

REPRESENTATIVE FOR PETITIONERS:

Steven L. Weinberg, *pro se*

REPRESENTATIVE FOR RESPONDENT:

Marilyn Meighen, Attorney

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**BEFORE THE  
INDIANA BOARD OF TAX REVIEW**

Steven L. & Beth A. Weinberg,	)	Petition Nos.: 29-018-12-1-5-02247
	)	29-018-13-1-5-01083
Petitioners,	)	
	)	Parcel No.: 17-09-28-00-14-006.000
v.	)	
	)	County: Hamilton
Hamilton County Assessor,	)	
	)	Township: Clay
Respondent.	)	
	)	Assessment Years: 2012 & 2013

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

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**September 15 , 2015**

**FINAL DETERMINATION**

The Indiana Board of Tax Review (the Board) having reviewed the facts and evidence, and having considered the issues, now finds and concludes the following:

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

**Introduction**

1. The Weinbergs challenged their property's assessments for 2012 and 2013 on grounds that other properties from their neighborhood were assessed using different quality grades

and influence factors. Given what they paid for the property, however, it was assessed for less than its true tax value. And by focusing on the Assessor's methodology rather than on the external benchmark of market value-in-use, the Weinbergs misunderstand the requirement of uniformity and equality under Indiana's current true tax value system. We therefore order no change to the assessments.

### **Procedural History**

2. The Weinbergs appealed their 2012 and 2013 assessments to the Hamilton County Property Tax Assessment Board of Appeals ("PTABOA"). The PTABOA issued determinations upholding the assessments. The Weinbergs then timely filed Form 131 petitions with the Board.
3. On May 19, 2015, our administrative law judge, Dalene McMillen ("ALJ"), held a hearing on the Weinbergs' petitions. Neither she nor the Board inspected the property.
4. The following people testified under oath: Steven Weinberg and Kevin Poore, the Assessor's real property assessment manager.<sup>1</sup>
5. The Weinbergs offered the following exhibits:
  - Petitioners Exhibit A: Property record card ("PRC") for 12700 Treaty Line Street,  
PRC for 2383 Glebe Street,  
PRC for 12637 Treaty Line Street,  
PRC for 12669 Treaty Line Street,  
PRC for 12628 Treaty Line Street,  
PRC for 2287 Glebe Street (Jon R. Duke),  
2012, 2013, & 2014 PRCs for 2263 Glebe Street,  
PRC for 2287 Glebe Street (Jon P. Duke),  
PRC for 2095 Rhettisbury Street,
  - Petitioners Exhibit B: PRC for 12677 Treaty Line Street,  
PRC for 12629 Treaty Line Street,  
PRC for 12652 Treaty Line Street,  
PRC for 12685 Treaty Line Street,

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<sup>1</sup> Robin Ward, Hamilton County Assessor, and Terry McAbee, director of commercial & industrial assessments, appeared at the hearing but did not testify.

PRC for 12669 Treaty Line Street,  
 PRC for 12628 Treaty Line Street,  
 PRC for 12645 Treaty Line Street,  
 Petitioners Exhibit C: PRC for 2250 Trowbridge High Street,  
 PRC for 12685 Treaty Line Street,  
 PRC for 12669 Treaty Line Street,  
 PRC for 12677 Treaty Line Street,  
 PRC for 12700 Treaty Line Street,  
 PRC for 2383 Glebe Street,  
 PRC for 12628 Treaty Line Street,  
 PRC for 2359 Glebe Street,  
 PRC for 2360 Glebe Street,  
 PRC for 12676 Treaty Line Street,  
 PRC for 2287 Glebe Street,  
 PRC for 2311 Glebe Street,  
 PRC for 2263 Glebe Street,  
 PRC for 12652 Treaty Line Street,  
 Petitioners Exhibit D: PRC for 12657 Treaty Line Street,  
 PRC for 12697 Treaty Line Street.

