REPRESENTATIVE FOR PETITIONER:
Gloria K. O'Shell, Attorney

REPRESENTATIVE FOR RESPONDENT:
Emily Shrock, Attorney

BEFORE THE
INDIANA BOARD OF TAX REVIEW

GLORIA K. O'SHELL,	)	Petition Nos.: 49-101-09-1-5-00532-16
	)	49-101-10-1-5-00533-16
Petitioner,	)	49-101-11-1-5-00534-16
	)	49-101-12-1-5-20207-15
v.	)	49-101-14-1-5-00535-16
	)	49-101-10-1-5-00531-16
MARION COUNTY ASSESSOR,	)	49-101-11-1-5-00530-16
	)	49-101-12-1-5-99028-15
Respondent.	)	
	)	Parcel Nos.: 1063064
	)	1030361
	)	
	)	County: Marion
	)	
	)	Years: 2009, 2010, 2011, 2012, 2014

Appeal from the Final Determinations of the
Marion County Property Tax Assessment Board of Appeals

September 19, 2017

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:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

INTRODUCTION

1. Gloria O'Shell challenged her property's valuation, but she failed to timely file most of her appeals and otherwise failed to offer any probative valuation evidence for the appeals that are properly before us. We therefore find for the Assessor on all of O'Shell's appeals.

PROCEDURAL HISTORY

2. Because the procedural history of these appeals plays such a substantial role in our determination, we will start with a condensed history and reserve a more detailed treatment for our findings of fact. Briefly, O'Shell appealed the assessments for a property she used as her home. Before 2012, the property existed as two separate tax parcels under the numbers 1063064 and 1030361. For 2012 forward, the parcels were combined under the existing parcel number 1063064. For ease of reference, we will refer to "parcel 106," "parcel 103" and "combined parcel 106."

3. O'Shell filed Form 130 petitions contesting parcel 106's assessment for 2009-2011 and combined parcel 106's assessment for 2014. She did not file Form 130 petitions for combined parcel 106's 2012 or 2013 assessments or for any of parcel 103's assessments. The Marion County Property Tax Assessment Board of Appeals ("PTABOA") issued Form 115 determinations in the 2011 appeal for parcel 106 and in the 2014 appeal for combined parcel 106. It took no action on O'Shell's other Form 130 petitions.

4. O'Shell also filed several Form 133 petitions, including petitions for many of the same assessment years covered by her Form 130 petitions. The PTABOA denied most of those Form 133 petitions, and O'Shell did not appeal those denials by filing the Form 133 petitions with us.

5. She ultimately filed eight Form 131 petitions with us. They address parcel 106's 2009-2011 assessments, combined parcel 106's 2012 and 2014 assessments, and parcel 103's 2010 and 2011 assessments. The last petition also addresses assessment year 2012 for parcel 103. But parcel 103 had been subsumed into combined parcel 106 and no longer existed as a separate tax parcel for that year. As shown below, however, the PTABOA issued a Form 115 determination in response to O'Shell's petition for that non-existent parcel.

6. The PTABOA (or the Assessor, as applicable) determined the following assessments for each year:

Parcel 106

Year	Land	Improvements	Total
2009	$16,100	$188,400	$204,500
2010	$40,800	$188,400	$229,200
2011	$40,800	$152,200	$193,000

Combined parcel 106

Year	Land	Improvements	Total
2012	$81,600	$122,900	$204,500
2014	$81,600	$127,900	$209,500

Parcel 103

Year	Land	Improvements	Total
2010	$40,800	$0	$40,800
2011	$40,800	$0	$40,800
2012	$40,800	$0	$40,800

7. For parcel 106, O'Shell requested assessments of $69,300 for 2009-2011. For combined parcel 106, she requested assessments of $85,400 for both 2012 and 2014. For parcel

103, she requested an assessment of $16,100 for both years that the parcel actually existed (2010 and 2011).

8. On June 21, 2017, our administrative law judge, Jacob Robinson ("ALJ"), held a hearing on O'Shell's Form 131 petitions. Neither he nor the Board inspected the property. O'Shell and Gabriel Deaton, the Assessor's director of assessments, were sworn as witnesses.

9. The record includes (1) all pleadings, briefs, and documents filed in the current appeals, and (2) all orders and notices issued by the Board or the ALJ. We have marked the following items as Board exhibits:

Board Exhibit A:	Form 131 petitions
Board Exhibit B:	Hearing notices
Board Exhibit C:	Hearing sign-in sheet

