

REPRESENTATIVE FOR PETITIONER: Ovidiu Ciceu, Taxpayer

REPRESENTATIVE FOR RESPONDENT: Robert Woodward, Knox County Assessor

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**BEFORE THE  
INDIANA BOARD OF TAX REVIEW**

Ovidiu Ciceu/AJJ Holdings, LLC, <sup>1</sup>	)	Petition No.: 42-022-22-1-5-00941-22
	)	
Petitioner,	)	
	)	Parcel No.: 42-12-21-309-029.000-022
v.	)	
	)	
Knox County Assessor,	)	County: Knox
	)	
Respondent.	)	Assessment Year: 2022

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Appeal from the Final Determination of the  
Knox County Property Tax Assessment Board of Appeals

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**FINAL DETERMINATION**

The Indiana Board of Tax Review, having reviewed the facts and evidence, and having considered the issues, now finds and concludes the following:

**Findings of Fact and Conclusions of Law**

**Introduction**

1. The subject property's assessment increased by more than 5% between 2021 and 2022, and neither party offered probative evidence to show the property's true tax value. Under those circumstances, Ind. Code § 6-1.1-15-20(f) requires us to presume that the prior year's assessment of \$21,300 equals the property's true tax value. We therefore order the 2022 assessment to be reduced to \$21,300.

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<sup>1</sup> According to the Form 115 determination, AJJ Holdings, LLC owns the property. Ciceu is a member of AJJ Holdings. *See Pet'r Ex. 2.* Ciceu referred to the property as his throughout his testimony. For ease of reference, we will do likewise.

### Procedural History

2. On May 18, 2022, Ovidiu Ciceu filed a form 130 petition contesting the 2022 assessment of a property located at 102 South 8<sup>th</sup> Street in Vincennes. The Knox County Property Tax Assessment Board of Appeals (“PTABOA”) issued a Form 115 determination valuing the property at \$60,000 (\$5,800 for land and \$54,200 for improvements).
3. Ciceu filed a Form 131 petition with us. On May 25, 2023, our designated administrative law judge, Joseph Stanford (“ALJ”), held a telephonic hearing on Ciceu’s petition. Neither he nor the Board inspected the property. Ciceu and Knox County Assessor Robert Woodward testified under oath.
4. Ciceu submitted the following exhibits:

Petitioner Exhibit 1:	Contentions and description of exhibits,
Petitioner Exhibit 2:	First page of the decision issued in <i>Ovidiu Ciceu / AJJ Holdings, LLC v. Knox Cnty. Ass’r</i> , IBTR Pet. No. 42-022-21-1-5-00720-21 (June 1, 2022),
Petitioner Exhibit 3:	2023 Form 11,
Petitioner Exhibit 4:	2020 Form 11,
Petitioner Exhibit 5:	Copy of cashier’s check,
Petitioner Exhibit 6:	Property record card (“PRC”) for 903 Seminary St with tax payment history, tax bill history, and assessment history,
Petitioner Exhibit 7:	PRC for 314 S 5 <sup>th</sup> Street with tax payment history, tax bill history, and assessment history.
5. The Assessor submitted the following exhibits:

Respondent Exhibit 1:	Description of exhibits,
Respondent Exhibit 2:	Form 130; Form 114; Form 115 with notes,
Respondent Exhibit 3:	Appraisal completed by Kim R. Murray.
6. The record also includes the following: (1) all petitions or other documents filed in this appeal, (2) all notices and orders issued by the Board or the ALJ, and (3) an audio recording of the hearing.