6. The Assessor offered the following exhibits:

- Respondent Exhibit A: 2012 PRC for the Weinbergs' property,
- Respondent Exhibit B: 2013 PRC for the Weinbergs' property,
- Respondent Exhibit C: Sales Disclosure Form for the Weinbergs' property, dated August 1, 2012,
- Respondent Exhibit D: Property history report, multiple listing sheet, and ten photographs for the Weinbergs' property,
- Respondent Exhibit E: Value calibration analysis by neighborhood for tax year 2012,
- Respondent Exhibit F: Value calibration analysis by neighborhood for tax year 2013,<sup>2</sup>
- Respondent Exhibit G: Maps for the following sections of Village of West Clay: Trowbridge Estate, Southlake Estate, Bishopsgate Village, Deerstyne Village, Chelmsford & The City Homes, Ashland Estate, Northlake Estate, Bellingrath Estate, Finchley Park Estate, and The Village Center Shoppes,
- Respondent Exhibit H: Nine photographs for homes in Trowbridge, Southlake, and Bishopsgate,
- Respondent Exhibit I: Aerial map showing 12692 Treaty Line Street,

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<sup>2</sup> Three entries on Respondent's Exhibit F are partially highlighted. One of our employees inadvertently highlighted the entries. The highlighting should be disregarded and has no bearing on our decision.

Respondent Exhibit J: Map and seven photographs for the Rhetttsbury<sup>3</sup> Village section of the Village of West Clay,  
Respondent Exhibit K: Broker's opinion of value prepared by Brian K. Ayer, dated May 11, 2015.

7. The following additional items are part of the record:
- Board Exhibit A: Form 131 petitions,
  - Board Exhibit B: Hearing notices,
  - Board Exhibit C: Hearing sign-in sheets.
8. The property under appeal contains a single-family home located at 12692 Treaty Line Street in Carmel.
9. The PTABOA determined the following assessments:
- |                      |                         |                  |
|----------------------|-------------------------|------------------|
| 2012: Land: \$89,200 | Improvements: \$325,800 | Total: \$415,000 |
| 2013: Land: \$89,500 | Improvements: \$324,100 | Total: \$413,600 |
10. The Weinbergs requested the following assessments:
- |                      |                         |                  |
|----------------------|-------------------------|------------------|
| 2012: Land: \$78,000 | Improvements: \$300,900 | Total: \$378,900 |
| 2013: Land: \$72,000 | Improvements: \$318,000 | Total: \$390,000 |

### **Summary of the Parties' Contentions**

#### **A. The Weinbergs' Case**

11. The Weinbergs offered property record cards from various other properties in the Village of West Clay to show that the Assessor assigned their home a higher quality grade and their land a less favorable influence factor than she assigned to other properties.  
*Weinberg testimony and argument; Pet'rs Exs. A-D.*
12. The Assessor assigned a positive 3% influence factor to the Weinbergs' land. The Weinbergs offered eight property record cards for nearby properties with influence factors ranging from zero to negative 20%. Two properties (12700 Treaty Line Street

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<sup>3</sup> The exhibit uses two different spellings, "Rettsbury" and "Rhetttsbury."

and 2383 Glebe Street) are within steps of the Weinbergs' property, and all three properties have garages that face the same alley. Yet 12700 Treaty Line has a negative 4% influence factor and 2383 Glebe Street has a negative 20% influence factor for traffic flow. Another property, 2263 Glebe Street, was assigned two negative influence factors—one 10% and the other 20%. *Weinberg testimony: Pet'rs Ex. A.*

