

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

Petitions: 71-003-19-1-5-00805-21
71-003-20-1-5-00806-21
71-003-21-1-5-00807-21
Petitioner: John E. Sparre
Respondent: St. Joseph County Assessor
Parcel: 71-04-21-352-024.000-003
Assessment Years: 2019-2021

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

Procedural History

1. John E. Sparre filed Form 130 petitions contesting the 2019-2021 assessments of his property. On October 7, 2021, the St. Joseph County Property Tax Assessment Board of Appeals (“PTABOA”) issued Form 115 determinations for all three years, lowering the assessments to the following values:

Year	Land	Improvements	Total
2019	\$36,700	\$93,300	\$130,000
2020	\$40,500	\$89,500	\$130,000
2021	\$41,800	\$101,500	\$143,300

2. Disagreeing with those determinations, Sparre filed Form 131 petitions with us. On the petitions, Sparre neither elected nor opted out of our small claims procedures. We originally scheduled Sparre’s appeals to be heard on August 24, 2022. We continued the hearing twice at Sparre’s request. Each time we scheduled the hearing, we sent the parties notices indicating that the hearing was set for our small claims docket, and neither Sparre nor the Assessor filed a request to opt out of that docket.
3. On March 30, 2023, the date set by our last notice, our designated administrative law judge, Joseph Stanford (“ALJ”), held a hearing on Sparre’s petitions. Neither he nor the Board inspected the property. Sparre represented himself and testified under oath. Frank Agostino appeared as counsel for the Assessor. Shannon Schalk and Patricia St. Clair, both employees of the St. Joseph County Assessor’s office, and appraiser Steve Sante, also testified under oath.
4. Because the hearing involved three appeal petitions, the ALJ gave the parties an hour each to present their case, which is three times the 20-minute limit per appeal under our procedural rule for small claims. *See* 52 IAC 4-6-4 (restricting each party to a small

claims proceeding to 20 minutes to present its case but allowing an administrative law judge discretion to adjust the restrictions as necessary for the administration of justice).

Record

5. The official record for this matter includes the following:

Petitioner's Exhibits

Petitioner Exhibit 1:	2019 assessed values for properties on Timberland Drive,
Petitioner Exhibit 2:	2020 assessed values for properties on Timberland Drive,
Petitioner Exhibit 2a:	2020 assessed values for properties on Timberland Drive (second page),
Petitioner Exhibit 3:	2021 assessed values for properties on Timberland Drive,
Petitioner Exhibit 3a:	2021 assessed values for properties on Timberland Drive (second page),
Petitioner Exhibit 1W:	Parcel and land assessment information for the subject property,
Petitioner Exhibit 2W:	Land assessment and influence factor information for the subject property,
Petitioner Exhibit 3W:	Improvement assessment information and a photograph of the subject property,
Petitioner Exhibit 4W:	Sales history for the subject property,
Petitioner Exhibit 5W:	Sales history for the subject property (second page),
Petitioner Exhibit 6W:	Subject property record card ("PRC"),
Petitioner Exhibit 7W:	Subject PRC (second page),
Petitioner Exhibit 8W:	Parcel and land assessment information for the Fred J. Kruse property,
Petitioner Exhibit 9W:	Land assessment and influence factor information for the Fred J. Kruse property,
Petitioner Exhibit 10W:	Improvement assessment information and a photograph of the Fred J. Kruse property,
Petitioner Exhibit 11W:	Sales history for the Fred J. Kruse property,
Petitioner Exhibit 12W:	PRC for the Fred J. Kruse property,
Petitioner Exhibit 13W:	PRC for the Fred J. Kruse property (second page),
Petitioner Exhibit 14W:	Parcel and land assessment information for the Brown property,
Petitioner Exhibit 15W:	Land assessment and influence factor information for the Brown property,
Petitioner Exhibit 16W:	Improvement assessment information and a photograph of the Brown property,
Petitioner Exhibit 17W:	Sales history for the Brown property,
Petitioner Exhibit 18W:	PRC for the Brown property,
Petitioner Exhibit 19W:	PRC for the Brown property (second page),

Petitioner Exhibit 20W: Parcel and land assessment information for the Beamer property,

Petitioner Exhibit 21W: Land assessment and influence factor information for the Beamer property,

Petitioner Exhibit 22W: Improvement assessment information and a photograph of the Beamer property,

Petitioner Exhibit 23W: Sales history for the Beamer property,

Petitioner Exhibit 24W: PRC for the Beamer property,

Petitioner Exhibit 25W: PRC for the Beamer property (second page),

Petitioner Exhibit 26W: Parcel and land assessment information for the Davis property,