10. The record also includes the exhibits offered by the parties. O'Shell offered the following exhibits:

Petitioner Exhibit 1:	Cover letter, Form 115 Notification of Final Assessment Determination, and Form 17-T for the March 1, 2002 assessment of parcel 106
Petitioner Exhibit 2:	Form 134 Joint Report by Taxpayer/Assessor for the March 1, 2006 assessment of parcel 106
Petitioner Exhibit 3:	Form 115 determination for parcel 106's 2006 assessment
Petitioner Exhibit 4:	Form 134 report for parcel 106's 2007 assessment
Petitioner Exhibit 5:	Form 134 report for the March 1, 2008 assessment of parcel 106
Petitioner Exhibit 6:	Cover letter, copy of check no. 01745164, and claim form for property tax refund on parcel 106
Petitioner Exhibit 7:	2007 property record card ("PRC") for parcel 106
Petitioner Exhibit 8:	2008 PRC for parcel 106
Petitioner Exhibit 9:	2002 PRC for parcel 106
Petitioner Exhibit 10:	2007 PRC for parcel 103
Petitioner Exhibit 11:	2011 PRC for parcel 103
Petitioner Exhibit 12:	Tax statement for parcel 106's 2003 assessment
Petitioner Exhibit 13:	Tax statement for parcel 106's 2001 assessment
Petitioner Exhibit 14:	Tax statements for 2004 assessments of parcels 103 and 106

Petitioner Exhibit 15:	Cover letter and tax statement for parcel 106's 2008 assessment
Petitioner Exhibit 16:	Tax statement for parcel 106's 2009 assessment
Petitioner Exhibit 17:	Tax statement for parcel 103's 2009 assessment
Petitioner Exhibit 18:	Tax statement for parcel 106's 2010 assessment
Petitioner Exhibit 19:	Tax statement for parcel 103's 2010 assessment
Petitioner Exhibit 20:	Tax statement for parcel 106's 2011 assessment
Petitioner Exhibit 21:	Department of Local Government Finance ("DLGF") Report on Pay08-Pay09 Change in Residential Gross Assessed Values
Petitioner Exhibit 22:	DLGF Report on Pay09-Pay10 Change in Residential Gross Assessed Values
Petitioner Exhibit 23:	Historical information regarding the property
Petitioner Exhibit 24:	Exterior pictures of the home
Petitioner Exhibit 25:	Cover letter for 2009 tax statement
Petitioner Exhibit 26:	Treasurer Form TS-1A Homestead Verification
Petitioner Exhibit 27:	September 9, 2011 Request to Combine Parcels, dated
Petitioner Exhibit 28:	Form 11 notice of assessment for the 2012 assessment of parcel 106
Petitioner Exhibit 29:	PRC for the 2014 assessment of parcel 106
Petitioner Exhibit 30:	Form 114 hearing notice 2011 assessment of parcel 106
Petitioner Exhibit 31:	September 4, 2015 letter from O'Shell to the Assessor with attachments
Petitioner Exhibit 32:	Form 114 hearing notice for appeal of parcel 103's 2012 assessment
Petitioner Exhibit 33:	Cover letter for Form 114 hearing notice
Petitioner Exhibit 34:	Form 115 Notification of Final Assessment Determination for parcel 103's 2012 assessment
Petitioner Exhibit 35:	PTABOA Notification of Disposition on Petition for Correction of Error ("disposition notice") for parcel 106's 2009 assessment
Petitioner Exhibit 36:	Form 133 petition for parcel 106's 2009 assessment with Form 130 petition for 2010 and 8-page attachment
Petitioner Exhibit 37:	Form 133 petition for parcel 106's 2010 assessment with Form 130 petition for 2010 and 8-page attachment
Petitioner Exhibit 38:	Form 133 petition for parcel 103's 2010 assessment
Petitioner Exhibit 39:	Form 133 petition for parcel 106's 2011 assessment with Form 130 petition for 2010 and 8-page attachment
Petitioner Exhibit 40:	Form 115 determination for parcel 106's 2011 assessment
Petitioner Exhibit 41:	Form 133 petition for combined parcel 106's 2012 assessment with Form 130 petition for 2010 and 9-page attachment
Petitioner Exhibit 42:	Form 133 petition for parcel 103's 2012 assessment

11. The Assessor offered the following exhibits:

Exhibit R1:	Form 133 petition for parcel 106's 2009 assessment with 130 petition for 2010 and 8-page attachment together with exhibits A through G
Exhibit R2:	Disposition notice for parcel 106's 2009 assessment
Exhibit R3:	Comparative Market Analysis for the 2009 assessment
Exhibit R4:	PRCs for the 2009 assessments of parcels 106 and 103
Exhibit R5:	Form 133 petition for parcel 106's 2010 assessment with Form 130 for 2010 assessment and 8-page attachment together with exhibits A through G
Exhibit R6:	Disposition notice for 106's 2010 assessment
Exhibit R7:	Comparative Market Analysis for the 2010 assessment
Exhibit R8:	2010 PRCs for parcels 106 and 103
Exhibit R9:	March 20, 2010 aerial photograph of property
Exhibit R10:	Form 133 petition for parcel 106's 2011 assessment with Form 130 petition for 2010 assessment and 8-page attachment together with exhibits A through G
Exhibit R11:	Disposition notice for parcel 106' 2011 assessment
Exhibit R12:	Form 130 petition for parcel 106's 2011 assessment and 8-page attachment together with exhibits A through G
Exhibit R13:	Form 115 determination for parcel 106's 2011 assessment
Exhibit R14:	Comparative Market Analysis for the 2011 assessment
Exhibit R15:	2011 PRCs for parcels 106 and 103
Exhibit R16:	Form 133 petition for parcel 106's 2011 assessment and Form 130 petition for 2010 assessment with assessment and 9-page attachment together with exhibits A through B
Exhibit R17:	Disposition notice for parcel 106's 2012 assessment
Exhibit R18:	Comparative Market Analysis for 2012 assessment
Exhibit R19:	2012 PRC for combined parcel 106
Exhibit R20:	March 16, 2012 aerial photograph of the property
Exhibit R21:	2013 PRC for combined parcel 106
Exhibit R22:	Two copies of Form 130 petition for combined parcel 106's 2014 assessment
Exhibit R23:	Form 115 determination for combined parcel 106's 2014 assessment
Exhibit R24:	Comparative Market Analysis for 2014 assessment
Exhibit R25:	2014 PRC for combined parcel 106
Exhibit R26:	April 5, 2014 aerial photograph of the property
Exhibit R27:	Respondent's Pre-Hearing Brief