13. Next, the Weinbergs pointed to the quality grades assigned to nine homes on their street (Treaty Line). According to the Weinbergs, the homes have the same construction quality, design, roofline, and floor plan as their home. Some have a masonry exterior and some are wood frame. The Assessor assigned a B grade to those other homes. By contrast, the Weinbergs' home had a grade of B+2 for 2012 and B+1 for 2013. *Weinberg testimony; Pet'rs Exs. A-B, D.*
14. Four builders built most of homes in the area. Paul Estridge Corp built both the Weinbergs' home and a home at 2250 Trowbridge High Street. The Trowbridge home had a B+1 grade. Of thirteen homes built by the other three builders, four were B+1 and the rest were B. *Weinberg testimony; Pet'rs Ex. C.*
15. The Weinbergs' home was on the market for approximately 500 days before they bought it in August 2012. It needed to be repainted. Several things needed repairs, including the front and back porches and the front walkway. *Weinberg testimony.*
16. Based on the home's condition and the quality grades assigned to other homes in the area, the Weinbergs believe the quality grade for their home should be reduced from B+2 to B+1 for 2012. Indeed, that is precisely what the Assessor did for 2013. *Weinberg testimony.*
17. Two other properties from the neighborhood similarly illustrate the lack of uniformity. A property at 12657 Treaty Line Street has a home that is 1,100 square feet larger than the Weinbergs' home, a B grade, and a negative 20% influence factor applied to its land. It

was assessed for approximately \$50,000 more than the Weinbergs' property. Another property across the street at 12697 Treaty Line has a home that is 500 square feet smaller than the Weinbergs' home and a B+1 grade. It was assessed for approximately \$80,000 less than the Weinbergs' property.<sup>4</sup> *Weinberg testimony; Pet'rs Ex. D.*

18. Finally, the Weinbergs claim the Assessor's methodology produced unjust and inconsistent results between years. Other properties in the area did not have their assessments increase 9.6% between 2011 and 2012.
19. For all those reasons, the Weinbergs seek an assessment between \$380,000 and \$390,000 for 2012. For 2013, they ask us to apply the Assessor's 2013 trending factor to the reduced 2012 value. *Weinberg argument; Pet'rs Ex. C.*

## **B. Assessor's Case**

20. The proper way to show a lack of uniformity and equality is to offer a ratio study comparing the ratio of market values-in-uses to assessed value for a statistically significant sample of properties. The Weinbergs did not do that. *Meighen argument (citing Thorsness v. Porter County Ass'r, 3 N.E.3d 49, 52 (Ind. Tax Ct. 2014) and Westfield Golf Practice Center, LLC v. Washington Twp. Ass'r, 859 N.E.2d 398 (Ind. Tax Ct. 2007))*.
21. In previous years, the Assessor valued the Weinbergs' home as having only 164 square feet of basement finish. After talking with Mr. Weinberg and looking at the home's listing sheet, it became apparent that it had closer to 1,000 square feet of finished basement. The PTABOA decided not to make any changes for 2012. Even if it had lowered the grade to B+1, the additional basement finish would have led to an overall increase in the assessment, and the PTABOA decided to give the Weinbergs the benefit

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<sup>4</sup> According to the property record cards, 12657 Treaty Line Street's home was 1,173 square feet larger than the Weinbergs' home and it was assessed at \$51,200 more than the Weinbergs' property for 2012, while 12697 Treaty Line Street's home was 1,019 square feet smaller than the Weinbergs' home, and it was assessed at \$75,600 less than the Weinbergs' property. *Pet'rs Ex. D; Resp't Ex. A.*

of the doubt. In 2013, the Assessor added the basement finish and changed the grade to B+1, but sales showed a market decrease of around 1% for the Weinbergs' section of the Village of West Clay. Thus, even with the changes, the assessment decreased slightly between 2012 and 2013. *Poore testimony; Resp't Exs. A-B, D.*

22. The Village of West Claynas 19 sections, each with different building standards as well as different house and lot sizes. The properties range from townhomes and condominiums to \$10 million estates. The Weinbergs' property is located in the Rhettsbury Village section. *Poore testimony; Resp't Exs. G-I.*
23. Although the Weinbergs took issue with how the Assessor applied influence factors, she assigned those factors based on lot sizes and traffic flow. That allowed her to value the lots consistently and close to the market data. For example, the standard lot in the Weinbergs' neighborhood is 0.15 acre. Because the Weinbergs' lot is only 0.14 acre, it received a positive 3% influence factor. Other lots were larger than the standard lot and received negative influence factors of varying levels. The Weinbergs pointed to several properties on Glebe Street that had negative 20% influence factors. Glebe Street, however, is the primary thoroughfare for entering and exiting the Village of West Clay, and properties on that street received a negative influence factor for traffic flow. The property with two negative influence factors—2287 Glebe Street—had a negative 10% factor for size (it was 0.19 acre) and a negative 20% factor for traffic flow. *Poore testimony.*
24. The Weinbergs also pointed to differing quality grades. According to Kevin Poore, the Assessor's real property assessment manager, the Assessor concentrates on market data rather than quality grades because those grades are subjective. *Poore testimony.*
25. Mr. Poore also explained that, in both 2012 and 2013, ratio studies examining sales and assessments from a section of Rhettsbury Village met the statistical requirements for uniformity laid out by the "State." *Poore testimony; Resp't Exs. E-F.*