Petitioner Exhibit 27W: Land assessment and influence factor information for the Davis property,

Petitioner Exhibit 28W: Improvement assessment information and a photograph of the Davis property,

Petitioner Exhibit 29W: Sales history for the Davis property,

Petitioner Exhibit 30W: PRC for the Davis property,

Petitioner Exhibit 31W: PRC for the Davis property (second page),

Petitioner Exhibit 32W: Parcel and land assessment information for the Richmond property,

Petitioner Exhibit 33W: Land assessment and influence factor information for the Richmond property,

Petitioner Exhibit 34W: Improvement assessment information and a photograph of the Richmond property,

Petitioner Exhibit 35W: Sales history for the Richmond property,

Petitioner Exhibit 36W: Parcel and land assessment information for the Gillian S. Kruse property,

Petitioner Exhibit 37W: PRC for Richmond property,

Petitioner Exhibit 38W: PRC for the Richmond property (second page),

Petitioner Exhibit 39W:¹ Parcel and land assessment information for the Gillian S. Kruse property,

Petitioner Exhibit 40W: Land assessment and influence factor information for the Gillian S. Kruse property,

Petitioner Exhibit 41W: Improvement assessment information and a photograph of the Gillian S. Kruse property,

Petitioner Exhibit 42W: Sales history for the Gillian S. Kruse property,

Petitioner Exhibit 43W: PRC for the Gillian S. Kruse property,

Petitioner Exhibit 44W: PRC for the Gillian S. Kruse property (second page),

Petitioner Exhibit 45W: State of Indiana information from Dun and Bradstreet,

Petitioner Exhibit 46W: State of Indiana information from Dun and Bradstreet (second and third pages),

Petitioner Exhibit 47W: Definitions of “iniquity,” “equity,” and “equality,” from the 1953 edition of the Webster’s New

¹ Exhibit 39W is a duplicate of Exhibit 36W.

Collegiate Dictionary; information regarding different versions of the Pledge of Allegiance; U.S. Const. Artl.S8.C1.1,

Petitioner Exhibit 1E: Parcel and land assessment information for the Waters property,

Petitioner Exhibit 2E: Land assessment and influence factor information for the Waters property,

Petitioner Exhibit 3E: Improvement assessment information and a photograph of the Waters property,

Petitioner Exhibit 4E: Sales history for the Waters property,

Petitioner Exhibit 5E: PRC for the Waters property,

Petitioner Exhibit 6E: PRC for the Waters property (second page),

Petitioner Exhibit 7E: Parcel and land assessment information for the Smith property,

Petitioner Exhibit 8E:² Parcel and land assessment information for the Smith property,

Petitioner Exhibit 9E: Improvement assessment information and a photograph of the Smith property,

Petitioner Exhibit 10E: PRC for the Smith property,

Petitioner Exhibit 11E: PRC for the Smith property (second page),

Petitioner Exhibit 12E: PRC for the Smith property (third page),

Petitioner Exhibit 13E: PRC for the Smith property (fourth page),

Petitioner Exhibit 14E: Parcel and land assessment information for the Mitchell property,

Petitioner Exhibit 15E: Land assessment and influence factor information for the Mitchell property,

Petitioner Exhibit 16E: Improvement assessment information and a photograph of the Mitchell property,

Petitioner Exhibit 17E: Sales history for the Mitchell property,

Petitioner Exhibit 18E: PRC for the Mitchell property,

Petitioner Exhibit 19E: PRC for the Mitchell property (second page),

Petitioner Exhibit 20E: Parcel and land assessment information for the Hoover property,

Petitioner Exhibit 21E: Land assessment and influence factor information for the Hoover property,

Petitioner Exhibit 22E: Improvement assessment information and a photograph of the Hoover property,

Petitioner Exhibit 23E: Sales history for the Hoover property,

Petitioner Exhibit 24E: PRC for the Hoover property,

Petitioner Exhibit 25E: PRC for the Hoover property (second page),

Petitioner Exhibit 26E: Parcel and land assessment information for the Manthay property,

Petitioner Exhibit 27E: Land assessment and influence factor information for the Manthay property,

² Exhibit 8E is a duplicate of Exhibit 7E.

