

RECENT DEVELOPMENTS IN INDIANA TAX CASE LAW: SURVEY 2025

ANDREW W. SWAIN*

INTRODUCTION

This survey article examines the tax decisions issued by the Indiana Tax Court (“Tax Court”) and the Indiana Supreme Court (“Supreme Court”) from December 1, 2024, to October 17, 2025. During this period, the Tax Court’s published opinions addressing substantive tax issues uniformly involved real property taxation.¹ In a rare occurrence in recent years, the Tax Court issued a series of unpublished opinions all addressing the same issues. Additionally, during this period, the Supreme Court issued one opinion involving real property tax.

I. PUBLISHED INDIANA TAX COURT DECISIONS

A. Madison County Assessor v. Kohl’s Indiana, LP

The issue before the Tax Court was whether the Indiana Board of Tax Review (IBTR) adequately provided the facts and rationale for its conclusion that the taxpayer’s appraisal evidence, despite identified flaws in each valuation approach, met the burden of proof to establish the subject property’s true tax value.²

Kohl’s Indiana, LP (“Kohl’s”) owned a retail store located in Anderson, Indiana.³ For the 2019, 2020, and 2021 assessment years, the Madison County Assessor (“Assessor”) assessed the property at \$4,513,400, \$4,517,000, and \$4,517,000, respectively.⁴ Kohl’s believed these assessments overstated the property’s true tax value and initiated appeals for all three years.⁵ The Madison County Property Tax Assessment Board of Appeals (“PTABOA”) affirmed the 2019 and 2020 assessments but took no action on the 2021 appeal.⁶ Kohl’s subsequently filed appeals for all three years with the IBTR.⁷

The IBTR conducted a week-long hearing at which both parties submitted appraisals using all three recognized valuation methodologies: the sales comparison approach, the income approach, and the cost approach.⁸ Kohl’s

* Associate Professor of Business Law and Ethics, Indiana University South Bend Judd Leighton School of Business & Economics. LL.M., 1998, University of Denver Sturm College of Law and Daniels School of Business—Graduate Tax Program; J.D., 1988, Indiana University Maurer School of Law; B.A., 1985, Indiana University Bloomington.

1. See *Tax Court Opinions*, IND. APP. DECISIONS, <https://public.courts.in.gov/decisions?c=9550> [<https://perma.cc/3U27-GYU9>] (last visited Jan. 1, 2026).

2. *Madison Cnty. Assessor v. Kohl’s Ind., LP*, 247 N.E.3d 845, 847 (Ind. T.C. 2024).

3. *Id.*

4. *Id.*

5. *Id.*

6. *Id.*

7. *Id.* at 847–48.

8. *Id.* at 848.

appraisal offered reconciled valuations of \$2,360,000 for 2020 and \$2,380,000 for 2021.⁹ The Assessor's appraisal, however, presented higher reconciled values of \$4,800,000 and \$4,900,000 for those same years.¹⁰

The IBTR issued its final determination, in which it provided a detailed critique of each of the three valuation approaches presented in Kohl's appraisal.¹¹ For the sales comparison approach, it found that all eight of the appraiser's selected comparable sales were flawed and insufficiently similar to the subject property.¹² It also noted that the adjustments applied to account for differences between those sales and the subject property were inadequately supported.¹³ Regarding the income approach, the IBTR found that four of the five leases used to estimate rental income were poor comparables and that the analysis failed to explain key adjustments made for various locational and economic attributes, including lease terms, size, traffic patterns, submarket demographics, and physical condition.¹⁴ For the cost approach, the IBTR criticized the use of an unsupported obsolescence adjustment.¹⁵ It expressed skepticism as to whether an obsolescence deduction was even appropriate, further noting that the adjustment was derived from the flawed conclusions of the other two approaches—rendering it inherently unreliable.¹⁶