## Findings of Fact

7. Ciceu bought the property for \$13,500 in 2017. The home was built in 1905. It lacks gas, water, and toilets. Although some windows have been replaced, others are older. Some of the eaves and fascia are rotted. The roof is old and leaks, which has led to the ceiling falling in. And the chimney is leaning. Ciceu and his former fiancée did spend \$1,100 to renovate the kitchen, however. *Woodward testimony; Ciceu testimony; Resp't Ex. 3.*
  
8. The property was assessed for \$21,300 in 2020. The Assessor's predecessor raised that assessment to \$40,000 for 2021, but Ciceu successfully appealed that assessment, and we ordered it to revert to its 2020 level. The property was originally assessed for \$72,900 in 2022 before the PTABOA lowered the assessment to \$60,000. *Form 131 pet.; Ciceu testimony; Pet'r Exs. 1-2, 4; Resp't Ex. 2.*
  
9. The Assessor's predecessor hired Kim R. Murray, a certified residential appraiser, to appraise the subject property. Murray did not talk with Ciceu about the property. At the Assessor's request, she inspected the property only from the street and alley. She described the roof as being in average condition although it appeared to have been patched, and she noted that some windows had been replaced. She assumed that all "hidden components," including "framing, foundation, plumbing, electrical, insulation, HVAC systems, etc." were "in working order." She considered the home to be in "fair-average" condition, which she described as:

The improvements feature obvious deferred maintenance and are in need of some significant repairs. Some building components need repairs, rehabilitation, or updating. The functional utility and overall livability is somewhat diminished due to condition, but remains useable and functional as a residence. Some significant repairs are needed to the improvements due to the lack of maintenance. It reflects a property in which many of its short-lived building components are at the end of or have exceeded their physical life expectancy but remain functional.

*Woodward testimony; Resp't Ex. 3.*

10. Murray relied on the sales-comparison approach to estimate the property's market value at \$60,000, as of August 12, 2022. She used sales of three comparable properties in her analysis. The sales were from October 2021, December 2021, and February 2022. They involved homes that were between 107 and 147 years old. Murray adjusted the sale prices to account for various ways in which the comparable properties differed from the subject property, including differences in characteristics like location, condition, gross living area, basements, and heating/cooling. In her narrative Murray indicated that she adjusted sale prices from before January 1, 2022 at the rate of 6% per year. But she did not include any adjustment to the two sales from 2021 in her adjustment grid. Based on her adjusted sale prices, Murray concluded that any value between \$53,000 and \$65,000 would be valid for the subject property. She reached her single-point conclusion by taking the average of the three adjusted sale prices. *Resp't Ex. 3.*

### **Parties' Contentions**

#### **A. The Assessor's Contentions**

11. The Assessor believes that Murray's appraisal confirms that the assessment is correct. According to the Assessor, it is not his burden to "give someone obsolescence" for more than one year. Instead, taxpayers need to apply for obsolescence. *Woodward argument and testimony; Resp't Ex. 3.*

#### **B. Ciceu's Contentions**

12. Ciceu believes the Assessor is disregarding our final determination of his 2021 appeal and is discriminating against him. He disagrees with the Assessor removing the property's obsolescence adjustment. *Ciceu argument; Pet'r Exs. 1-2.*
13. According to Ciceu, properties in similar or better condition than the subject property have lower assessments. A property located at 903 Seminary Street is "similar" to the subject property. And a property located at 314 South 5<sup>th</sup> Street is in "pristine" condition

but for years was assessed for no more than \$59,000. The previous Assessor lowered her own assessment while other assessments were increasing. *Ciceu testimony and argument; Pet'r Exs. 1, 6-7.*

### **Conclusions of Law and Analysis**

#### **A. Because the assessment increased by more than 5% between 2021 and 2022, the Assessor had the burden of proof.**

14. Generally, the taxpayer has the burden of proof when challenging a property's tax assessment. Accordingly, the assessment on appeal, "as last determined by an assessing official or the county board," will be presumed to equal "the property's true tax value." I.C. § 6-1.1-15-20(a) (effective March 21, 2022).
15. However, the burden of proof shifts if the property's assessment "increased more than five percent (5%) over the property's assessment for the prior tax year." I.C. § 6-1.1-15-20(b). Subject to certain exceptions, the assessment "is no longer presumed to be equal to the property's true tax value, and the assessing official has the burden of proof." *Id.*
16. If the burden has shifted, and "the totality of the evidence presented to the Indiana board is insufficient to determine the property's true tax value," then the "property's prior year assessment is presumed to be equal to the property's true tax value." I.C. § 6-1.1-15-20(f). Here, the subject property's assessment increased by more than 5% between 2021 and 2022, and the Assessor does not argue that any of the exceptions apply. The Assessor therefore has the burden of proof.

