REPRESENTATIVE FOR THE PETITIONER:
    Shuyu Deng, *pro se*

REPRESENTATIVE FOR THE RESPONDENT:
    Eric Grossman, Tippecanoe County Assessor

BEFORE THE
INDIANA BOARD OF TAX REVIEW

Shuyu Deng,	)	Petition No.:	79-035-18-1-5-00125-19
	)		
Petitioner,	)	Parcel No.:	79-07-05-303-016.000-035
	)		
v.	)		
	)	County:	Tippecanoe
Tippecanoe County Assessor,	)	Township:	Wabash
	)		
Respondent.	)	Assessment Year:	2018

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

NOVEMBER 09, 2020

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. The Respondent had the burden to prove the January 1, 2018, assessment was correct.
    Did the Respondent prove the 2018 assessment was correct?

PROCEDURAL HISTORY

2. The Petitioner initiated her 2018 assessment appeal with the Tippecanoe County Assessor on June 5, 2018. On December 26, 2018, the Tippecanoe County Property Tax Assessment Board of Appeals (PTABOA) issued its determination increasing the assessment. The Petitioner timely filed a Petition for Review of Assessment (Form 131) with the Board.

3. On August 11, 2020, Dalene McMillen, the Board's Administrative Law Judge (ALJ), held a telephonic hearing. Neither the Board nor the ALJ inspected the property.

HEARING FACTS AND OTHER MATTERS OF RECORD

4. Shuyu Deng appeared *pro se* via telephone and was sworn. County Assessor Eric Grossman appeared for the Respondent via telephone and was sworn.[1]

5. The Petitioner offered the following exhibits:

    Petitioner Exhibit 1:   2017 University Farm sales data sheet,
    Petitioner Exhibit 2:   "Location Matters Comparison" sheet,
    Petitioner Exhibit 3:   Map showing the location of 3322 Boone Street, 3429 Covington Street, and the subject property,
    Petitioner Exhibit 4:   Zillow information sheet for 3429 Covington Street,
    Petitioner Exhibit 5:   Zillow information sheet for 3322 Boone Street,
    Petitioner Exhibit 6:   Map showing the location of 600 Lagrange Street, 445 Lagrange Street, and 3377 Morgan Street,
    Petitioner Exhibit 7:   Zillow information sheet for 600 Lagrange Street,
    Petitioner Exhibit 8:   Zillow information sheet for 445 Lagrange Street,
    Petitioner Exhibit 9:   Zillow information sheet for 3377 Morgan Street,
    Petitioner Exhibit 10: Map showing the location of 3311 Boone Street, 3048 Hamilton Street, and the subject property,
    Petitioner Exhibit 11: Map showing the location of 3224 Jasper Church and the subject property,
    Petitioner Exhibit 12: Eight photographs of 3324 Jasper Street,
    Petitioner Exhibit 13: Zillow information sheet for 3311 Boone Street,
    Petitioner Exhibit 14: Zillow information sheet for 3048 Hamilton Street,
    Petitioner Exhibit 15: "Compare Assessment of My Home with Similar Sold Price Range Homes" sheet.

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[1] Christopher Coakes was also on the call and was sworn but did not testify.

Petitioner Response Exhibit 1: Petitioner's response narrative,
Petitioner Response Exhibit 2: Four photographs of the attic,
Petitioner Response Exhibit 3: Twenty-four 2017 sales from University Farm data sheet,
Petitioner Response Exhibit 4: Assessor's "Sales Comparison Adjusted via Regression Model" sheet,
Petitioner Response Exhibit 5: Petitioner's "Examples to Prove these assessments without Regression Model" sheet,
Petitioner Response Exhibit 6: Six interior photographs of the home.

6.   The Respondent offered the following exhibits:

Respondent Exhibit 1: Respondent's subject property narrative,
Respondent Exhibit 2: 2018 subject property record card,
Respondent Exhibit 3: Aerial map of subject property's area,
Respondent Exhibit 4: Notification of Final Assessment Determination (Form 115),
Respondent Exhibit 5: Indiana Code § 6-1.1-15-17.2,
Respondent Exhibit 6: Appraisal Practices Board – APB Valuation Advisory #4,
Respondent Exhibit 7: Uniform Standards of Professional Appraisal Practice (USPAP) Advisory Opinion 18,
Respondent Exhibit 8: USPAP Advisory Opinion 23,
Respondent Exhibit 9: Neighborhood 402 regression model analysis and support data,
Respondent Exhibit 10: Sales comparison analysis,
Respondent Exhibit 11: Sales comparison aerial map.