Despite these critiques—and despite the IBTR finding that all three valuation approaches in Kohl's appraisal were weak and characterizing them as merely “minimally probative,” with the cost approach deemed the “least probative”—it nevertheless concluded, without explanation, that the appraisal was “sufficient to make a prima facie case.”¹⁷ A reference to a “prima facie case” typically pertains to the burden of production, which in Indiana property tax appeals is shaped by the state's burden-shifting statutes.¹⁸ Under those statutes, the initial burden of proving the correctness of an assessment may shift to the Assessor, departing from the general presumption of validity typically afforded to property tax assessments.¹⁹ The IBTR then stated that Kohl's

9. *Id.*

10. *Id.*

11. *Id.*

12. *Id.*

13. *Id.*

14. *Id.*

15. *Id.*

16. *Id.*

17. *Id.*

18. See, e.g., Andrew W. Swain, *Proving Equitable Apportionment: Where Do the Burdens Lie?*, 82 TAX NOTES (ST.) 513, 517–22 (2016) (discussing various attributes of the burden of proof at trial).

19. See, e.g., Brent A. Auberry, *Protecting Taxpayers: Indiana Shifts Burden of Proof to Assessor*, AM. PROP. TAX COUNS. (July 15, 2025), <https://www.aptnet.com/property-tax-resources/protecting-taxpayers-indiana-shifts-burden-of-proof-to-assessors> [https://perma.cc/A9NK-L4TF] (discussing Indiana's burden-shifting statute).

appraisal “ultimately tip[ped] the scales in Kohl’s favor.”²⁰ This phrase appears to invoke the burden of persuasion—the obligation borne by the party with the burden of proof to convince the trier of fact, by a preponderance of the evidence, that its claim is more likely than not true.²¹ The IBTR, therefore, accepted the valuations in Kohl’s appraisal—\$2,360,000 for 2020 and \$2,380,000 for 2021—and, using the trending formula outlined in the appeal management plan, set the 2019 assessment at \$2,312,800.²² The Assessor appealed the decision to the Indiana Tax Court.²³

On appeal, the Assessor contended that the IBTR’s determination constituted an abuse of discretion and was unsupported by substantial evidence, emphasizing that the IBTR failed to articulate the reasoning behind its conclusion that the taxpayer’s appraisal met the burden of proof.²⁴ In response, Kohl’s argued that the IBTR’s determination was supported by a “robust record.”²⁵ The Tax Court sided with the Assessor, reaffirming that a foundational principle of administrative law requires adjudicatory decisions to be accompanied by adequate findings of fact and a reasoned explanation.²⁶

Citing established Indiana precedent,²⁷ the court stressed that parties are entitled to understand the basis for the outcome of their case and that effective judicial review depends on a clear articulation of the evidence relied upon and the logical reasoning connecting that evidence to the agency’s conclusions.²⁸ This requirement is not merely procedural, the Tax Court explained—it serves to guard against arbitrary or careless decision-making by ensuring that the agency’s conclusions result from a careful evaluation of the evidence rather than from instinct or unsupported assumptions.²⁹ A well-reasoned explanation, the court added, enables both the parties and the reviewing court to assess the agency’s rationale meaningfully and avoids leaving them to speculate about the factual basis for the decision.³⁰

The Tax Court further noted that this principle of erudite and cogent disclosure, as espoused in prior case law, is rooted in the Due Process Clause of the Fourteenth Amendment to the United States Constitution, which requires a detailed explanation of the reasons for an administrative agency’s adverse action

20. *Kohl’s Ind.*, 247 N.E.3d at 848. *See also* IND. CODE § 6-1.1-15-17.2(b) (2025) (providing in part that: “[u]nder 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 appeals taken to the Indiana board of tax review or to the Indiana tax court”).

21. *See, e.g., Swain, supra* note 18, at 517–22.

22. *Kohl’s Ind.*, 247 N.E.3d at 848–49.

23. *Id.* at 849.

24. *Id.*

25. *Id.*

26. *Id.* (citing *Perez v. U.S. Steel Corp.*, 426 N.E.2d 29, 32 (Ind. 1981); *Rork v. Szabo Foods*, 436 N.E.2d 64, 69 (Ind. 1982)).

27. *See id.*

28. *Id.*

29. *Id.* at 849–50.