OBJECTIONS

12. The Assessor made a relevance objection to Petitioner's Exhibits 1-12, and 14—documents primarily relating to O'Shell's appeals for assessment years before 2009. They include a variety of Form 115 determinations, Form 134 reports, property record cards ("PRCs"), and tax statements for many of the years between 2002 and 2008, and one PRC for parcel 103's 2011 assessment. The ALJ overruled the objections and admitted the exhibits. We adopt his ruling.

13. Relevant evidence is generally admissible. Ind. Evidence Rule 402. 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).

14. Exhibit 11 is a PRC showing parcel 103's assessment for 2011—one of the years under appeal. It is clearly relevant. As for the rest of the exhibits, the Assessor correctly argued that each tax year stands alone. So the exhibits ultimately have no bearing on our determination. Nonetheless, they provide background helpful to understanding O'Shell's main argument—that her assessments for the years under appeal should have been lower based on the results of her 2006-2008 assessment appeals and what she claims (erroneously) is a "statewide 5% cap" on annual assessment increases.

15. The Assessor also objected to Petitioner's Exhibits 21 and 22—memoranda from the Department of Local Government Finance ("DLGF") regarding year-over-year changes in residential assessments from 2007 through 2009. He argued that the memos were irrelevant because they are not connected to O'Shell's property. The ALJ took the objection under advisement.

16. We agree that the memoranda are only marginally relevant, at best. Because the ALJ took the objection under advisement, however, the parties already dealt with the exhibits

at the hearing. Thus, there is little to be gained from excluding the exhibits as opposed to simply giving them no weight. And it is easier to explain why the exhibits lack probative weight in the context of a broader discussion of the relevant law, which we provide later in this determination. We therefore overrule the objection.

17. For her part, O'Shell objected to Exhibits R14 and R24—comparative market analyses for the 2011 and 2014 assessment years—on relevance grounds. Our ALJ overruled O'Shell's objections and we adopt his rulings. Parties may offer any evidence relevant to a property's true tax value in an appeal before us, and the sales-comparison approach is one of the three generally accepted ways to determine true tax value. MANUAL at 2-3; *Eckerling v. Wayne Twp. Ass'r,* 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006). Thus, the comparative market analyses, which are just sales-comparison approaches by another name, are clearly relevant to the issue before us—whether O'Shell's property was assessed for more than its true tax value.

FINDINGS OF FACT

18. We begin our factual discussion with assessment years 2006-2008, not because those years are before us on appeal or because they are even relevant to our determination, but because O'Shell argues that the results from her appeals for those years govern what her assessments should have been going forward. Through preliminary conferences, O'Shell and the Assessor agreed to settle her appeals and submitted Form 134 reports to the PTABOA. As a result, parcel 106's 2006 and 2007 assessments were reduced to $90,100, and its 2008 assessment was reduced to $69,300. *O'Shell testimony; Pet'r Exs. 2-5.*

19. Those reductions do not appear on Parcel 106's PRC. In Marion County, once the DLGF has certified a property's value, the Assessor's office does not reflect changes to the assessment on the property's PRC. Instead, those changes are reflected by a liability correction on the tax bill or through a refund. Based on the agreed changes to O'Shell's 2006-2008 assessments, the Marion County Auditor calculated a total refund of

$9,872.09. On September 23, 2011, the Marion County Treasurer issued O'Shell a refund check in that amount. *Deaton testimony; Pet'r Ex. 6.*

20. What happened next is a confusing muddle in which O'Shell sometimes waited until well after receiving either a Form 11 notice or a tax bill for a succeeding year's assessment before attempting to appeal that assessment. In many cases, she filed both Form 130 and Form 133 petitions for the same year. In some instances, both petitions alleged similar claims, although sorting through O'Shell's allegations is difficult, at best. All the petitions contest her property's valuation, although the reasons for challenging the valuation are sometimes confusing or obscure. And she lays out her allegations over many pages, starting on the petition forms themselves and continuing on voluminous attachments and exhibits. *Bd. Ex. A; Pet'r Exs. 16-20, 28, 34-42; Exs. R1-R2, R4-R6, R10-R13, R15-R17, R19-R20, R22-R23.*