7.   The record also includes the following: (1) all pleadings and documents filed in this appeal; (2) all orders and notices issued by the Board or ALJ; and (3) the digital recording of the hearing and these findings and conclusions.

8.   The property under appeal is a single-family home located at 3304 Jasper Street in West Lafayette.

9.   The PTABOA determined a 2018 total assessment of $315,000 (land $46,600 and improvements $268,400).

10. The Petitioner requested a total assessment of $237,883 (land $46,600 and improvements $191,283).

<center>**OBJECTIONS**</center>

11. The Petitioner objected to Respondent's Exhibits 1, 2, 4, 5, 6, 7, 8, 9, and 10 on the grounds of relevancy. More specifically, Ms. Deng argued the information used by the Assessor to justify the assessed value is inaccurate stating "too high, too high." The Respondent did not offer a response. Because the Petitioner's objection goes more to the weight of the exhibits rather than their admissibility, the ALJ overruled the objection and admitted the exhibits. The Board formally adopts the ALJ's ruling and the Respondent's exhibits as listed above are admitted.

<center>**PETITIONER'S CONTENTIONS**</center>

12. The Petitioner claims her property is assessed too high because the Assessor erred in assessing the subject property. The total finished living area is 2,086 square feet not 2,274 square feet as listed on property record card. The second floor living area is 949 square feet with 188 square feet of unfinished attic area. Finally, the quality grade factor of B+1 assigned to the home is overstated. Even though it is a Tudor style home it is constructed with "very basic stuff." *Deng testimony; Pet'r Response Ex. 6.*

13. The Petitioner argues that location and size affect the value of a home. According to the Petitioner, homes located on quiet streets with low traffic flow in University Farm subdivision sell for higher prices than homes located on busy streets with high traffic flow. To support this claim, the Petitioner submitted seven Zillow information sheets for homes in "better locations" that show sale prices or estimated values. In particular, two properties, slightly larger than the subject property and located on low traffic streets, sold for $320,000. The subject property on the other hand, is located next to a church increasing traffic flow and is smaller in size than these two properties, but is assessed just slightly lower. *Deng testimony; Pet'r Ex. 2-15.*

14. The Petitioner also researched 24 sales from 2017 in the University Farm subdivision. She excluded four homes from the analysis because they were ranch style. The remaining 20 homes sold from $212,450 to $570,000. The average sale price per square foot is $113.94 while the median price per square foot is $114.99. When these values are applied to the 2,086 square foot subject property, the average value is $237,679 and the median value is $239,869. Based on this calculation the 2018 assessment should be reduced.[2] *Deng testimony; Pet'r Response Ex. 3.*

15. The Respondent's regression model analysis is flawed. The analysis includes single story homes, and some are in better locations. The Petitioner argues the Respondent used a "regression model price to assess my home only" and it is not "fair" to single out the subject property. *Deng argument (referencing Resp't Ex. 9).*

16. The Respondent's sales comparison analysis is also flawed. The seven comparable properties were adjusted using information obtained from the regression model analysis, resulting in a higher price per square foot and sale price. For example, the property located at 840 Lagrange Street is currently assessed at $263,300, while the county's adjusted sales comparison analysis has it valued at $332,988. Another property located at 804 Warrick is assessed at $284,700, but the adjusted sale price is listed at $340,096. *Deng argument (referencing Resp't Ex. 10); Pet'r Response Ex. 4.*

17. The Petitioner also calculated the assessed value per square foot of the seven properties the Respondent utilized in his sales comparison analysis. The seven properties assessments per square foot in 2018 ranged from $115.58 to $148.23 with a median price value of $117.03. If this median value was applied to the subject property, the assessed value should be $244,125. Again, this indicates the "regression model price" should not have been used to calculate the subject property's value. *Deng argument (referencing Resp't Ex. 10); Pet'r Response Ex. 4.*

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[2] The Petitioner originally submitted the same type analysis but only included 13 sales from University Farm subdivision. This analysis showed an average price per square foot of $108.45, and when applied to subject property resulted in a value of $246,615. This value was calculated based on the 2,274 square feet of living area as shown on the subject property record card. *Pet'r Ex. 1.*

18. The Petitioner submitted a second analysis with an additional 15 properties located in University Farm subdivision. These properties had assessed value per square foot ranging from $90.29 to $117.23 with a median of $108.85. When this median is applied to the subject property, the value equates to $227,061. *Deng testimony; Pet'r Response Ex. 5.*

19. In closing, the Petitioner argues her home should be assessed at a median price of $99 per square foot. *Deng testimony.*