Petitioner Exhibit 28E:	Improvement assessment information and a photograph of the Manthay property,
Petitioner Exhibit 29E:	Sales history for the Manthay property,
Petitioner Exhibit 30E:	PRC for the Manthay property,
Petitioner Exhibit 31E:	PRC for the Manthay property (second page),
Petitioner Exhibit 32E:	Parcel and land assessment information for the Juel T. and Fred J. Kruse property,
Petitioner Exhibit 33E:	Land assessment and influence factor information for the Juel T. and Fred J. Kruse property,
Petitioner Exhibit 34E:	Improvement assessment information and a photograph of the Juel T. and Fred J. Kruse property,
Petitioner Exhibit 35E:	Sales history for the Juel T. and Fred J. Kruse property,
Petitioner Exhibit 36E:	PRC for the Juel T. and Fred J. Kruse property,
Petitioner Exhibit 37E:	PRC for the Juel T. and Fred J. Kruse property (second page),
Petitioner Exhibit 38E: ³	Sales history for the Juel T. and Fred J. Kruse property,
Petitioner Exhibit 39E: ⁴	PRC for the Juel T. and Fred J. Kruse property,
Petitioner Exhibit 40E: ⁵	PRC for the Juel T. and Fred J. Kruse property (second page).

Respondent's Exhibits

For 2019:

Respondent Exhibit 1:	2019 Form 131,
Respondent Exhibit 2:	2019 Form 115,
Respondent Exhibit 3:	2019 Form 134,
Respondent Exhibit 4:	2019 Form 130,
Respondent Exhibit 5:	2019 subject PRC,
Respondent Exhibit 6:	2019 sales ratio worksheet,
Respondent Exhibit 7:	2019 appraisal by Steve Sante,
Respondent Exhibit 8:	2019 memorandum list and valuation history.

For 2020:

Respondent Exhibit 1:	2020 Form 131,
Respondent Exhibit 2:	2020 Form 115,
Respondent Exhibit 3:	2020 Form 134,
Respondent Exhibit 4:	2020 Form 130,
Respondent Exhibit 5:	2020 subject PRC,
Respondent Exhibit 6:	2020 appraisal by Steve Sante,
Respondent Exhibit 7:	2020 memorandum list and valuation history.

³ Exhibit 38E is a duplicate of Exhibit 35E.

⁴ Exhibit 39E is a duplicate of Exhibit 36E.

⁵ Exhibit 40E is a duplicate of Exhibit 37E.

For 2021:

Respondent Exhibit 1:	2021 Form 131,
Respondent Exhibit 2:	2021 Form 115,
Respondent Exhibit 3:	2021 Form 130,
Respondent Exhibit 4:	2021 subject PRC,
Respondent Exhibit 5:	2021 sales ratio worksheet
Respondent Exhibit 6:	2021 appraisal by Steve Sante,
Respondent Exhibit 7:	2021 memorandum list and valuation history.

6. The record also includes: (1) all petitions and other documents filed in these appeals, (2) all notices and orders issued by the Board or the ALJ, and (3) an audio recording of the hearing.

Findings of Fact

A. Assessments for the subject property and other properties on Timberland Drive

7. The subject property is located at 52929 Timberland Drive in Granger. It has a 1,248-square foot home with an unfinished basement. The lot contains approximately .89 acres and has 128 feet of effective frontage. Based on the PTABOA determinations, the property was assessed for \$104.17/sq. ft. of living area for 2019 and 2020, and \$114.82/sq. ft. of living area for 2021. Sparre bought the property for \$149,000 in 2006. *Sparre testimony; Shalk testimony; Pet'r Exs. 2W, 6W; Resp't Exs. 5 (2019-2021), 7 (2020-2021), 8 (2019).*
8. Sparre offered assessment data for several other properties on Timberland Drive. Their overall assessments per square foot of living area ranged from \$64.94/sq. ft. to \$116.21/sq. ft. for 2019, \$61.07/sq. ft. to \$130.31/sq. ft. for 2020, and \$63.11/sq. ft. to \$138.31/sq. ft. for 2021. As for the land portion of the assessments, most of the lots had similar or identical dimensions as the subject lot and were assessed for the same values as what the PTABOA determined for the subject property. Only one property—52900 Timberland Drive—sold within three years of any of the assessment dates under appeal. Kirk Smith sold that property to Danielle Smith for \$195,000 in July 2018. It was assessed for \$115,700 in 2019. *Sparre testimony; Pet'r Exs. 1-44W, 1E-40E.*

B. Sante's appraisals of the subject property

9. The Assessor retained Steve Sante, an MAI appraiser with 31 years of experience, who prepared separate appraisals for the three years under appeal, estimating the subject property's market value-in-use as of January 1 of each year. He certified that he complied with the Uniform Standards of Professional Appraisal Practice ("USPAP"). In each appraisal, he developed the cost and sales-comparison approaches to value, but he gave the greatest weight to his conclusions under the sales-comparison approach. *Sante testimony; Resp't Exs. 7 (2019), 6 (2020-2021).*

