REPRESENTATIVE FOR PETITIONER:
William T. Rainsberger, *pro se*

REPRESENTATIVE FOR RESPONDENT:
Gabe Deaton, Director of Assessment

BEFORE THE
INDIANA BOARD OF TAX REVIEW

William T. Rainsberger,	)	Petition:	49-700-13-1-5-01265-16
	)		
Petitioner,	)	Parcel:	7015799
	)		
v.	)	County:	Marion
	)		
Marion County Assessor,	)	Township:	Warren
	)		
Respondent.	)	Assessment Year:	2013

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

March 29, 2018

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. William Rainsberger challenged his property's valuation but he failed to present probative evidence of its market-value-in-use. The Assessor submitted valuation

evidence but did not request an increase in value. We therefore find for the Assessor and leave the assessment unchanged.

PROCEDURAL HISTORY

2. Rainsberger filed an appeal with the Marion County Assessor challenging his 2013 assessment. The Marion County Property Tax Assessment Board of Appeals ("PTABOA") issued a Form 115 notice of determination upholding the original assessment of $17,600. Rainsberger timely filed a Form 131 petition with the Board and opted out of our small claims procedural rules.

3. On February 7, 2018, our designated administrative law judge, Jacob Robinson, held a hearing on the petition. Neither he nor the Board inspected the property.

4. Rainsberger appeared *pro se*. Gabe Deaton, Director of Assessment for Marion County, appeared for the Assessor. They were both sworn as witnesses.

5. Rainsberger submitted the following exhibits:

Petitioner's Ex. 1:	Form 131 Petition
Petitioner's Ex. 2:	Various 2013 Property Tax Detail printouts
Petitioner's Ex. 3:	Various 2017 Property Record Cards
Petitioner's Ex. 4:	Excerpt from appraisal prepared by Mike Stroup, dated August 2, 2015
Petitioner's Ex. 5:	Rainsberger's hearing notes

6. The Assessor submitted the following exhibits:

Respondent's Ex. 1:	Aerial map of subject property for 2013 payable 2014
Respondent's Ex. 2:	Aerial map of subject property
Respondent's Ex. 3:	2013 Property Record Card for Parcel # 7015799
Respondent's Ex. 4:	2013 Property Record Card for Parcel # 7015800
Respondent's Ex. 5:	Comparative Market Analysis prepared by Gabe Deaton
Respondent's Ex. 6:	Excerpt from appraisal prepared by Mike Stroup, dated August 2, 2015, with handwritten notes

Respondent's Ex. 7: *Rainsberger v. Marion County Assessor*, Pet. No. 49-700-08-1-5-10622 (IBTR, Oct. 23, 2015)

7. The following items are officially recognized as part of the record of the proceedings and labeled Board Exhibits:

Board Ex. A: Form 131 Petition and attachments
Board Ex. B: Notice of Hearing
Board Ex. C: Hearing Sign-In Sheet

In addition, the Board incorporates into the record all notices and orders issued by the Board or the ALJ.

8. The subject property is a vacant lot identified as Parcel #7015799 and located at 7345 East 13th Street, Indianapolis.

OBJECTIONS

9. The Assessor objected to the admission of Petitioner's Exhibits 2 and 3 because Rainsberger failed to exchange them before the hearing. Rainsberger admitted that he had not exchanged the exhibits, but claimed that the rules do not require an exchange under the small claims procedures. However, after the ALJ informed Rainsberger that he had opted out of small claims on his Form 131 petition, Rainsberger stated that he had subsequently requested the reinstatement of the small claims procedures. We have no record of such a request.

10. Our procedural rules require parties to exchange copies of their documentary evidence at least five business days before a hearing. 52 Ind. Admin. Code 2-7-1(b)(1). This requirement allows parties to be better informed and to avoid surprises. It also promotes an organized, efficient, and fair consideration of the issues. We may exclude evidence based on a party's failure to comply with the exchange rule where it appears that admitting the exhibit would prejudice the opposing party. *See* 52 IAC 2-7-1(f).

11. Here, we find that Rainsberger's failure to exchange exhibits produced the type of unfair surprise that the exchange rule is intended to prevent. Admitting exhibits showing comparable properties when the Assessor had no opportunity to review them or research their similarities and differences would clearly prejudice the Assessor's case. We therefore sustain the Assessor's objection and exclude Petitioner's Exhibits 2 and 3. The Assessor did not object or move to strike Rainsberger's testimony regarding the excluded exhibits. It therefore remains a part of the record.

12. Rainsberger objected to the admission of Assessor's Exhibits 2 through 6, but he offered little explanation on the nature of his objection. He stated that the Assessor should not combine his parcels for valuation purposes and that Exhibit 5 was not an appraisal, although the Assessor never claimed Exhibit 5 was an appraisal. The ALJ overruled these objections at the hearing, and we affirm his ruling.