RESPONDENT'S CONTENTIONS

20. The subject property is correctly assessed. The 1.75-story home measures 2,274 square feet and has a 1,137 square foot basement, with 699 square feet of the basement being finished. The home is located in the University Farm subdivision along with 582 other single-family homes. These homes were constructed between 1957 and 2012 with a large variety of styles. The subject property was built in 1989. *Grossman testimony; Resp't Ex. 1, 2, 3.*

21. In support of the current assessment, the Respondent presented a sales comparison analysis. The Respondent selected seven comparable two-story homes in the surrounding area that sold between January 9, 2017, and June 19, 2017. All the comparable properties are within 0.6 mile of the subject property. *Grossman testimony; Resp't Ex. 10, 11.*

22. To obtain credible results using a sales comparison approach, adjustments must be made to account for the differences between the comparable properties and the subject property. Adjustments must be quantifiable, and data driven. For that reason, the Respondent reviewed 145 single-family homes sales in the University Farm subdivision dating from 2014 to 2018 and developed a regression model. The model uses multiple variables to quantify what drives differences in value. *Grossman testimony; Resp't Ex. 9, 10.*

23.   According to the regression model, 82% of the variation in sale price is accounted for by looking at four variables: time of sale, year built, square footage above grade, and square footage below grade.[3] When the subject property's features are entered into the regression model, the resulting value is $309,400. This value conclusion supports the current assessed value. *Grossman testimony; Resp't Ex. 9, 10.*

24.   The regression model indicates a 95% confidence interval and a 95% prediction interval as of January 1, 2018. The confidence level measures the average sale price of similar homes in University Farm, 95% of the time similar homes would have sold between $298,180.40 and $320,686.10. The prediction interval on the other hand, predicts what houses would sell for with similar features. The prediction interval is a broader comparison, indicating a range of $239,199.40 to $379,677. *Grossman testimony; Resp't Ex. 9.*

25.   The regression model utilized constitutes an Automated Valuation Model (AVM). According to USPAP Advisory Opinion 18, an AVM is a computer software program that analyzes data using an automated process. The Respondent contends this methodology was used to show how computer-assisted mass appraisal (CAMA) data correlates to sale price. USPAP Advisory Opinion 23 describes how an appraiser must identify characteristics of property that are relevant to the type and definition of value and the intended use of the analysis to make a "sound scope of work decision." Additionally, APB Valuation Advisory #4 outlines the importance of identifying and adjusting similar competing properties to the subject property. *Grossman testimony; Resp't Ex. 6, 7, 8.*

26.   After adjustments were made to the comparable sales, the price per square foot ranged from $118.52 to $146.18, with a median value of $139.04. Based on the sales comparison approach the value of the subject property is $316,200. Although the sales comparison approach indicates the subject property is currently undervalued, the

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[3] According to the Respondent, the sales comparison analysis incorporated these variables as well. *Grossman testimony; Resp't Ex. 10.*

Respondent is not requesting an increase in the assessment. *Grossman testimony; Resp't Ex. 10.*

27.   In response to questioning, the Respondent testified the subject property was assessed using the mass appraisal replacement cost model, like all the properties in University Farm. However, when a property is appealed to the Indiana Board of Tax Review, the county uses different independent metrics to verify the value of a single property. So, in this case the county used the sales comparison approach and regression model to verify the mass appraisal method accurately valued the subject property. *Grossman testimony.*

BURDEN OF PROOF

28.   Generally, the taxpayer has the burden to prove that an assessment is incorrect and what the correct assessment should be. *See Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998). The burden-shifting statute creates two exceptions to that rule.

29.   First, Ind. Code § 6-1.1-15-17.2 "applies to any review or appeal of an assessment under this chapter if the assessment that is the subject of the review or appeal is an increase of more than five percent (5%) over the assessment for the same property for the prior tax year." Ind. Code § 6-1.1-15-17.2(a). "Under this section, the county assessor or township assessor making the assessment has the burden of proving that the assessment is correct in any review or appeal under this chapter and in any appeal taken to the Indiana board of tax review or to the Indiana tax court." Ind. Code § 6-1.1-15-17.2(b).

30.   Second, Ind. Code § 6-1.1-15-17.2(d) "applies to real property for which the gross assessed value of the real property was reduced by the assessing official or reviewing authority in an appeal conducted under IC 6-1.1-15." Under those circumstances, "if the gross assessed value of real property for an assessment date that follows the latest assessment date that was the subject of an appeal described in this subsection is increased above the gross assessed value of the real property for the latest assessment date covered

by the appeal, regardless of the amount of the increase, the county assessor or township assessor (if any) making the assessment has the burden of proving that the assessment is correct." Ind. Code § 6-1.1-15-17.2(d).