10. For each appraisal, Sante identified three sales of properties that were similar to the subject property in terms of characteristics like the age, size, design, and condition of the homes. He then used generally accepted appraisal principles to adjust for differences between the subject and the comparable properties. For example, to adjust for differences in market conditions between the valuation dates for the appraisals and the comparable homes' sale dates, Sante looked at properties that sold and re-sold, and developed an estimated appreciation rate to apply to the comparable homes' sale prices. He concluded the following values for the subject property:

Year	Value
2018	\$181,000
2019	\$197,000
2020	\$208,000

While Sante offered no opinion as to whether the subject property's assessments should be increased, he believed that his indicated values at least "support" the assessments. *Sante testimony; Resp't Exs. 7 (2019), 6 (2020-2021).*

Conclusions of Law

11. Sante made two general types of claims. First, he challenged various aspects of Indiana's property tax regime and our hearing procedures. Second, he challenged his property's assessment compared to the assessments for other properties on his street.

A. Sparre's various challenges to Indiana's property tax system and to our hearing procedures lack merit.

12. We begin with Sparre's first set of claims. Sparre made several arguments contesting Indiana's property tax system and our hearing procedures. As for the property tax system, he argued that property taxes are "one of the tenets of communism," and are generally unconstitutional. He believes that property should be assessed and taxed only upon sale and that there should be no distinction between real and personal property. As for our hearing procedures, he argued that he was denied his right to a jury trial, that we should use a bible to swear-in witnesses, and that our small claims procedures, which limit the time available for parties to present their cases, violate his rights to due process and freedom of speech.
13. None of Sparre's claims entitle him to relief. Property taxes in general do not violate the state or federal constitutions. Even if they did, we lack the authority to declare Indiana's property tax regime or any statute unconstitutional. *See Bielski v. Zorn*, 627 N.E.2d 880, 887-88 (Ind. Tax Ct. 1994) ("Allegations that a statute is unconstitutional are matters solely for judicial determination"). And Sparre's personal beliefs about when property should be taxed or whether we should recognize any distinction between real and personal property are beside the point. Indiana's property tax statutes call for property to be assessed annually, and they recognize distinctions between real and personal property.

See, e.g., I.C. § 6-1.1-2-1.5 (prescribing annual assessment date); *see also*, I.C. § 6-1.1-1-11(a), -15 (dividing tangible property into two classes: real and personal).

14. Sparre's procedural claims similarly lack merit. We begin with his claim that he was denied his right to a jury trial. By statute, we are charged with reviewing property tax appeals and we, not a jury, are the trier of fact. I.C. § 6-1.1-15-4; I.C. § 6-1.1-15-20. And contrary to Sparre's claims, there is no federal or state constitutional right to a jury trial in our proceedings. *See State Line Elevator, Inc. v. State Bd. of Tax Comm'rs*, 526 N.E.2d 753, 753-54 (Ind. Tax Ct. 1988) *reconsideration granted on other grounds* 528 N.E.2d 501 (holding that a taxpayer does not have the constitutional right to a jury trial in statutory proceedings).
15. Next, Sparre failed to cogently argue how our small-claims procedures denied him due process or restricted his right to free speech. If he was worried about the time limits contained in our small claims rules being too restrictive, he had several opportunities to opt out of our small claims docket. He could have checked the "opt out" box on his Form 131 petitions. Or he could have filed a written request to opt out when he received the various notices scheduling the hearings as small claims. *See* 52 IAC 4-4-5(d) (allowing parties to opt out of small claims by filing a written motion). In any event, Sparre had an opportunity to present his case: the ALJ gave Sparre a full hour, and he offered 92 exhibits. Additionally, Sparre did not point to any evidence or argument he had to forego as a result of the time constraints and was shown no prejudice. Finally, Sparre offered no authority for his claim that we should use a bible to administer oaths rather than having witnesses swear or affirm subject to the penalties of perjury that they will testify truthfully.

B. Sparre failed to make a prima facie case that his property was assessed for more than its market value-in-use or that he was entitled to an equalization adjustment.

16. Sparre's claims concerning the subject property's assessments fare no better. Generally, an assessment determined by an assessing official is presumed to be correct. 2021 REAL PROPERTY ASSESSMENT MANUAL at 3. A petitioner has the burden of proving the assessment is incorrect and what the correct assessment should be. *Piotrowski v. Shelby Cnty. Assessor*, 177 N.E.3d 127, 131-32 (Ind. Tax Ct. 2022).
17. 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); 2021 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). 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." MANUAL at 2.⁶

⁶ The 2011 Real Property Assessment Manual, which covers the 2019 and 2020 assessment appeals, used the same definition. 2011 REAL PROPERTY ASSESSMENT MANUAL at 2.