26. Finally, Mr. Weinberg confirmed that the Weinbergs bought the property for \$436,000 in August 2012, although they reported the price as \$422,920 after deducting what Mr. Weinberg described as his commission. The sale was only five months after the March 1, 2012 valuation date for 2012 assessments and only seven months before the valuation date for 2013. The listing history for the property shows that it was consistently priced from 2011 through 2014. During the year leading up to the August 2012 sale, it was listed at \$499,000 and reduced to \$470,000. Similarly, the Weinbergs listed the property for \$499,000 on July 23, 2014, and later reduced their asking price to \$484,000.  
*Weinberg testimony; Poore testimony; Resp't Exs. A, C-D.*
27. Because the Village of West Clay is not a homogenous area, the Assessor hired Brian Ayer to prepare a broker's opinion of value. He used four sales to estimate a value of \$436,000 as of March 1, 2012. *Poore testimony; Resp't Ex. K.*
28. Based on the price from the sales disclosure form, the Assessor asks that the 2012 and 2013 assessments be increased to \$422,900.

## **Analysis**

### **A. Burden of Proof**

29. Generally, a taxpayer challenging an assessment must prove that the assessment is incorrect and what the correct value should be. Indiana code § 6-1.1-15-17.2, also known as the burden-shifting statute, 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 for the same property, the assessor has the burden of proving that the assessment under appeal is correct. I.C. § 6-1.1-15-17.2(b). The assessor similarly has the burden where a property's gross assessed value was reduced in an appeal, and the assessment for the following date represents an increase over "the gross assessed value of the real property



for the latest assessment date covered by the appeal, regardless of the amount of the increase ....” I.C. § 6-1.1-15-17.2(d).

30. If an assessor has the burden of proof and fails to meet it, the taxpayer may offer evidence to prove the correct assessment. If neither party offers evidence sufficient to show the correct assessment, it reverts to the previous year’s level, as last corrected by an assessing official, stipulated to by the parties, or determined on review. I.C. § 6-1.1-15-17.2(b).
31. The burden-shifting statute, however, does not apply to challenges based on the lack of uniformity and equality in assessments. *See Thorsness v. Porter County Ass’r*, 3 N.E.3d 49, 52 (Ind. Tax Ct. 2014). In *Thorsness*, the taxpayer sought an adjustment to his assessment based on what he described as a lack of uniformity and equality and argued that the assessor had the burden of proof under Ind. Code § 6-1.1-15-1(p), a predecessor to the current burden-shifting statute. The Tax Court disagreed, explaining:

[T]he burden-shifting rule contained in Indiana Code § 6-1.1-15-1(p) (*and its progeny*) applies only to valuation challenges, not to uniform and equal constitutional challenges for the following reasons.

The language of Indiana Code § 6-1.1-15-1(p) is clear and unambiguous and the Court will not expand or contract its meaning by reading into it language that is not there.... Indiana Code § 6-1.1-15-1(p) clearly states that when an assessment increases by more than 5% from one year to the next, an assessor “has the burden of proving that the assessment is correct.” I.C. § 6-1.1-15-1(p) (emphasis added). In Indiana, a property’s assessment is the value placed on the property that reflects its market value-in-use (i.e., its market value).... Thus, the burden-shifting rule does not apply unless the claim is that a property’s assessment does not reflect its market value-in-use....[B]y claiming that his assessment lacks uniformity and equality, the remedy *Thorsness* seeks is not one of “correctness,” but is, in effect, one of “incorrectness.”