#### **B. Because neither party offered probative evidence to show the property's true tax value, the assessment must revert to its 2021 level.**

17. The Indiana Board of Tax Review is the trier of fact in property tax appeals, and our charge is to "weigh the evidence and decide the true tax value of the property as compelled by the totality of the probative evidence" before us. I.C. § 6-1.1-15-20(f). Our conclusion of a property's true tax value "may be higher or lower than the

assessment or the value proposed by a party or witness.” *Id.* Regardless of which party has the initial burden of proof, either party “may present evidence of the true tax value of the property, seeking to decrease or increase the assessment.” I.C. § 6-1.1-15-20(e).

18. 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). Instead, it is 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.” 2021 REAL PROPERTY ASSESSMENT MANUAL at 2.
19. In order to meet its burden of proof, a party “must present objectively verifiable, market-based evidence” of the property’s value. *Piotrowski v. Shelby Cty. Ass’r*, 177 N.E.3d 127, 132 (Ind. Tax Ct. 2021) (citing *Eckerling v. Wayne Twp. Ass’r*, 841 N.E.2d 674, 677-78 (Ind. Tax Ct. 2006)). For most real property types, neither the taxpayer nor the assessor may rely on the mass appraisal “methodology” of the “assessment regulations.” *P/A Builders & Developers, LLC v. Jennings Cty. Ass’r*, 842 N.E.2d 899, 900, (Ind. Tax Ct. 2006). This is because the “formalistic application” of the procedures and schedules from the DLGF’s assessment guidelines lacks the market-based evidence necessary to establish a specific property’s market value-in-use. *Piotrowski*, 177 N.E.3d at 133.
20. Market-based evidence may include “sales data, appraisals, or other information compiled in accordance with generally accepted appraisal principles.” *Peters v. Garoffolo*, 32 N.E.3d 847, 849 (Ind. Tax Ct. 2015). Relevant assessments are also admissible, but arguments that “another property is ‘similar’ or ‘comparable’ simply because it is on the same street are nothing more than conclusions . . . [and] do not constitute probative evidence.” *Marinov v. Tippecanoe Cty. Ass’r*, 119 N.E.3d 1152, 1156 (Ind. Tax Ct. 2019). Finally, the evidence must reliably indicate the property’s value as of the valuation date. *O’Donnell v. Dep’t of Local Gov’t. Fin.*, 854 N.E.2d 90,

95 (Ind. Tax Ct. 2006). For 2022 assessments, the valuation date was January 1, 2022. See I.C. § 6-1.1-2-1.5(a).

21. The Assessor attempted to meet his burden of proof through Murray's appraisal. Murray applied a generally accepted valuation methodology—the sales-comparison approach—to estimate the subject property's market value. She estimated that value as of August 12, 2022, more than eight months after the relevant valuation date. Nonetheless, she used sales from a few months on either side of the valuation date. Her valuation opinion therefore bears at least some relationship to the valuation date.
22. But Murray did not inspect the home's interior, and we have little confidence that she accounted for its deterioration and lack of utility. Murray made several assumptions about the home's condition and utility. For example, she assumed that the home's plumbing was in working order. But the home had no water or toilets. While Murray assumed significant deterioration, it is unclear whether her assumption reflected the actual deterioration that a closer inspection would have revealed, such as the leaking roof and falling ceilings. Had Murray testified, she might have been able to relieve some of that uncertainty. As things stand, however, her appraisal is too unreliable for us to give weight to her valuation opinion.<sup>2</sup>
23. Ciceu similarly failed to offer any probative market-based evidence to show the property's value. He mainly offered assessment information for two properties he considers comparable or superior to the subject property. Other than his conclusory testimony, he did nothing to compare relevant characteristics of the properties. And he offered no evidence to show how relevant differences affected the properties' relative market values-in-use. His comparative data therefore lacks probative weight. See *Long v. Wayne Twp. Ass'r*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005) (finding that the

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<sup>2</sup> The vast majority of appraisals are completed without interior inspections, and appraisers routinely make certain assumptions. But the un rebutted facts here show that the house was not "usable and functional as a residence." Under these circumstances, more was required.

taxpayers' comparable sales data lacked probative value where they failed to explain how their property's characteristics compared to those of purportedly comparable properties, and how differences affected market value-in-use).