BURDEN OF PROOF

13. 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 shifts the burden to the assessor to prove that the assessment is correct in specified circumstances, including where the assessment under appeal represents an increase of more than 5% over the prior year's assessment for the same property. Ind. Code § 6-1.1-15-17.2(a), (b). If the assessor has the burden and fails to meet it, the assessment reverts to the previous year's level or to another amount shown by probative evidence. I.C. § 6-1.1-15-17.2(b).

14. The subject property's assessed value did not change from 2012 to 2013. The parties agreed that Rainsberger therefore bears the burden of proof.

RAINSBERGER'S CONTENTIONS

15. Rainsberger owns two adjacent parcels – #7015800 and #7015799. His home is located on Parcel #7015800. Parcel #7015799 is his side yard, which the Assessor assessed as unimproved vacant land in 2013. *Pet'r Exs. 1, 5; Rainsberger testimony.*

16. His property contains one of the few vacant parcels in a platted subdivision in Warren Township, making it almost unique. Because of this, Rainsberger could not find comparable sales to value his land. He instead found other side yards in close proximity to his property and compared their 2013 assessed values. Each of these properties was within one mile of his property, had access to roads and utilities, and was free from debilitating characteristics. *Pet'r Ex. 5; Rainsberger testimony.*

17. The only assessment comparable Rainsberger discussed in detail was Parcel #7013500. It is vacant containing 0.91 acres and had an assessed value of $3,600 in 2013. Like Rainsberger, the woman that owns it lives on a different parcel next door. Because it is not in a subdivision, it is assessed at a rate of $4,000 per acre. *Pet'r Ex. 5; Rainsberger testimony.*

18. Almost all of his comparable properties have assessments of either $3,500 or $4,000 per acre. The only exception is Parcel # 7045539, which was assessed as farmland. Although the property record cards he reviewed to find assessment data for his comparable properties were from 2017, Rainsberger argued that their 2017 assessments still support his claim because the value of unimproved land does not change much over time. *Pet'r Ex. 5; Rainsberger testimony.*

19. Rainsberger also submitted an excerpt from an appraisal prepared by Mike Stroup for PNC Bank. Stroup's market comparable analysis values both of Rainsberger's parcels together at $105,000 as of July 31, 2015. Stroup made a $2,000 adjustment to account

for the approximately 18,000 square foot difference between the subject property's and Comps. 1 and 3's land areas. Thus, Rainsberger argued that Stroup valued his land at $0.11 per square foot, which means the subject property's 15,000 square feet are only worth about $1,650. Although Stroup's appraisal was for a mortgage and valued the property as of 2015, Rainsberger claimed he could use it to prove his property's value in 2013 because house and land prices do not change much over time. *Pet'r Exs. 4, 5; Rainsberger testimony.*

20. Finally, Rainsberger claimed that the Assessor incorrectly listed his property's class code as 510, which denotes a one family dwelling on a platted lot. All other vacant platted lots are class code 500. *Rainsberger testimony.*

ASSESSOR'S CONTENTIONS

21. The Assessor argued that both of Rainsberger's properties must be valued together because his home straddles the parcel line. He further claimed that this means Rainsberger's could not sell his properties separately, so their value must be determined together. The Assessor combined the parcels sometime after 2013. *Resp't Exs. 1-4; Deaton testimony*.

22. Deaton looked for comparable sales between January 1, 2011 and February 28, 2013. He found four sales of single-family homes in Warren Township within 1 mile of Rainsberger's parcels. Each home was built before 1965, has one level, 1,500-2,000 square feet, no basement, and a 2-car garage. The median price per square foot of these homes was $54.13. Multiplying this price by the square footage of Rainsberger's home leads to a value of $106,100 for both parcels. *Resp't Ex. 5; Deaton testimony.*

23. The Assessor valued Rainsberger's combined properties at $97,600 in 2013 ($80,000 for Parcel #7015800; $17,600 for Parcel #7015799). This is less than the value suggested by

comparable sales and less than the $105,000 valuation from Stroup's appraisal. The Assessor agreed with Stroup's opinion of value but did not ask for Rainsberger's assessment to be increased. *Resp't Exs. 5, 6; Deaton testimony.*

24. Contrary to Rainsberger's claim, the Assessor classified Parcel # 7015799 as a vacant platted lot in 2013. Because the Assessor could not split the value of the house, he chose to assign its entire value to #7015800, Rainsberger's other parcel. *Resp't Ex. 3; Deaton testimony.*

ANALYSIS AND CONCLUSIONS OF LAW

25. 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), (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.

26. 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 (Ind. Tax Ct. 2006) (reiterating that a market value-in-use appraisal that complies with the Uniform Standards of Professional Appraisal Practice ("USPAP") is the most effective method for rebutting the presumption that an assessment is correct). Regardless of the

method used, a party must explain how their 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*. The valuation date for a 2013 assessment was March 1, 2013. I.C. § 6-1.1-4-4.5(f).