21. Adding to the confusion, county officials acted on some of O'Shell's petitions, but not on others. In two of the three instances where the PTABOA issued Form 115 determinations (parcel 106's 2011 assessment and combined parcel 106's 2014 assessment), O'Shell filed a Form 131 petition within 45 days. In the third instance, O'Shell waited until well past that 45-day deadline before filing her Form 131 petition with us. It appears the PTABOA issued that Form 115 determination in response to O'Shell's Form 133 petition purporting to contest parcel 103's 2012 assessment.[1] That is puzzling, because local officials had granted O'Shell's request to combine parcels 103 and 106 prior to the 2012 assessment date, and parcel 103 no longer existed as a separate tax parcel for that year. *Bd. Ex. A; Pet'r Exs. 3, 27-28, 34-35, 40; Exs. R2, R6, R11, R17, R23.*

[1] Form 133 petitions contain a section for a county PTABOA to record its determination. If a taxpayer disagrees, she can appeal that determination by completing the last portion of the form and filing it with the Board. County PTABOAs occasionally issue separate Form 115 determinations in ruling on Form 133 petitions, which then prompt taxpayers to file Form 131 petitions with us.

22. O'Shell did not file any of her Form 133 petitions with us, even where the PTABOA acted on them. *Bd. Ex. A.*

23. This table summarizes the relevant procedural history, as best we can tell from the parties' filings and the evidence offered at the hearing:

Parcel	Year	Notice	130	115	131	133	Action on 133
106	2009	4/9/10 (Tax Bill)	11/7/11	None	2/1/16	1/28/13	8/21/15
106	2010	9/6/11 (Tax Bill)	11/7/11	None	2/1/16	1/28/13	8/21/15
106	2011	4/9/12 (Tax Bill)	11/7/11[2]	12/18/15	2/1/16	1/28/13	8/21/15
Combined 106	2012	12/14/12 (Form 11)	None	None	6/29/15	1/28/13	8/21/15
Combined 106	2014	4/10/15 (Tax Bill)	5/19/15	12/18/15	2/1/16	None	n/a
103	2010	8/17/11 (Tax Bill)	None	None	2/1/16	1/28/13	None
103	2011	Unknown	None	None	2/1/16	None	n/a
103	2012	None	None	5/15/15	8/17/15	1/28/13	5/15/15[3]

Deaton testimony; Bd. Ex. A (Form 131 petitions); Pet'r Exs.16, 18-20, 22, 27-28, 35-42; Exs. R1-R2, R5-R6, R10-R13, R16-R17, R22-R23.

24. O'Shell testified that various people in the offices of the Auditor and Assessor told her she did not have to file appeals for years after 2008 because her assessments would be automatically corrected. She did not give any names or dates for those conversations. Indeed, O'Shell was frequently vague and difficult to follow in her testimony. She made broad proclamations about various topics, such as insisting that a "statewide 5% cap" on assessment increases existed, and incendiary allegations, such as accusing local officials of fraud, without backing-up those claims. We therefore do not credit O'Shell's testimony that local officials somehow lured her into failing to timely file assessment appeals. In any case, O'Shell testified that she is an attorney and that she filed Form 130 petitions despite those supposed assurances. *O'Shell testimony*.

[2] O'Shell's Form 130 petition for 2011 appears to be the same petition she had filed for 2010, with the box containing the assessment year under appeal (originally March 1, 2010) stricken by hand and changed to March 1, 2011. It is unclear who changed the date.
[3] As explained above, the Form 115 determination appears to have been in response to O'Shell's Form 133 petition.

CONCLUSIONS OF LAW

25. Before reaching the merits of O'Shell's Form 131 petitions, we need to first address whether her appeals for each year are properly before us.

A. Only three of O'Shell's appeals are properly before us: parcel 106's 2011 assessment, and combined parcel 106's 2012 and 2014 assessments.

26. The Assessor argues that the only appeals properly before us are the 2011 appeal for parcel 106 and the 2014 appeal for combined parcel 106. We generally agree, with one caveat: We find that O'Shell also timely appealed her 2012 assessment, albeit by using a form reserved for the correction of error process.

27. During the years at issue, a taxpayer generally had two options for appealing an assessment: (1) the general appeal procedures laid out under Ind. Code § 6-1.1-15-1, which we refer to as the Form 130/131 procedure (named for the forms generally used to prosecute those appeals at the local and state level), or (2) or the correction-of-error process under Ind. Code § 6-1.1-15-12, for which a Form 133 petition is used.[4]

28. Under the Form 130/131 procedure, a taxpayer could have a county PTABOA review her assessment by filing written notice (typically a Form 130 petition) with the county assessor. I.C. § 6-1.1-15-1 (2009 supp.). If the county PTABOA did not give the taxpayer relief, she could file a Form 131 petition asking us to review the PTABOA's determination. I.C. § 6-1.1-15-3 (2008 supp.). Under the Form 130/131 process, a taxpayer could assert any ground upon which she believed her assessment was incorrect. But she had a relatively short deadline for doing so. She had to file a Form 130 petition within 45 days after a notice of assessment (Form 11) was issued. I.C. § 6-1.1-15-1(c) (2009 supp.). If no such notice was given, the taxpayer had to file her petition by the later of: (1) May 10 of the year; or (2) 45 days after "the date of the tax statement mailed