31.   Here, according to the property record card the assessed value of the subject property increased by more than 5% from 2017 to 2018. In fact, the total assessment increased from $286,400 in 2017 to $315,000 in 2018. The Respondent argued that the burden shifting provision does not apply because at the PTABOA hearing, the county discovered a 699 square foot finished recreational room in the basement. According to Ind. Code § 6-1.1-15-17.2(c) "[T]his section does not apply to an assessment if the assessment that is the subject of the review or appeal is based on: (1) substantial renovations or new improvements;…that were not considered in the assessment for the prior tax year." The Respondent has failed to establish that the finishing of the basement is a substantial renovation, and we find the burden remains on the Respondent under subsections 17.2(a) and (b) because the subject property's assessment increased by more than 5% between 2017 and 2018.[4] To the extent the Petitioner requested an assessment below the 2017 level of $286,400 she has the burden to prove the lower value.

ANALYSIS

32.   Real property is assessed based on its market value-in-use. Ind. Code § 6-1.1-31-6(c); 2011 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.4-1-2). The cost approach, the sales comparison approach, and the income approach are three generally accepted techniques to calculate market value-in-use. Assessing officials primarily use the cost approach, but other evidence is permitted to prove an accurate valuation. Such evidence may include actual construction costs, sales information regarding the subject property or comparable properties, appraisals, and any other information compiled in accordance with generally accepted appraisal principles.

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[4] "It is the taxpayer's duty to walk the [Board] through every element of [its] analysis." *Long v. Wayne Twp. Ass'r,* 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005) (*quoting Clark v. Dep't of Local Gov't Fin.,* 779 N.E.2d 1277, 1282 n.4 (Ind. Tax Ct. 2002)). This requirement applies equally to a Respondent bearing the burden.

33.   Regardless of the method used, a party must explain how the 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 a 2018 assessment, the valuation date was January 1, 2018. *See* Ind. Code § 6-1.1-2-1.5.

34.   Here, the Respondent has the burden to prove the 2018 assessment is correct. The Respondent presented a sales comparison analysis as evidence to support the current assessed value of $315,000. To effectively use a sales comparison approach in a property tax assessment appeal, the proponent must establish the comparability of the properties being examined. Conclusory statements that a property is "similar" or "comparable" to another property do not constitute probative evidence of the comparability of the properties. *Long*, 821 N.E.2d at 470. The proponent must identify the characteristics of the subject property, explain how those characteristics compare to the characteristics of the purportedly comparable properties, and explain how any differences affect the relevant market value-in-use of the properties. *Id.* at 471.

35.   The Respondent relied on seven purportedly comparable properties that are two-story homes with similar amenities. According to the Respondent, adjustments were made to account for differences in date of sale, finished living area, basement area, and effective year built. These adjustments were made because a regression model identified these areas as the most significant variables driving value. The Respondent's narrative in Respondent's Exhibit 1 is similar to Mr. Grossman's testimony, but provides more detail about how the sales comparison approach was completed:

•   Seven comparable sales were found. These sales are all 2 story dwellings in Neighborhood 402 (University Farm) that sold between January 1, 2017, and December 31, 2017. They are comparable to the subject property not just due to their proximity (each comparable is within a 0.60 mile radius of the subject), but due to their features. The subject property's effective year built is 1989; the comparable properties' effective year built ranges from 1986 to 1997. The

subject has a lot size of 0.2984 acres; the comparable properties have a lot size ranging from 0.2054 to 0.2789 acres. The subject and all comparable properties have central air and a fireplace. The finished living area of the subject property is 2,274 square foot. The finished living area of the comparable properties range from 1,848 square foot to 2,696 square foot.

- The regression model used for the sales comparison adjustments was developed by the Tippecanoe County Assessor using 145 sales of improved residential property from the subject neighborhood (402; University Farm). Each sale has a construction year between 1975 and 2014, and the sale dates range from January of 2014 to December of 2018.

- This regression model was applied to the seven comparable sales, adjusting the comparables to the subject property based on a set of 4 variables (time, finished living area, basement area, and effective year built). It results in a median price per square foot of $139.04. Applying this to the subject property indicates a total 2018 assessment of $316,180.40, approximately $1,000 above the PTABOA determination of $315,000.

Resp't Ex. 1.

36.   The Respondent presented USPAP Advisory Opinion 18 to support the use of a regression model in this case. Advisory Opinion 18 addresses how an appraiser may use AVM and states:

> [A]n AVM is a computer software program that analyzes data using an automated process. For example, AVMs may use regression, adaptive estimation, neural network, expert reasoning, and artificial intelligence programs. The output of an AVM is not, by itself, an appraisal. An AVMs output may become a basis for appraisal ... if the appraiser believes the output to be credible for use in a specific assignment.

