property VI, LLC v. White River Twp. Ass’r*, 836 N.E.2d 501, 506 n.6 (Ind. Tax Ct. 2005). So may cost or sales information for the property under appeal, sales or assessment information for comparable properties, and any other information compiled according to generally accepted appraisal principles. *Id.*; *see also* I. C. § 6-1.1-15-18<sup>6</sup> (allowing parties to offer evidence of comparable properties’ assessments in property-tax appeals but explaining that the determination of comparability must be made in accordance with generally accepted appraisal and assessment practices). 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). The valuation date for this appeal is January 1, 2021. I.C. § 6-1.1-2-1.5(a).
  
19. As explained above, the Assessor had the burden to prove that the 2021 assessment was correct. However, she failed to present any probative market-based evidence demonstrating that the subject property’s \$38,000 assessment was correct. Instead, the Assessor simply asserted that the PTABOA’s final value of \$38,000 was close to the

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<sup>6</sup>Indiana Code § 6-1.1-15-18 was repealed by P.L. 174-2022 on March 21, 2022. However, we analyze the law as it existed at the time of the evidentiary hearing.

correct assessed value. Statements that are unsupported by probative evidence are conclusory and of no value to the Board in making its determination. *Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1118 (Ind. Tax Ct. 1998). We therefore conclude that the Assessor failed to meet her burden of proof.

20. We now turn to Ciceu's evidence. He argued that the subject property's assessment should be either \$16,000, representing the \$13,000 he paid for it plus the \$3,000 worth of windows he installed, or \$15,000 based on the assessment for a purportedly comparable property located at 903 Seminary Street. We address each claim in turn.
21. We give no weight to Ciceu's proposed assessment of \$16,000. The sale of the subject property can be probative evidence of value. In this case, however, Ciceu purchased the property following a foreclosure. Thus, his purchase price may not reflect its market value-in-use for reasons such as a lack of exposure to the open market or an atypically motivated seller. Because Ciceu did not provide any evidence to allay these concerns, he failed to establish that his purchase price was a reliable indication of the property's market value-in-use. Additionally, Ciceu purchased the subject property more than 3½ years prior to the January 1, 2021 assessment date, and he offered no evidence relating his \$13,000 purchase price to that date. Nor did he convince us that the \$3,000 he spent on windows resulted in an equivalent increase in the property's market value-in-use.
22. We likewise find no merit in Ciceu's alternative assessment of \$15,000. Ciceu presented an assessment comparison approach relying on a purportedly comparable property located at 903 Seminary Street. Taxpayers may introduce this type of evidence to prove market value-in-use in a proceeding concerning residential property assessments as long as the "*comparable properties* [are] located in the same taxing district or within two (2) miles of a boundary of the taxing district." Ind. Code § 6-1.1-15-18(c)(1) (emphasis added).
23. While the Seminary Street property appears to be in the same taxing district as the subject

property, a party offering assessment data must also show that the properties are comparable to the subject using generally accepted appraisal and assessment practices. Ind. Code § 6-1.1-15-18; *Long v. Wayne Twp. Ass'r*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). Conclusory statements that a property is “similar” or “comparable” do not suffice. Instead, taxpayers must explain how the properties compare to each other in terms of characteristics that affect market value-in-use. *Long*, 821 N.E. 2d at 471. Taxpayers must also explain how relevant differences affect value. *Id.*

24. The type of analysis required by *Long* is lacking from Ciceu’s case. His testimony that the Seminary Street property is very similar to the subject property because they are two-story homes with similar land is precisely the type of conclusory statement that the Tax Court explained is insufficient to prove comparability. And Ciceu did not even attempt to quantify and adjust for relevant differences. Furthermore, 2019 was the last year the assessment for 903 Seminary Street was around \$15,000 (presumably prior to it burning down), and Ciceu offered no evidence relating its 2019 assessment to the January 1, 2021 assessment date at issue.
25. Because neither party proved the correct assessment, the subject property’s 2021 assessment must revert to its 2020 assessed value of \$21,300.

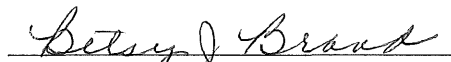


**FINAL DETERMINATION**

In accordance with the above findings of fact and conclusions of law, we order the 2021 assessment reduced to \$21,300.

ISSUED: JUNE 1, 2022

  
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Chairman, Indiana Board of Tax Review

  
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Commissioner, Indiana Board of Tax Review

  
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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>.