30. *Id.*

in order to protect against arbitrary decision-making and to facilitate meaningful judicial review.³¹ Accordingly, the Tax Court outlined the following requirements that agencies must meet when issuing findings in adjudicatory decisions, emphasizing that agencies must “provide findings that are specific enough to demonstrate to the court which facts the hearing judge relied upon and the reasoning used in reaching the ultimate decision”:

- **Explain the reasoning behind the decision:** The agency must clearly articulate the rationale that supports its ultimate conclusion.³²
- **Include evidentiary analysis:** The findings must set forth the evidentiary basis underlying the agency’s conclusions, rather than relying on conclusory statements.³³
- **Address relevant sub-issues and factual disputes:** The agency must explain not only its final determination but also “the various relevant sub-issues and factual disputes which, in their sum, are dispositive of the particular claim or ultimate factual question before [it].”³⁴
- **Match the level of detail to the complexity of the issues:** The more complex or technical the sub-issues or factual disputes, the greater the level of particularity required.³⁵
- **Provide a clear analytical roadmap:** The decision must serve as “a road map from which readers can clearly delineate the basis for [the] decision” in light of the evidence presented.³⁶

The Tax Court commended the IBTR for the clarity and structure of its initial factual findings regarding the flaws in each appraisal.³⁷ However, it emphasized that these findings “did not go far enough” because they lacked an analytical connection to the IBTR’s legal conclusion.³⁸ The court determined that the IBTR’s final determination failed to meet the requirements for adequate administrative reasoning, as it did not “adequately explain its findings and conclusions to allow the Court to properly review its decision.”³⁹ The court found that the IBTR’s final determination lacked the “connective tissue” between its criticisms of the appraisal and its ultimate conclusion.⁴⁰

The IBTR did not identify which aspects of the appraisal it deemed probative or explain how those elements, even if only minimally so, satisfied

31. *Id.* at 850.

32. *Id.*

33. *Id.*

34. *Id.*

35. *Id.*

36. *Id.*

37. *Id.* at 851 n.5.

38. *Id.*

39. *Id.* at 851–52.

40. *Id.* at 851.

the taxpayer's burden of proof.⁴¹ Moreover, its intermediate findings regarding the probative value of each valuation approach were neither adequately explained nor supported by basic underlying facts.⁴² Rather than articulating how Kohl's appraisal affirmatively proved the assessments incorrect, the IBTR appeared to rest its conclusion on a relative comparison—determining that the Assessor's appraisal was simply less persuasive.⁴³ The court noted that this approach failed to complete the reasoning process required by statute and case law.⁴⁴ It reiterated that Indiana Code section 6-1.1-15-4(j) mandates that final determinations include separately stated findings of fact along with a concise statement of the underlying facts supporting the IBTR's ultimate findings.⁴⁵ The court concluded that the IBTR's unexplained leap from detailed critique to a favorable outcome for the taxpayer undermined the integrity of the administrative process and precluded meaningful judicial review.⁴⁶ The Tax Court's rationale also appeared to reflect a broader concern about the adequacy of agency reasoning. The court's language implicitly conveys a deeper warning: even detailed factual findings may amount to little more than surface-level form if they are not integrated into a coherent and reasoned decision-making framework.⁴⁷

Accordingly, the Tax Court remanded the case to the IBTR with instructions to issue a final determination that includes findings sufficient to support both its intermediate and ultimate conclusions.⁴⁸ The court retained jurisdiction over the matter pending the IBTR's subsequent determination.⁴⁹

B. Lake County Assessor v. O'Day Holdings, LLC

The issue before the Tax Court was whether the IBTR erred in relying on appraisals that likely included personal property to reduce the taxpayer's real property assessments, and whether the IBTR misapplied the burden of proof by accepting those appraisals as sufficient to justify the reductions.⁵⁰

O'Day Holdings, LLC ("O'Day") owned a six-building complex in Hammond, Indiana, where it fabricated storage systems for big-box home improvement retailers.⁵¹ The facility included two buildings equipped with overhead cranes and craneways to move raw steel between fabrication

41. *Id.*

42. *Id.*

43. *Id.*

44. *Id.*

45. *Id.*

46. *Id.*

47. *Id.*

48. *Id.* at 852.