[4] Ind. Code § 6-1.1-15-1 and Ind. Code § 6-1.1-15-12 were repealed in their entirety effective July 1, 2017. *See* 2017 Ind. Acts 232, § 9, §17.

by the county treasurer[.]" I.C. § 6-1.1-15-1(d) (2009 supp.). If a taxpayer sought review of the county PTABOA's action with respect to an assessment, she was required to file a Form 131 with us "not later than forty-five (45) days after the date of the notice given to the party or parties of the determination of the county [PTABOA]." I.C. § 6-1.1-15-3(d) (2008 supp.).

29. By contrast, there were no deadlines for filing a Form 133 petition. *See Hutcherson v. Hamilton County Ass'r*, 2 N.E.3d 138, 142 (Ind. Tax Ct. 2013) (holding that, following the repeal of 50 IAC 4.2-3-12 on April 1, 2000, neither the correction of error statute nor its accompanying regulations included any time limit for filing Form 133 petitions). But the grounds for relief under a Form 133 petition were specifically limited to three types of errors: (1) the taxes, as a matter of law, were illegal, (2) there was a mathematical error in computing an assessment, or (3) through an error of omission by any state or county officer, the taxpayer was not given a credit, an exemption, or a deduction permitted by law. I.C. § 6-1.1-15-12(a)(6), (a)(7), and (a)(8) (2009 supp.). These errors had to be objective; a taxpayer could not challenge errors "that require[d] subjective judgments to be corrected." *Muir Woods, Inc. v. O'Connor*, 36 N.E.3d 1208, 1210-1211 (Ind. Tax Ct. 2015). If at least two specified county officials did not approve the petition, it was referred to the county PTABOA. I.C. § 6-1.1-15-12(d) (2009 supp.). A taxpayer could then appeal the PTABOA's denial to us for a final administrative determination. I.C. § 6-1.1-15-12(e) (2009 supp.).

30. To the extent O'Shell challenged her property's valuation, she needed to comply with the Form 130/131 procedure, including timely appealing those assessments within 45 days of a Form 11 notice, or if no Form 11 notice was sent, within 45 days of her tax bill. She did so in only three instances. She timely filed Form 130 petitions for parcel 106's 2011 assessment, and combined parcel 106's 2014 assessment. She also filed a Form 133 petition 45 days after the Assessor issued a Form 11 notice for combined parcel 106's 2012 assessment. We view that as sufficient to initiate the Form 130/131 process. While many taxpayers used a Form 130 petition to start the process, the statute only required a

taxpayer to file a written notice with her name, address, and telephone number and her property's parcel number. I.C. § 6-1.1-15-1(f) (2009 supp.). O'Shell's Form 133 petition met those requirements.

31. For the other assessments, O'Shell either filed her petitions well past the 45-day deadline or did not file anything at the local level:

Parcel	**Year**	**Notice**	**First Filing**	**Elapsed Time**
106	2009	4/9/10 (Tax Bill)	11/7/11 (130)	577 days
106	2010	9/6/11 (Tax Bill)	11/7/11 (130)	62 days
103	2010	8/17/11 (Tax Bill)	1/28/13 (133)	530 days
103	2011	Unknown	None	n/a
103	2012	None (not a parcel)	1/28/13 (133)	n/a

32. O'Shell argues that her time for starting the Form 130/131 process did not begin to run until September 28, 2011,when she received her refund check for the 2006-2008 assessment years. We disagree. The statute did not provide for tolling the filing period when a prior year's assessment was under appeal.

33. Nor does O'Shell's claim that local officials lured her into waiting until her 2006-2008 appeals were finalized excuse her untimely filings. As we explained in our findings of fact, we do not credit O'Shell's testimony on that point. Regardless, as the Indiana Supreme Court has explained, "[w]hen the legislature enacts procedures and timetables which act as a precedent to the exercise of some right or remedy, those procedures cannot be circumvented by the unauthorized acts and statements of officers, agents or staff of the various departments of our state government." *Middleton Motors, Inc. v. Indiana Dep't of State Revenue*, 269 Ind. 282, 285, 380 N.E.2d 79, 81 (1978). Instead, "[a]ll persons are charged with the knowledge of the rights and remedies prescribed by statute." *Id.* She acknowledged that she filed Form 130 petitions to protect her rights. She just failed to do so in a timely manner.

34. O'Shell also claimed that county officials violated her due process rights because neither the Assessor nor the PTABOA considered her Form 130 petitions for 2009 and 2010. She faulted the Assessor for failing to hold the preliminary conference required by Ind. Code § 6-1.1-15-1 and recording the results on a Form 134 report. But O'Shell admitted she knew that she could bypass the PTABOA and file a Form 131 petition with us if the PTABOA failed to act. *See* I.C. § 6-1.1-15-1(o) (2009 supp.) (providing that a taxpayer could appeal directly to the Board if the maximum time for the county PTABOA to hold a hearing or issue a determination lapsed). In fact, O'Shell used that very process when she filed her 2009 and 2010 Form 131 petitions with us. In any case, the alleged deprivations all involve post-filing procedures and could not excuse O'Shell's failure to timely file her appeals in the first place.