27. Here, Rainsberger's home straddles the parcel line, meaning that a portion of his home sits on each of his two parcels. Generally, the Board does not consider land and improvements in a piecemeal manner when the property forms a single economic unit. *See Pachniak v. Marshall Co. Ass'r,* Pet. No. 50-014-06-1-5-00070, et al. (Ind. Bd. Tax Rev. March 9, 2009) (holding that where owners and the market view related parcels as one property, we ultimately care about the value of the entire property, not its individual components); *see also, Cedar Lake Conf. Ass'n v. Lake County Prop. Tax Assessment Bd.*, 887 N.E.2d 205, 209 (Ind. Tax Ct. 2008) (stating that assigning separate parcels distinct parcel numbers does not alter the manner in which the properties are used). We therefore agree with the Assessor that because Rainsberger's home straddles the parcel line, the value of his two parcels and the improvements located thereon should be determined together. Although the Board is not inclined to consider Rainsberger's attempt to challenge one of his parcel's land valuations in isolation, we will nevertheless examine his evidence.

28. Rainsberger presented an assessment comparison relying on a number of purportedly comparable properties in an attempt to show that his assessment was not in line with their assessments. 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).

29. Rainsberger testified that his comparable properties were all within one mile of his property. But a party offering assessment data must also show the properties are

comparable using generally accepted appraisal and assessment practices. I.C. § 6-1.1-15-18(c); *see also Long*, 821 N.E.2d at 470-71. 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 similarly explain how relevant differences affect values. *Id.*

30. We excluded Petitioner's Exhibits 2 and 3, which contained detailed information concerning Rainsberger's assessment comparables. Standing alone, his testimony regarding the purportedly comparable properties failed to provide sufficient information to demonstrate comparability. And one of the parcels he included as a comparable was admittedly assessed as farmland, making it inappropriate for comparison to a residential assessment. Additionally, Rainsberger did not even attempt to make adjustments for any relevant differences between his property and the comparable properties. His testimony therefore falls well short of providing the analysis contemplated by *Long*.

31. Rainsberger also acknowledged that his assessment comparison information from the property record cards was from 2017. And his unsupported statement that the value of unimproved land does not change much over time is not sufficient to relate the evidence back to the March 1, 2013 assessment date. Consequently, his assessment comparison lacks probative value.

32. Rainsberger also offered an excerpt from an appraisal prepared by Stroup. Stroup valued both of Rainsberger's properties, including the improvements located on Parcel #7015800, at $105,000 as of July 31, 2015. Because Rainsberger only appealed the assessment of his vacant parcel, he attempted to establish its land value by extracting a per square foot value from Stroup's site size adjustment and applying it to the subject property's square footage. But Stroup's appraisal contains a separate statement concerning his opinion of the land value in which he estimated a total land value of

$18,000 for both of Rainsberger's parcels. Thus, assuming an equal allocation between the two identically sized parcels, Stroup valued the subject property at $9,000, or $0.60/SF. In contrast, Rainsberger's calculation based on Stroup's site size adjustment produced an estimated land value of only $0.11/SF. We are therefore unconvinced that Rainsberger's calculation produced a reliable value estimate.

33. Even if Rainsberger had advocated for a land valuation of $9,000 based on Stroup's appraisal, the excerpt he provided contains inadequate information. Stroup did not testify at the hearing and the short description provided in the excerpt fails to explain how he formed his opinion of land value in enough detail to be credible on its own. Stroup's appraisal also valued Rainsberger's properties as of July 31, 2015, more than 2 years after the relevant valuation date. Rainsberger's assertion that house and land prices do not change much over time is insufficient to relate Stroup's 2015 valuation opinion back to March 1, 2013. Finally, we note that there is no indication in the excerpt that Stroup's appraisal complies with USPAP. As a result, Stroup's appraisal is not probative evidence of the subject property's market value-in-use.

34. Finally, Rainsberger's claim that the Assessor incorrectly classified his property as code 510 is likewise without merit. The parties agreed that class code 500 was the appropriate code and the Assessor showed that he used this code during the 2013 tax year. Regardless, under Indiana's current assessment and appeal system, taxpayers 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). And Rainsberger did nothing to explain how this class distinction affected the market-value-in-use of his property.

35. Because Rainsberger did not offer any probative evidence to show the subject property's market value-in-use, he failed to make a prima facie case that his 2013 assessment was incorrect. Where a petitioner has not supported his claim with probative evidence, the respondent's duty to support the assessment with substantial evidence is not triggered. *Lacy Diversified Indus. v. Dep't of Local Gov't Fin.,* 799 N.E.2d 1215, 1221-1222 (Ind. Tax Ct. 2003). Thus, we need not analyze the Assessor's evidence.

SUMMARY OF FINAL DETERMINATION

36. In accordance with the above findings and conclusions, we find for the Assessor and order no change to Rainsberger's 2013 assessment.

The Indiana Board of Tax Review issues the Final Determination of the above captioned matter 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>.