18. Evidence in an assessment appeal should be consistent with that standard. For example, a market-value-in-use appraisal prepared in accordance with USPAP often will be probative. *See id.*; *see also, Kooshtard Property VI, LLC v. White River Twp. Ass'r*, 836 N.E.2d 501, 506 n.6 (Ind. Tax Ct. 2005). A party may also offer actual construction costs, sales information for the property under appeal or for comparable properties, and any other information compiled according to generally accepted appraisal principles. *See Eckerling v. Wayne Twp. Ass'r*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006). Regardless of the method used, a party must explain how its evidence relates to the relevant valuation date. *Long v. Wayne Twp. Ass'r*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). For these appeals, the valuation date was January 1 of each year. *See I.C. § 6-1.1-2-1.5.*
19. Sparre did not offer any of the types of market-based evidence contemplated by the assessment regulations or the Tax Court. His purchase of the property more than 12 years before any of the valuation dates at issue says nothing about its value as of those dates. At most, Sparre offered some raw assessment data both for his property and for several other properties on the same street. Other than calculating the assessed value per square foot of living area for each property, however, he did little to meaningfully compare the properties. And he did nothing to show how relevant differences affected the properties' relative market values-in-use. His raw data therefore did not suffice to show what the subject property's market value-in-use was for any of the years under appeal. *See Long* 821 N.E.2d at 471 (finding that comparable sales data was not probative where taxpayers failed to explain how differences in characteristics between the sold properties and the property under appeal affected value). Indeed, even if merely calculating the unit values for each property were somehow sufficient (it is not), Sparre miscalculated the subject property's unit value for each year because he used the original assessments instead of the PTABOA determinations, which are the assessments of record. When correctly calculated, the subject property's assessed value per square foot was within the range of the other properties' unit values for each year.
20. The Assessor, however, did offer probative evidence of the subject property's market value in use: Sante's USPAP-compliant appraisals. Sante relied on a generally recognized appraisal methodology: the sales-comparison approach. He explained why the properties he selected for his analysis generally compared to the subject property and how he adjusted their sale prices to account for relevant differences that affect value. For each year, Sante estimated the subject property's market value-in-use at a level significantly above its assessment. We therefore find that the subject property was not assessed for more than its market value-in-use.
21. Sparre's main argument, however, was not that his property was assessed for more than it was worth, but rather that assessments on his street were inequitable. In his view, all properties, regardless of size, location, quality, or property type should be assessed at the exact same amount per square foot, although he did not indicate what that amount should be. That is not what Indiana law requires. Instead, property is assessed based on the external benchmark of market value-in-use. *Westfield Golf Practice Ctr., LLC v. Washington Twp. Ass'r*, 859 N.E.2d 396 (Ind. Tax Ct. 2007). 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’r*, 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 (quoting *Westfield Golf*, 859 N.E.2d at 399 n. 3). Where a ratio study shows an actionable lack of uniformity, a taxpayer may be entitled to an equalization adjustment to bring its assessment to the common level shown by the study. *Id.*

22. Sparre failed to make a prima facie case for relief based on a lack of uniformity or equality in assessments. While Sante’s appraisals show the subject property’s market value-in-use on each valuation date, Sparre did not offer objectively verifiable evidence to show the market value in use for any other property as of the 2019-2021 valuation dates. At most, he pointed to the 2018 sale price for one of the properties. That sale was relatively close to the January 1, 2019 valuation date. But it was between parties with the same last name, and Sparre did not offer any evidence to show that the transaction was at arm’s length or was otherwise indicative of market value. Even if we were to give that sale probative weight, Sparre still fell well short of establishing that he was entitled to an equalization adjustment. *See Thorsness*, 3 N.E.3d at 54 (holding that evidence showing taxpayer’s property was assessed at a higher percentage of its market value than were six other properties from the same subdivision was not probative to show that his assessment exceeded the common level of assessment); *see also, Westfield Golf*, 859 N.E.2d at 399 (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).

Conclusion

23. Sparre’s various challenges to Indiana’s property tax statutes and our hearing procedures lack merit. And he failed to prove that he was entitled to relief based on a lack of uniformity and equality in assessments or on grounds that the subject property was assessed for more than its market value-in-use. Indeed, Sante’s appraisal shows that the property was assessed for less than it was worth. But the Assessor did not ask us to increase the assessment and we therefore order no change.

Date: JUNE 21, 2023

Jonathan R. Elrod
Chairman, Indiana Board of Tax Review

Betsy J. Brand
Commissioner, Indiana Board of Tax Review

Timothy Elrod
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>>.