While Advisory Opinion 18 allows use of an AVM, "appropriate use of an AVM is, like any tool, dependent upon the skill of the user and the tool's suitability to the task at

hand." Appropriate use depends on the answer to five critical questions: Does the appraiser have a basic understanding of how the AVM works? Can the appraiser use the AVM properly? Are the AVM and the data it uses appropriate given the intended use of assignment results? Is the AVM output credible? Is the AVM output sufficiently reliable for use in the assignment? But in this case, the record contains no answers to any of these important questions. Therefore, we are not convinced that the four types of adjustments (date of sale, finished living area, basement area, and effective year built) are the only ones necessary for a credible sales comparison valuation. Furthermore, we are not convinced that the amounts of those adjustments are credible.

37.   The Respondent also presented APB Valuation Advisory #4 as support for the sales comparison analysis. This document addresses how to properly identify comparable properties. Clearly there is no dispute that comparable properties do not have to be identical, but more similar properties make for a better comparison. APB Valuation Advisory #4 explains that evaluating the characteristics of a property is a critical step. And location and economic aspects are some of the primary considerations.

38.   Nevertheless, the Respondent's sales comparison analysis does not address whether adjustments were necessary for location or the type of sale (i.e. arm's length, REO, or bankruptcy). The Respondent claims all the properties are located in the University Farm subdivision, but the aerial maps indicate University Farm is a large geographic area with more than just residential properties. This is consistent with the Petitioner's undisputed testimony that the location of her home is next door to a church, which increases the volume of traffic on her street. The record is silent on whether the location of the purportedly comparable properties are superior, equal, or inferior to the subject property's location. Furthermore, the record is unclear as to whether the seven purportedly comparable sales are arm's length transactions.

39. For these reasons, the Respondent failed to make a prima facie case that the 2018 assessment is correct.[5] The Petitioner is therefore entitled to have the 2018 assessment reduced to its 2017 level of $286,400. That does not end the Board's inquiry because the Petitioner sought a lower value.

40. The Petitioner's evidentiary presentation suffers from the same problem as the Respondent in that her analyses are insufficient. For example, the Petitioner offered sale prices and assessment information for 24 neighboring properties. Under the sales comparison and assessment comparison approaches, such information can be used to prove market value-in-use. *See* Ind. Code § 6-1.1-15-18(c)(1). But the Petitioner needed to do more than just offer minimal information regarding sale prices and assessed values. Instead, the Petitioner needed to establish comparability of the properties being examined and explain how any differences between the properties affect their relative market values-in-use. *Long,* 821 N.E.2d at 470, 471. Moreover, none of the calculations presented by the Petitioner justified her requested assessment of $237,883.

41. Next, the Petitioner focused on total living area, second floor area, attic area and quality grade factor. Even if the Assessor made errors, simply attacking his methodology is insufficient to rebut the presumption that the assessment is correct. *Eckerling v. Wayne Twp. Ass'r,* 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006). To successfully make a case for a lower assessment, a taxpayer must use market-based evidence to "demonstrate that their suggested value accurately reflects the property's true market value-in-use." *Id.* A taxpayer needs to show the assessment does not accurately reflect the subject property's market value-in-use. *Id.; see also P/A Builders 7 Developers, LLC v. Jennings Co. Ass'r,* 842 N.E.2d 899, 900 (Ind. Tax Ct. 2006) (explaining that the focus is not on the methodology used by the assessor but instead on determining what the correct value actually is). The Petitioner failed to provide any probative evidence as to the subject property's market value-in-use.
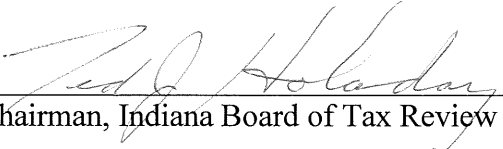
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[5] The Board is also troubled by the significantly higher values of the regression analysis relative to the actual assessments, as pointed out by the Petitioner in regard to the homes on Lagrange and Warrick.

42.   For these reasons, the Petitioner failed to present a prima facie case for any further reduction in the assessment.

SUMMARY OF FINAL DETERMINATION

43.   The Respondent had the burden of proving the 2018 assessment was correct. The Respondent failed to make a prima facie case and the assessment must be reduced to the 2017 level of $286,400. The Petitioner sought a lower value but failed to make a case for any further reduction in the assessment.

The Final Determination of the above captioned matter is issued by the Indiana Board of Tax Review on the date written above.

_____
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>.