*Thorsness*, 3 N.E.3d at 52-53 (emphasis indicated by italics added).

32. Both in their Form 131 petitions, and at hearing, the Weinbergs rely solely on comparing their property’s assessment to the assessments for other properties from the Village of

West Clay. Thus, at the hearing's outset, counsel for the Assessor noted that the Weinbergs appeared to be claiming a lack of uniformity and equality in addition to challenging the accuracy of their property's assessment. Mr. Weinberg agreed they were attacking the uniformity and equality of assessments and at one point indicated that was their sole claim. The Form 131 petitions, however, do not purport to limit the Weinbergs' claims in that manner. Indeed, they do not even use the words "uniformity" or "equality." As explained below, assessments for comparable properties may be relevant to both types of claims. Taken as a whole, the record does not show that the Weinbergs clearly intended to limit their appeals solely to the issue of uniformity and equality. We therefore address both issues.

33. As to the Weinbergs' claim that their property was not accurately assessed (valuation claim), the parties agree that the assessment increased by more than 5% between 2011 and 2012. The Assessor therefore has the burden of proof in the Weinbergs' 2012 appeal. The answer to who has the burden in the 2013 appeal necessarily depends on our determination for 2012. We will therefore address each year in turn when we discuss the merits.
34. The burden of proof on the Weinbergs' uniformity-and-equality claim is a different matter. Under that claim, the Weinbergs seek relief even if their property was accurately assessed on grounds that other properties were assessed differently. As the Tax Court held in *Thorsness*, the burden-shifting statute does not apply to such claims. The Weinbergs therefore have the burden of proving that they are entitled to relief based on a lack of uniformity and equality.

## **B. Valuation Claim**

35. Real property in Indiana is assessed based on its "true tax value," which means, "the 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." I.C. § 6-1.1-31-6(c): 2011 REAL

PROPERTY ASSESSMENT MANUAL 2 (incorporated by reference at 50 IAC 2.4-1-2). A party's evidence in an assessment appeal must be consistent with that standard. For example, a market-value-in-use appraisal prepared according to USPAP often will be probative. *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, sale or assessment information for the property under appeal or comparable properties, and any other information compiled according to generally accepted appraisal principles. *See id.* at 506; *see also* I.C. § 6-1.1-15-18 (allowing parties to offer evidence of comparable properties' assessments to determine an appealed property's market value-in-use).

36. Regardless of the type of evidence a party offers, it must explain how that 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). Otherwise, the evidence lacks probative value. *See id.* The valuation dates for the assessments at issue in these appeals were March 1, 2012, and March 1, 2013. I.C. § 6-1.1-4-4.5(f); 50 IAC 27-5-2(c).

### **2012 Appeal**

37. The Weinbergs bought the property for \$436,000 on August 1, 2012, although they reported the price as \$422,920 because Mr. Weinberg deducted what he described as his sales commission. A property's sale price is often compelling evidence of its true tax value. That is true here, where the Weinbergs bought the property only five months after the March 1, 2012 valuation date. Based on that sale price, the Assessor made a prima facie case that the property was worth more than its assessment.
38. The Weinbergs did nothing to impeach that sale price. For example, they did not claim that the sale was anything other than an arm's-length transaction or that either they or the sellers were atypically motivated.