49. *Id.*

50. *Lake Cnty. Assessor v. O'Day Holdings, LLC*, 249 N.E.3d 677, 679 (Ind. T.C. 2024).

51. *Id.*

workstations.⁵² The property was assessed between \$1,438,400 and \$1,605,400 for the 2014, 2015, 2018, 2019, and 2020 tax years.⁵³ O'Day appealed the assessments to the Lake County PTABOA, which adjusted the 2014, 2015, and 2018 assessments but took no action on the 2019 and 2020 assessments.⁵⁴ O'Day subsequently appealed all five years to the IBTR.⁵⁵

At the IBTR hearing, O'Day presented two appraisal reports covering the disputed years.⁵⁶ The appraisals employed both the cost and sales comparison approaches, but the appraiser gave primary weight to the sales comparison approach.⁵⁷ For 2014 and 2015, the appraiser selected five comparable sales (two of which included cranes), adjusted for differences, and arrived at a value of \$9.50 per square foot, concluding to \$870,000 per year.⁵⁸ For 2018 to 2020, using similar methodology and comparables (one of which had cranes), he settled on \$9.00 per square foot, concluding to \$800,000 annually.⁵⁹

During the Assessor's cross-examination of the appraiser, it was conceded that overhead cranes may be classified as either real or personal property depending on whether they are permanently affixed to the building.⁶⁰ He acknowledged that his sales comparison analyses did not distinguish between the two because such information is rarely disclosed in broker materials.⁶¹ When pressed, he admitted that the sales he relied upon may have included cranes but disclaimed any knowledge of how those assets were treated in the transactions.⁶² He further testified that the presence of cranes likely had minimal impact on sale prices, particularly when the cranes or buildings were older, stating that "[a] crane in a building that's 40 years old . . . is not worth a lot of money" and may "cost more to repair . . . than you get from the sale."⁶³

The IBTR ruled in O'Day's favor, holding that the appraisals likely included personal property—specifically cranes and craneways—and that this inclusion rendered them inadequate to precisely establish the true tax value of the real property.⁶⁴ Nevertheless, the IBTR concluded that the appraisals retained probative value and could be used to establish an upper limit on the property's market value-in-use.⁶⁵ Relying on that rationale, the IBTR reduced the

52. *Id.*

53. *Id.*

54. *Id.*

55. *Id.* at 680.

56. *Id.*

57. *Id.*

58. *Id.*

59. *Id.*

60. *Id.*

61. *Id.*

62. *Id.*

63. *Id.* (citations omitted).

64. *Id.* at 680–81.

65. *Id.* The Indiana Code makes clear that "true tax value" does not equate to fair market value. *See* IND. CODE § 6-1.1-31-6(c) (2025). Instead, for real property other than agricultural

assessments to \$870,000 for 2014 and 2015, and \$800,000 for each of the years 2018 through 2020.⁶⁶ The Assessor appealed the IBTR's decision to the Indiana Tax Court.⁶⁷

On appeal, the Assessor contended that the IBTR erred in two respects: first, by relying on appraisals that included personal property, which the Assessor argued rendered them non-probative of real property value;⁶⁸ and second, by concluding that O'Day was not required to prove a specific alternative value to obtain an assessment reduction, thereby, in the Assessor's view, improperly relieving the taxpayer of its burden of proof.⁶⁹ The Tax Court rejected both arguments.

The court began with the Assessor's tainted valuation argument. The Assessor contended that the IBTR acted contrary to law by relying on appraisals that included personal property—specifically, overhead cranes and craneways—arguing that any such inclusion rendered the appraisals non-probative of real property value.⁷⁰ Because the purpose of the appeal was to determine the value of the real estate alone, the Assessor maintained that the presence of personal property, regardless of amount, fundamentally compromised the reliability of the valuation evidence.⁷¹