24. Because neither party's evidence suffices to establish the subject property's market value-in-use for 2022, we must presume that its value equals the previous year's assessment of \$21,300.

**C. Ciceu failed to make a prima facie case showing that the Assessor targeted him for unfair treatment or that he was entitled to an equalization adjustment.**

25. Finally, Ciceu claims that the Assessor targeted him for a higher assessment because of his successful appeal of his 2021 assessment and his relationship with a previous assessor. But Ciceu offered no probative evidence to show that was the case.
26. As part of a general claim of unfairness, Ciceu also pointed to properties that he believed were assessed more favorably than his. To the extent Ciceu was attempting to argue a lack of uniformity and equality in assessments, that claim likewise fails.
27. As the Tax Court has explained, “[o]ne way to measure uniformity and equality in property assessment is through an assessment ratio study.” *Thorsness v. Porter Cnty. Ass’n*, 3 N.E.3d 49, 51 (Ind. Tax Ct. 2014). Such a 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.* at 51 (citation omitted). Where a ratio study shows an actionable lack of uniformity, a taxpayer may be entitled to an equalization adjustment bringing its assessment to the common level shown by the study. *Id.*
28. In providing guidance about how to compile and evaluate the data necessary for a ratio study, the DLGF has incorporated the International Association of Assessing Officers’ (“IAAO”) Standard on Ratio Studies (April 2013). *See* 50 IAC 27-1-4; 50 IAC 27-4-



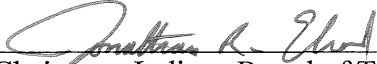
5(a); *see also*, *Thorsness*, 3 N.E.2d at 53-54 (citing to a previous version of 50 IAC 27-1-4). In *Thorsness*, the taxpayer offered evidence showing that while his property was assessed at 99.9% of its sale price, six other properties in his subdivision were assessed at an average of 79.5% of their recent sale prices. *Thorsness*, 3 N.E.3d at 50. At the administrative level, we rejected the taxpayer's claim on grounds that it neither conformed to professionally accepted standards, nor was based on a statistically reliable sample of properties. *Id.* Although the Tax Court recognized that the taxpayer's evidence was relevant, it affirmed our conclusion that the evidence lacked probative value to show that his assessment exceeded the common level of assessment for the township. *Id.* at 54.

29. Ciceu failed to make a case for any adjustment. He did not offer any probative market-based evidence to show the subject property's market value-in-use or the market value in use of the two properties he claimed were more favorably assessed. *See Westfield Golf Practice Ctr., LLC v. Washington Twp. Ass'r*, 859 N.E.2d 396, 399 (Ind. Tax Ct. 2007) (rejecting a claim of lack of uniformity and equality where taxpayer failed to show the market value-in-use of its property or any of the comparable properties on which it based its claim). Even if Ciceu had offered probative valuation evidence for the properties, he did not analyze his data in accordance with the IAAO Standard or show that he used a statistically reliable sample. His evidence would therefore have been even less probative than what the Tax Court found insufficient in *Thorsness*.

### **Conclusion**

30. Because the subject property's assessment increased by more than 5% between 2021 and 2022 and neither party offered probative evidence that sufficed to show its true tax value for 2022, we must presume that the 2021 assessment of \$21,300 equals the property's true tax value. We therefore order that the 2022 assessment be reduced to \$21,300.

Date: AUGUST 22, 2023

  
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Chairman, Indiana Board of Tax Review

  
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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>>.