

**INDIANA BOARD OF TAX REVIEW**  
**Small Claims**  
**Final Determination**  
**Findings and Conclusions**

**Petition Nos.:** 36-012-16-1-1-02153-16  
**Petitioner:** David Sherrill  
**Respondent:** Jackson County Assessor  
**Parcel Nos.:** 36-76-23-200-011.000-012  
**Assessment Yrs.:** 2016

The Indiana Board of Tax Review (“Board”) issues this determination in the above matter, finding and concluding as follows:

**PROCEDURAL HISTORY**

1. David Sherrill claims that his 2017 assessment is too high because a pipeline easement drastically interferes with his ability to use his land.
2. Sherrill filed an appeal with the Jackson County Property Tax Assessment Board of Appeals (“PTABOA”) contesting his assessment. On October 24, 2016, the PTABOA issued a determination upholding the assessment and valuing Sherrill’s property as follows:

<b>Land</b>	<b>Improvements</b>	<b>Total</b>
\$1,100	\$3,900	\$5,000

3. Sherrill filed a Form 131 petition with the Board, electing to proceed under our rules for small claims. On October 31, 2018, our designated administrative law judge, Jeremy Owens (“ALJ”), held a hearing on Sherrill’s petition. Neither he nor the Board inspected the property. Sherrill and Jackson County Assessor Katie Kaufman were sworn in and testified at the hearing.

**RECORD**

4. The parties offered the following exhibits:

Petitioner’s Exhibit 1:	Permanent Easement Agreement
Petitioner’s Exhibit 2:	October 5, 2016 letter from Enterprise Products and Form 130 petition
Petitioner’s Exhibit 3:	Written narrative from Sherrill
Respondent’s Exhibit A:	2016 property record card for Sherrill’s property
Respondent’s Exhibit B:	Aerial map

5. The record also includes the following: (1) all petitions, motions, briefs, and other documents filed in these appeals, (2) all orders and notices issued by the Board or our ALJ; and (3) a digital recording of the hearing.

## **PARTIES' CONTENTIONS**

### **Sherrill's Contentions**

6. Sherrill wants the land portion of his assessment reduced from \$1,100 down to \$800. He acknowledges that his appeal is not necessarily about his taxes, but rather about the principle that neither he nor the county had much recourse to stop the pipeline from being built under his property. According to Sherrill, if he had refused to grant an easement for the pipeline, he would have been evicted from his land and given a few dollars for compensation. *Sherrill testimony.*
7. Sherrill's property is roughly three acres and has a wooded area, a roadway, and agricultural ground. Sherrill believes the property's value has decreased since 2012, when he sold a 50-foot-wide pipeline easement to Enterprise Liquids Pipeline, LLC. Enterprise does not honor the Indiana Utility Commission's guidelines on how it should interact with landowners. Sherrill asked Enterprise to bury the pipeline ten feet underground, but it only buried the pipeline five feet. Sherrill believes the lack of depth will harm his property because the pipeline operates at a pressure of 875 pounds per square inch. Although Enterprise currently runs ethane through the pipeline, the easement contract allows Enterprise to add other pipelines within the easement. It could pump anything it wants through the pipelines. *Pet'r Ex. 1; Sherrill testimony.*
8. According to Sherrill, the pipeline easement greatly restricts what he can do with his land. He cannot park over the easement because Enterprise wants to be able to monitor it from the air. He similarly cannot build a fence because it would block Enterprise's sightlines to the easement. Sherrill asked Enterprise for permission to build a drive that would cross the easement. He got some concrete slabs from a nearby bridge that had been torn down, and he planned to use it for his drive. But Enterprise denied him permission. It also denied him permission to put in piping and drains. *Pet'r Exs. 1-2; Sherrill testimony.*
9. Sherrill also testified that Enterprise mixed clay with the soil, which made the land unusable for growing crops. And Enterprise graded the land to keep water off the easement, which has diverted the water across the rest of his Sherrill's property, including his garden. Sherrill believes that all those factors have lowered the value of his land. *Sherrill testimony.*

### **Assessor's Contentions**

10. The Assessor contends that she correctly assessed Sherrill's land. She divided it into three agricultural land types: (1) non-tillable agricultural land, (2) agricultural woodland, and (3) public road. For the first two types of land, she applied the appropriate soil-

productivity factors to the agricultural base rate and then assigned an influence factor that corresponded to the land type: negative 60% for the untillable land and negative 80% to the woodland. She assigned a negative 100% influence factor to the road. *Resp't Ex. A; Kaufman testimony.*

## CONCLUSIONS OF LAW

### Burden of Proof

11. Generally, a taxpayer seeking review of an assessing official's determination has the burden of proof. Indiana Code § 6-1.1-15-17.2 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's assessment, 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), (d). The parties agree that the Sherrill has the burden.

### Discussion

12. Indiana assesses property based on its "true tax value," which 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). 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). 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. 2011 REAL PROPERTY ASSESSMENT MANUAL 2. Evidence in an assessment appeal should be consistent with that standard.
13. Sherrill offered no evidence to show that his property was assessed for more than its market value-in-use. While the pipeline easement likely affected the property's value, Sherrill did not quantify that effect or otherwise show the assessment failed to account for it. All of the property was assessed as agricultural land. And all of it received a negative influence factor ranging from 60% to 100%. Those influence factors reflect severe limitations on the property's agricultural use. Sherrill's real dispute appears to be with Enterprise. This is not the proper forum for that fight.

## FINAL DETERMINATION

14. David Sherrill failed to meet his burden of proving that his 2016 assessment was incorrect. We therefore find for the Jackson County Assessor and order no change to the assessment.

Date: January 28, 2019

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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>>.