The Tax Court rejected the Assessor's tainted valuation argument, reaffirming that Indiana law does not impose a per se rule that appraisals lose all probative value simply because they include personal property.⁷² While real and personal property are assessed separately, the inclusion of personal property in valuation evidence affects the weight and reliability of the appraisal—not its admissibility or categorical probative value.⁷³ The court explained that an appraisal's relevance turns on its adherence to generally accepted appraisal

land, true tax value is defined as market value-in-use, which is determined under the rules of the Department of Local Government Finance (DLGF). The 2021 Real Property Assessment Manual defines market value-in-use as “[t]he value of a property for its current use, as reflected by the utility received by the owner or a similar user from the property.” IND. DEP’T OF LOC. GOV. FIN., 2021 REAL PROPERTY ASSESSMENT MANUAL 2, <https://www.in.gov/dlgf/files/2021-assessment-guidelines/Assessment-Manual.pdf> [<https://perma.cc/PT2S-WG6J>] (incorporated by reference at 50 IND. ADMIN. CODE 2.4-1-2(b) (2011) (amended 2020)). True tax value may be conceptualized as the price that would motivate a willing seller to sell and a willing buyer to purchase the property for continued use in its current capacity. *Id.* However, in markets in which sales are unrepresentative of the owner's utility—such as when owners are driven by non-market factors or when use value exceeds exchange value—true tax value may differ from traditional fair market value. *Id.* In such cases, market value-in-use incorporates a market value-in-exchange component only when regular market transactions take place for the property's current use. *Id.*

66. *O'Day Holdings*, 249 N.E.3d at 681.

67. *Id.* at 680.

68. *Id.* at 681.

69. *Id.* at 684.

70. *Id.* at 681.

71. *Id.*

72. *Id.*

73. *Id.*

standards and its utility in estimating the property's market value-in-use.⁷⁴ Valuation evidence may remain credible, even if imperfect, so long as the factfinder accounts for the presence of personal property when determining its overall evidentiary value.⁷⁵

In support of this conclusion, the court distinguished three earlier decisions:⁷⁶ *Hurricane Food v. White River Township Assessor*,⁷⁷ *Kooshtard Property I, LLC v. Monroe County Assessor*,⁷⁸ and *Mac's Convenience Stores, LLC v. Hendricks County Assessor*.⁷⁹ In *Hurricane Food*, the court permitted the deduction of a known personal property component from a sale price to isolate a valid real property value.⁸⁰ In *Kooshtard*, the court upheld the IBTR's use of an appraisal that employed all three valuation approaches, holding that the IBTR appropriately relied on the cost approach—which excluded personal property—even though other components of the appraisal did not.⁸¹ By contrast, in *Mac's*, the court rejected an appraisal where the inclusion of personal property was so pervasive and inseparable—fuel pumps, coolers, and other non-realty assets—that no reliable separation could be made.⁸² The appraisal in *Mac's* relied exclusively on the sales comparison approach, which further limited its reliability.⁸³

Although the Assessor invoked *Mac's* to argue that the inclusion of any personal property invalidates an appraisal, the court emphasized that the case must be read in context.⁸⁴ *Mac's* did not overrule *Hurricane Food* or *Kooshtard*, and nothing in the opinion announced a blanket prohibition on appraisals that include personal property.⁸⁵ Rather, the outcome in *Mac's* turned on the pervasiveness and inseparability of the non-realty assets.⁸⁶ Indeed, the court in *O'Day* noted that had the inclusion been de minimis, even *Mac's* might have come out differently, citing *Goshen Public Library of Elkhart County v. Department of Local Government Finance*⁸⁷ in support of that principle.⁸⁸

The IBTR acknowledged that the O'Day appraisals likely included some personal property and therefore could not be used to establish the property's precise true tax value.⁸⁹ Nonetheless, the IBTR concluded that the appraisals

74. *Id.* at 685.

75. *Id.* at 681–82.

76. *Id.* at 682–83.

77. 836 N.E.2d 1069 (Ind. T.C. 2005).

78. 38 N.E.3d 750 (Ind. T.C. 2015).

79. 191 N.E.3d 285 (Ind. T.C. 2022).

80. *O'Day Holdings*, 249 N.E.3d at 682 (citing *Hurricane Food*, 836 N.E.2d 1069).

81. *Id.* (citing *Kooshtard Property I*, 38 N.E.3d 750).