39. They did arguably offer their own valuation evidence in the form of property record cards for other properties in the Village of West Clay. As explained above, a party may offer evidence of comparable properties' assessments to prove the market value-in-use of a property under appeal. But the determination of comparability must be made "using generally accepted appraisal and assessment practices." I.C. § 6-1.1-15-18(c). Thus, a party offering such evidence must explain how relevant characteristics of the other properties compare to those of the property under appeal and how any relevant differences affect values. *See Long*, 821 N.E.2d at 471; *see also, Indianapolis Racquet Club, Inc. v. Marion County Ass'r*, 15 N.E.3d 150 (Ind. Tax Ct. 2014).
40. The Weinbergs did little to compare their property to the other properties for which they offered assessment information. At most, they (1) showed that the properties were from the same general area, (2) showed that some of the homes were built by the same builder as their home, and (3) offered Mr. Weinberg's broad assertion that the homes all had the same construction quality, design, rooflines, and floor plans.
41. Location is certainly an important factor in a property's value, but it is far from the only one. Even if Mr. Weinberg had offered specifics to back up his assertions about the construction-related similarities he identified, he did nothing to compare other relevant characteristics that affect value, such as the relative ages and sizes of the homes or the sizes of the lots.
42. Indeed, the Weinbergs apparently believe the lots should all have the same influence factor because of their proximity to each other. Influence factors, however, are closely tied to the mass-appraisal process where assessors use per-unit rates (such as dollars-per-front-foot or per-acre) to value all the properties in an assessment neighborhood. Those rates are for the neighborhood's base lot. Individual lots within the neighborhood may have peculiar conditions that are not reflected in the base lot. Assessors use influence factors to account for how those conditions affect an individual lot's value. 2011 REAL PROPERTY ASSESSMENT GUIDELINES, ch. 2 at 43. The Weinbergs did nothing to compare

their lot to the lots receiving negative influence factors in terms of the characteristics upon which those influence factors were based.

43. Not only did the Weinbergs fail to fully compare their property to their purportedly comparable properties, they did not even attempt to explain how any relevant differences affected values. Their comparative assessment information therefore has little or no probative weight. In any case, it is far less persuasive than the evidence of the actual sale price. The Assessor proved that the property's true tax value for 2012 was \$436,000, which is more than its assessment.

### **2013 Appeal**

44. Given our determination for 2012, the Weinbergs have the burden of proof in their 2013 appeal. The parties offered the same evidence, including the August 1, 2012 sale in which the Weinbergs bought the property. Because the sale was only seven months before the March 1, 2013 valuation date, the sale price is probative evidence. We therefore reach the same conclusion that we reached for 2012.

### **C. Uniformity-and-Equality Claim**

45. Even if the property was correctly assessed, the Weinbergs claim they are entitled to have their assessments lowered because they are not uniform and equal compared to the assessments for other properties in the same area. The Weinbergs failed to make a prima facie case for the relief they seek.
46. To explain this conclusion, we turn to the Tax Court's decision in *Westfield Golf Practice Center, LLC v. Washington Twp. Ass'r*, 859 N.E.2d 396, 398 (Ind. Tax Ct. 2007). The taxpayer owned a golf practice range and claimed its assessment violated Article X section 1 of the Indiana Constitution because it was not uniform and equal. *Westfield Golf* 859 N.E.2d at 398. The Tax Court addressed the meaning of uniformity and equality in the context of Indiana's current assessment system. As the Court explained,

before the switch to our current system, true tax value was determined under Indiana’s own assessment regulations and bore no relation to any external, objectively verifiable standard of measurement. *Id.* at 398. Properties within the same neighborhood in a land order were presumed to be comparable to each other, and the principles of uniformity and equality were therefore violated when those properties were assessed and taxed differently. *Id.*

47. That changed under the new system, which incorporates market value-in-use as its external, objectively verifiable benchmark. The focus shifted from examining how assessment regulations were applied to examining whether a property’s assessed value actually reflects that external benchmark. *Id.* at 399. Thus, “the end result—a uniform and equal rate of assessment—is required, but there is no requirement of uniform procedure to arrive at that rate.” *Id.* (quoting *State ex. Re. Att’y Gen. v. Lake Superior Court*, 820 N.E.2d 1240, 1250 (Ind. 2005) (emphasis in original)). In a footnote, the Court explained that one method of proving a lack of uniformity and equality is to present assessment ratio studies comparing the assessments of properties within an assessing jurisdiction with objectively verifiable data, such as sale prices or market value-in-use appraisals. *Id.* at 399 n.3. The taxpayer in *Westfield Golf* lost its appeal because it focused solely on the base rate used to assess its driving-range landing area compared to the rates used to assess other driving ranges and failed to show the actual market value-in-use for any of the properties. *Id.* at 399.
  
