

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

**Petition:** 71-026-21-1-5-00323-22  
**Petitioner:** Dmitry Shlapentokh  
**Respondent:** St. Joseph County Assessor  
**Parcel:** 71-09-07-452-006.000-026  
**Assessment Year:** 2021

The Indiana Board of Tax Review issues this determination, finding and concluding as follows:

**Procedural History**

1. On June 10, 2021, filed a Form 130 petition Dmitry Shlapentokh contesting the 2021 assessment for his property located at 1534 Hoover Avenue in South Bend. *Resp't Ex. 4*. The St. Joseph County Property Tax Assessment Board of Appeals ("PTABOA") issued a Form 115 determination reducing the assessed value from \$209,800 down to \$179,200. Shlapentokh was not satisfied with that reduction and timely appealed to the Board.
2. On April 12, 2023, our designated administrative law judge, Erik Jones ("ALJ"), held a telephonic hearing on Shlapentokh's petition. Neither he nor the Board inspected the property. Frank Agostino appeared as counsel for the Assessor. Shlapentokh and Shannon Schalk, personal property director for the St. Joseph County Assessor, testified under oath.

**Record**

3. The parties offered the following exhibits as part of the official record:

Petitioner's Exhibit A	Listings of South Bend properties (19 pages).
Respondent's Exhibit 1	Form 131,
Respondent's Exhibit 2	Form 115,
Respondent's Exhibit 3	Form 134,
Respondent's Exhibit 4	Form 130,
Respondent's Exhibit 5	Multiple Listing Services (MLS) report,
Respondent's Exhibit 6	Property record card ("PRC") 2021,
Respondent's Exhibit 7	Valuation History and memo list.
4. The official record also contains (1) all pleadings, 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.

## Contentions

### A. Summary of Shlapentokh's case:

5. The subject property contains a two-story, single-family home. Shlapentokh contends that the property's assessment does not reflect the price for which it would sell. He reviewed listings for approximately 30 properties with advertised prices ranging from \$13,000 to \$139,000. The properties include single-story homes, many of which are described as "REO Foreclosure." According to Shlapentokh, these listings show that the subject property's value should fall within a range between \$70-\$80,000 and \$120,000. Shlapentokh therefore argues that the subject property is worth \$120,000, "plus or minus maybe \$5,000." *Shlapentokh testimony and argument; Pet'r Ex. A.*
6. Each listing includes a picture of the home and the list price, but no other information. Shlapentokh acknowledged that things like location and size are important, but he claimed that they would not dramatically change a home's value. According to Shlapentokh, those factors might increase a home's price by \$10,000 or \$20,000. But the price would not double just because the home has two stories instead of one. *Shlapentokh testimony and argument.*

### B. Summary of Assessor's case:

7. Shlapentokh failed to meet his burden of proving that the assessment was incorrect. The listings he submitted included properties that varied significantly from the subject home in size and number of stories. And the listings provided only external photographs, making it impossible to confirm whether the homes were comparable to the subject home in other ways. Also, many of the listings involved foreclosures, which make them invalid for comparison. *Agostino argument; Schalk testimony; Pet'r Ex. A.*
8. The Assessor's appeals department analyzed sales data for five properties that members of the department believed were comparable to the subject property. The properties sold in 2020 for prices ranging from \$116,000 to \$220,000. The sale prices were adjusted to account for various ways in which those properties differed from the subject property.<sup>1</sup> The adjusted prices ranged from \$160,646 to \$221,203. According to Shannon Schalk, the Assessor's personal property director, those adjusted sale prices support the assessment of \$179,200 determined by the PTABOA. *Schalk testimony; Resp't Ex. 6.*

## Analysis

9. Generally, an assessment determined by an assessing official is presumed to be correct. 2021 REAL PROPERTY ASSESSMENT MANUAL at 3. The petitioner has the burden of proving the assessment is incorrect and what the correct assessment should be. *Piotrowski v. Shelby Cnty. Ass'r, 177 N.E.3d 127, 131-32 (Ind. Tax Ct. 2021).*

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<sup>1</sup> However, there is nothing in the record to explain the bases for those adjustments.

10. The goal of Indiana’s real property assessment system is to arrive at an assessment reflecting a property’s true tax value. 50 IAC 2.4-1-1(c); 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 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.
11. Evidence in an assessment appeal should be consistent with that standard. For example, market value-in-use appraisals that comply with the Uniform Standards of Professional Appraisal Practice often will be probative. *See id.*; *see also Kooshtard Property VI, LLC c. 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. *Eckerling v. Wayne Twp. Ass’r*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006).
12. Regardless of the method used, a party must explain how its evidence relates to the relevant valuation date. *O’Donnell v. Dep’t of Local Gov’t Fin.*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006); *see also, Long v. Wayne Twp. Ass’r*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). For the 2021 assessment, the valuation date was January 1, 2021. *See* Ind. Code § 6-1.1-2-1.5.
13. Shlapentokh contends that we should reduce his 2021 assessment to \$120,000 “plus or minus” \$5,000. However, he failed to offer any probative, market-based evidence supporting that value range. At most, he offered listing prices for various properties throughout South Bend. Leaving aside the fact that listing prices do not show what buyers were willing to pay for those properties, Shlapentokh failed to show how the listings were relevant to the subject property’s value. He did not offer any information to show how those properties compared to the subject property, much less explain how any relevant differences affected values. At most, he offered his unsupported opinion that factors like location, home size, and number of stories did not significantly affect value. Shlapentokh’s raw listing data therefore lacked probative value, and he failed to make a prima facie case for changing the subject property’s assessment. *See Long*, 821 N.E.2d at 470-71 (holding that taxpayers’ sales data for other properties lacked probative value where they failed to compare how the characteristics of those properties compared to their property and to explain how any differences affected market value-in-use).

### **Conclusion**


14. Shlapentokh failed to make a prima facie case for changing the property’s assessment. We therefore find for the Assessor and order no change.

ISSUED: JULY 10, 2023



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 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>.