35. O'Shell did file Form 133 petitions for some of the years where she either failed to file a Form 130 petition or filed her Form 130 petition untimely. The PTABOA, however, denied all but one of O'Shell's Form 133 petitions on August 21, 2015, and she did not appeal those denials by filing the Form 133 petitions with us.[5]

36. In any case, O'Shell cannot avoid the statutory time limitations for the Form 130/131 review process by characterizing her appeals as corrections of error and filing them on Form 133 petitions. *See Lake Co. Prop. Tax Assessment Bd. of Appeals v. BP Amoco Corp.*, 820 N.E.2d 1231, 1236-1237 (Ind. 2005) (holding that because the taxpayer failed to challenge its assessments within the applicable time period for which a Form 130 was available, it was foreclosed from using a Form 133 for that purpose).

37. O'Shell argues that her Form 133 petitions were proper vehicles for contesting her property's valuation, because she was simply alleging an objective mathematical error in

[5] The PTABOA never acted on O'Shell's Form 133 petition for parcel 103's 2010 assessment. O'Shell filed a Form 131 petition for that year, possibly in an attempt to bring that Form 133 petition before us, although she did not include a copy of that Form 133 petition in her filing. In any case, at the time she filed her Form 131 petition with us, there was no provision for bypassing the PTABOA if it failed to act on a Form 133 petition. *See* I.C. § 6-1.1-15-12 (2014 repl. vol.).

computing her assessments. As we discuss more thoroughly when we address the merits of her few timely appeals, she premises her claims on faulty readings of two statutes, and on the supposed requirements of other statutes that do not even exist. More fundamentally, she misunderstands our current assessment system, where determining a property's true tax value almost inherently requires subjective judgment. *See Stinson v. Trimas Fasteners, Inc*., 923 N.E. 2d 496, 502 (Ind. Tax Ct. 2010) (explaining that "[t]he valuation of property is the formulation of an opinion; it is not an exact science.").

38. For those reasons, we dismiss all of O'Shell's appeals, except the appeals for parcel 106's 2011 assessment and for combined parcels 106's 2012 and 2014 assessments. We now turn to the merits of those remaining appeals, beginning with who has the burden of proof.

B. O'Shell has the burden of proof

39. Generally, a taxpayer seeking review of an assessment must prove that the assessment is wrong and what the correct value should be. Indiana Code § 6-1.1-15-17.2 creates an exception to the general rule and assigns the burden of proof to the assessor where (1) the assessment under appeal represents an increase of more than 5% over the prior year's assessment for the same property, (2) or the taxpayer successfully appealed the prior year's assessment, and the current assessment represents an increase over what was determined in the appeal, regardless of the level of that increase. I.C. § 6-1.1-15-17.2(a), (b) and (d).

40. O'Shell argues that the Assessor bears the burden because all of the challenged assessments represent an increase over the property's stipulated value for 2008. That would matter only if O'Shell's appeals for the 2009 assessment year were properly before us. They are not.

41. We must therefore focus on the assessments for the years that are properly before us—2011, 2012, and 2014—and compare those assessments to the assessments for the

immediately preceding years. In each instance, the assessment decreased from year-to-year. The PTABOA reduced parcel 106's 2011 assessment to $193,000, which resulted in a total assessment for the two parcels of $233,800. That was less than the total of $270,000 from 2010.[6] The property's assessment then plunged to $204,500 in 2012. While the assessment increased to $213,700 in 2013, O'Shell did not appeal that year's assessment. The assessment once again dropped to $209,500 in 2014. Thus, Ind. Code § 6-1.1-15-17.2 does not shift the burden of proof to the Assessor for any of the years at issue.

42. O'Shell, however, also pointed to Indiana Code § 6-1.1-4-4.4, which creates a second exception to the general rule that a taxpayer has the burden of proof. Under that statute, if an assessor changes a parcel's underlying characteristics—including age, grade, or condition—from the previous year's assessment, he must document each change and his reasons for making it. In any appeal of the assessment, the assessor has the burden of proving that the change was valid. I.C. § 6-1.1-4-4.4.

43. O'Shell's argument under Ind. Code § 6-1.1-4-4.4 fares no better than her argument under Ind. Code § 6-1.1-15-17.2. She failed to offer evidence showing that the Assessor changed any of the parcel characteristics contemplated by Ind. Code § 6-1.1-4-4.4 for 2011 or 2014. *See Fisher v. Carroll Co. Ass'r*, 74 N.E.3d 582, 587 (Ind. Tax Ct. 2017) (inferring that an assessor increased a property's value solely because it was undervalued in relation to other comparable properties where the taxpayer offered no evidence to show that the assessor had changed any of the property's underlying characteristics).