48. Like the taxpayer in *Westfield Golf*, the Weinbergs focus on the Assessor’s methodology—the quality grade and influence factors she applied to various properties—as opposed to whether her methodology yielded an unequal rate of assessment. We recognize that the Assessor offered probative evidence to show the market value-in-use of the Weinbergs’ property and that the property record cards offered by the Weinbergs contain relevant sales information for some of the properties they claim were more favorably assessed. But the Weinbergs did not even attempt to analyze that information,

and we will not make their case for them. *See Long*, 821 N.E.2d at 471 (explaining that it is the taxpayer’s duty to walk the Board through every element of its analysis).

49. We also note that the Assessor offered ratio studies for 2012 and 2013. The median ratio, which is generally the best estimate of a stratum’s overall level of assessment,<sup>5</sup> was 95% for each year. And the ratio for the Weinbergs’ property was extremely close to that level.<sup>6</sup>
50. We do not base our decision on those studies. Indeed, the Assessor offered little to support the reliability of those studies beyond Mr. Poore’s broad assertion that they complied with the Department of Local Government Finance’s standards. But they represent the only attempt to analyze the uniformity and accuracy of assessments from the Weinbergs’ neighborhood against the relevant benchmark of market value-in-use. And they do not support the Weinbergs’ claim of unequal treatment.
51. Even if we were to disregard *Westfield Golf*, the Weinbergs did little to show that the Assessor applied any different methodology in assessing their property than she did in assessing other properties. As explained above, although she applied a different influence factor to the Weinbergs’ lot than she applied to various other lots, those influence factors were based on each lot’s individual characteristics, such as its location on a busy street or its size relative to the neighborhood’s standard lot. At most, the Assessor made a highly subjective judgment in assigning a different quality grade to the Weinbergs’ home than she assigned to other homes, including one built by the same builder, and she later changed that judgment for 2013.

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<sup>5</sup> *See* 50 IAC 27-4-5(e) (“[T]he median ratio is generally relied on as the best estimate of the overall level of assessment for a given property stratum.”). Nonetheless, the median ratio from the sample of sold properties is not an exact estimate of the median ratio for all properties in the population, but rather the assessor’s “best guess.” *Id.* Thus, in determining whether the level of assessment falls within the DLGF’s requirements (.90 to 1.10 for any property class), confidence intervals—rather than the median ratio itself—must be used. *Id.*; 50 IAC 27-4-5(e).

<sup>6</sup> For 2012, the Weinbergs’ property was assessed at 95.18% of its \$436,000 sale price. It was assessed at 94.89% of that sale price in 2013.

**D. The Assessor’s Request to Increase the Weinbergs’ Assessments**

52. Finally, the Assessor asks us to increase the 2012 and 2013 assessments to match the amount reported on the sales disclosure form for the August 2012 sale (which was less than the contract price). As explained above, however, the Assessor herself offered ratio studies purporting to estimate the assessment level for Weinbergs’ neighborhood at 95% of true tax value. Again, we do not pass on the validity of the Assessor’s ratio studies. Nor do we determine whether a ratio study showing that the mass appraisal of a property class or stratum meets the DLGF’s standards for accuracy or uniformity either requires or precludes adjusting an individual assessment to the overall assessment level (“median ratio”) estimated by the study. Neither party addressed those issues. Nonetheless, under these unique circumstances, we decline the Assessor’s invitation to increase the Weinbergs’ assessments where they are currently at or near the Assessor’s own estimate for the neighborhood’s overall assessment level.

**SUMMARY OF FINAL DETERMINATION**

53. The price the Weinbergs paid for their property on August 1, 2012—which was higher than its assessment for either year at issue—is the most persuasive evidence of its true tax value for those years. And the Weinbergs failed to show they were entitled to any relief based on a lack of uniformity and equality in assessments. Although the Assessor asks us to increase the assessments, we decline to do so. We therefore order no change.

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

\_\_\_\_\_  
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>>.