44. To the extent that combining parcels 103 and 106 in 2012 constituted a change to parcel 106's underlying characteristics, the Assessor met his burden by explaining the change and showing that it was valid. He combined the parcels at O'Shell's request. In doing so, he did not change the property's overall assessment. The combined parcel's land

[6] O'Shell used the two parcels together as a single property. When applying Ind. Code § 6-1.1-15-17.2, we generally view the property's total assessment rather than looking at individual components on a piecemeal basis. *See Koziarz v. Marshall Cnty. Ass'r*, pet. nos. 50-017-12-1-5-00012 and -14 (IBTR May 22, 2014).

assessment was simply the sum of the previous year's land assessments for the separate parcels.

C. O'Shell failed to meet her burden of proof

1. Valuation evidence in assessment appeals

45. 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); 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. § 6-1.1-31-6(c) and (e). It is instead determined under the DLGF's rules. 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.

46. All three standard appraisal approaches—the cost, sales-comparison, and income approaches—are "appropriate for determining true tax value." MANUAL at 2. In an assessment appeal, parties may offer any evidence relevant to a property's true tax value, including appraisals prepared in accordance with generally recognized appraisal principles. *Id*. at 3; *see also Eckerling v. Wayne Twp. Ass'r,* 841 N.E.2d 674, 678 (reiterating that a market value-in-use appraisal that complies with the Uniform Standards of Professional Appraisal Practice is the most effective method for rebutting the presumption that an assessment is correct). Regardless of the method used, a party must explain how her evidence relates to the relevant valuation date. *Long v. Wayne Twp. Ass'r,* 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). Otherwise, the evidence lacks probative value. *Id.* For the 2011, 2012, and 2014 assessments, the valuation dates were March 1, 2011, March 1, 2012, and March 1, 2014, respectively. I.C. § 6-1.1-4-4.5(f).

2. O'Shell did not offer any probative valuation evidence

47. As discussed above, O'Shell has the burden of proof. She did not offer any market-based evidence to show her property's true tax value. Instead, she primarily argues that Assessor's failure to comply with recordkeeping requirements led the Assessor to overvalue her property. O'Shell's argument is twofold. First, she contends that the Assessor violated Ind. Code § 6-1.1-4-25 by failing to record the agreed reductions for 2006-2008 on parcel 106's PRC. Second, she claims that Ind. Code § 6-1.1-15-1(e) required the reduced 2008 assessment to simply roll forward.

48. O'Shell's argument fails both under the plain meaning of the statutes she cites and in light of Tax Court precedent interpreting our current assessment system. We start with the statutes. At all times relevant to these appeals, Ind. Code § 6-1.1-4-25 required assessors to keep their "reassessment data and records current by securing the necessary field data and by making changes in the assessed value of real property as changes occur" in the property's use. I.C. § 6-1.1-4-25(a) (2008 supp.). It also required assessors to "at all times show the assessed value of real property in accordance with [Ind. Code § 6-1.1-4]." *Id*. Finally, it required assessors to maintain electronic file data of parcel characteristics in a form required by the Legislative Services Agency and DLGF and to transmit the data to those agencies. I.C. § 6-1.1-4-25(b) (2008 supp.)

49. It is unclear whether the statute required PRCs to reflect changes made through the appeal process outlined in Ind. Code § 6-1.1-15. We need not decide that question. Even if the Assessor failed to comply with Ind. Code § 6-1.1-4-25, it is a recordkeeping statute. It does not address the substantive question of how to determine true tax value.

50. O'Shell similarly misreads Ind. Code § 6-1.1-15-1(e). That statute, which as noted above has since been repealed, provided in relevant part:

> A change in an assessment made as a result of a notice for review filed by a taxpayer under subsection (d) after the time prescribed in subsection (d) becomes effective for the next assessment date. A change in an assessment made as a result of a notice for review filed by a taxpayer under subsection (c)

> or (d) remains in effect from the assessment date for which the change is made until the next assessment date for which the assessment is changed under this article.

I.C. § 6-1.1-15-1(e) (2010 repl. vol.). The first part of subsection (e) simply allowed certain appeals that were untimely for one assessment date to be treated as appeals for the next assessment date. But O'Shell cannot claim that her 2008 appeal was untimely for 2008 and that any resulting change therefore should have applied to 2009. She offered Form 134 reports showing that she and the Assessor agreed to reduce the property's 2008 assessment. And she received a refund for taxes associated with that assessment.

51. Some taxpayers have argued that the second part of subsection (e) required the value from a successful appeal to roll forward where a property's original assessment (before the appeal) was the same for both the year appealed and the immediately succeeding year or years. We rejected such a reading in *River City Storage v. Vanderburgh Cnty. Ass'r*, pet. no. 82-027-10-3-4-83872-15 (IBTR Aug. 3, 2017). O'Shell asks us to stretch the statute's language even further. Unlike the assessments in *River City Storage*, Parcel 106's original assessment changed between 2008 and 2009.

52. O'Shell's basic argument also conflicts with the overall structure of Indiana's current assessment and appeal system. True tax value is no longer determined by applying self-referential rules; instead, the focus has shifted to "examining whether a property's assessed value actually reflects the external benchmark of market value-in-use." *Westfield Golf Practice Center v. Washington Twp. Ass'r*, 859 N.E.2d 396, 399 (Ind. Tax Ct. 2007). For that reason, a taxpayer cannot make a prima facie case that an assessment is wrong simply by challenging the methodology used in determining it. *See Eckerling* 841 N.E.2d at 678 (explaining that "strict application" of assessment regulations is not enough to rebut the presumption that an assessment is correct, but that a taxpayer may make a prima facie case through market-based evidence). Yet that is largely what O'Shell seeks to do here.

53. Similarly, "each tax year—and each appeal process—stands alone." *Fisher v. Carroll Cnty. Ass'r,* 74 N.E. 3d 582 (Ind. Tax Ct. 2017). Evidence of a property's assessment in one year, therefore, has little bearing on its true tax value in another. *See, e.g., Fleet Supply, Inc. v. State Bd. of Tax Comm'rs*, 747 N.E.2d 645, 650 (Ind. Tax Ct. 2001); *Barth, Inc. v. State Bd. of Tax Comm'rs,* 699 N.E.2d 800, 805 n. 14 (Ind. Tax Ct. 1998). O'Shell, however, wants the settlement of her 2008 appeal to govern her assessment in later years.

54. O'Shell also made an additional, puzzling claim—that Indiana caps year-to-year assessment increases at 5%. While one might assume that she was confusing Ind. Code § 6-1.1-15-17.2's burden-shifting rule with a substantive limitation on year-to-year assessment increases, she denied any such confusion. She instead argued that the Indiana Constitution and various statutes impose that substantive limitation. She did provide citations for those constitutional provisions or statutes, and to our knowledge, none exist.

3. O'Shell did not offer any probative evidence to show a lack of uniformity and equality in her assessments

55. O'Shell next challenged the uniformity and equality of her assessments. According to the Tax Court, "when a taxpayer challenges the uniformity and equality of his or her assessment *one* approach that he or she may adopt involves the presentation of assessment ratio studies, which compare the assessed values of properties within an assessing jurisdiction with objectively verifiable data, such as sales prices or market value-in-use appraisals." *Westfield Golf,* 859 N.E.2d at 399 n.3 (emphasis in original). Such studies, however, must be prepared according to professionally acceptable standards and be based on a statistically reliable sample of properties that actually sold. *Kemp v. State Bd. of Tax Comm'rs*, 726 N.E.2d 395, 404 (Ind. Tax Ct. 2000); *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).

56. O'Shell relied on two DLGF memos that used data gathered from a majority of Indiana's counties to summarize aggregate year-to-year changes in the assessment of residential property. The memos are not ratio studies; they do not compare assessments to objectively verifiable data showing market value-in-use. O'Shell even admitted in her closing statement that the memos do not "apply necessarily to a particular property such as mine for establishing whether or not I am being treated substantially different in property valuation than other taxpayers with the same types of properties." In any case, the memos address the 2007 through 2009 assessment years, none of which are at issue in these appeals. For those reasons, the memos lack any probative value.

4. Other claims

57. Finally, O'Shell mentioned homestead deductions at various points in her testimony. She was presumably referring to the standard and supplemental homestead deductions under Ind. Code §§ 6-1.1-12-37 and -37.5. She mostly referred to those deductions in conjunction with parcel 103. As explained above, no appeals for parcel 103 are properly before us. O'Shell also indicated that she was unsure whether she received the deductions after the parcels were combined in 2012. She offered no evidence to support that belief, however, and she therefore failed to show any error. In fact, she received the deductions for parcel 106 in 2011, and for combined parcel 106 in 2013 and 2014. It is hard to believe that she did not also receive the deductions for 2012.

58. We have done our best to address all of O'Shell's claims and arguments that are colorable. But O'Shell included rambling narratives with voluminous attachments to all her appeal petitions. Her testimony and argument at the hearing were similarly difficult to follow, as was her pre-hearing brief. Her petitions, brief, and in-hearing statements were filled with references to due process and constitutional rights, but she did not develop them into coherent arguments. It was O'Shell's duty to walk us through her analysis. *Indianapolis Racquet Club, Inc. v. Washington Twp. Ass'r*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004). To the extent her lack of clarity led us to miss any salient claims or arguments, she must bear the consequences.

SUMMARY OF FINAL DETERMINATION

59. O'Shell failed to timely contest the assessments covered by five of her eight appeals. We therefore dismiss all of her appeals except petition numbers 49-101-11-1-5-00534-16 (parcel 106's 2011 assessment), 49-101-12-1-5-20207-15 (combined parcel 106's 2012 assessment), and 49-101-14-1-5-00535-16 (combined parcel 106's 2014 assessment). As to those three appeals, O'Shell failed to make a prima facie case that her property was assessed for more than its true tax value or that there was a lack of uniformity and equality in her assessments. Thus, we find for the Assessor on all of O'Shell's appeals and order no changes.

This Final Determination of the above-captioned matter is issued by the Board on the date first 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>.