82. *Id.* at 682–83 (citing *Mac's Convenience Stores*, 191 N.E.3d 285).

83. *Id.* at 682.

84. *Id.* at 683.

85. *Id.*

86. *Id.*

87. 128 N.E.3d 574, 580 (Ind. T.C. 2019).

88. *O'Day Holdings*, 249 N.E.3d at 683.

89. *Id.*

were sufficient to demonstrate that the assessments exceeded the property's market value-in-use and could be relied upon to set a reasonable upper limit on value.⁹⁰ Unlike in *Mac*'s, the personal property component here was neither dominant nor irretrievable.⁹¹

Accordingly, the court affirmed the IBTR's use of the appraisals for this limited purpose, holding that evidence which cannot support an exact valuation may still be probative for showing over-assessment.⁹² The decision reinforces the principle that appraisal evidence containing personal property is not automatically disqualified in an assessment appeal—particularly when used not to fix a precise valuation, but to establish that the assessment exceeds the real property's likely value.

Turning to the burden of proof argument, the Tax Court addressed the Assessor's claim that O'Day failed to establish a "correct" value for the subject property.⁹³ The Assessor argued that the IBTR erred by reducing O'Day's assessments without requiring proof of a specific alternative value.⁹⁴ In her view, a taxpayer must satisfy a two-part burden: first, by showing the existing assessment is incorrect, and second, by proving what the "correct" assessment should be.⁹⁵ Drawing from the standard used in former burden-shifting cases, she contended that the taxpayer must present a valuation that is precise and free from error—essentially, proof of the property's true tax value.⁹⁶ Because O'Day offered appraisals that included personal property and did not isolate a specific real property value, the Assessor maintained that the IBTR improperly relieved O'Day of its burden by accepting evidence that merely suggested the assessments were too high.⁹⁷

The court rejected this contention, clarifying that in regular assessment appeals—not governed by the repealed burden-shifting statute, Indiana Code section 6-1.1-15-17.2⁹⁸—the taxpayer's burden is to demonstrate that the assessment is incorrect, not necessarily to prove the precise true tax value of the property.⁹⁹ Under the Department of Local Government Finance's regulations, taxpayers may submit any evidence relevant to a property's market value-in-use to rebut the presumption of correctness that attaches to an assessment.¹⁰⁰

The Tax Court clarified that while proving the true tax value of a property

90. *Id.* at 683–84.

91. *Id.* at 684.

92. *Id.*

93. *Id.*

94. *Id.* at 685.

95. *Id.* at 684.

96. *Id.*

97. *Id.*

98. *Id.* at 687.

99. *Id.* at 685.

100. *Id.* (citing 2002 REAL PROPERTY ASSESSMENT MANUAL 5 (2004 Reprint) (incorporated by reference at 50 IND. ADMIN. CODE 2.3-1-2 (2002 Supp.) (repealed 2010)); 2011 REAL PROPERTY ASSESSMENT MANUAL 3; 2021 REAL PROPERTY ASSESSMENT MANUAL 3 (incorporated by reference at 50 IND. ADMIN. CODE 2.4-1-2 (2020))).

is one method for demonstrating an incorrect assessment, it is not the exclusive means.¹⁰¹ Although Indiana precedent had often treated proof of true tax value and proof of incorrectness as coextensive, the court explained that they are analytically distinct and that a taxpayer may establish the latter without necessarily proving the former.¹⁰² The court noted that Indiana's assessment regulations require only that the taxpayer demonstrate the inaccuracy of the assessment itself and are silent on what value must replace it.¹⁰³

The Assessor conceded that the IBTR correctly found the assessments to be excessive but argued that O'Day was still required to prove a specific "correct" value—defined as one that is "precise and exact, free from error, or able to give a correct result"—to be entitled to a reduction.¹⁰⁴ The court rejected this argument, explaining that prior cases had not squarely addressed whether establishing true tax value was a legal prerequisite to securing relief in an appeal.¹⁰⁵ Instead, those cases turned on evidentiary insufficiencies or procedural defects and did not define the scope of the taxpayer's burden in regular appeals.¹⁰⁶

The court further held that the Assessor's reliance on the repealed burden-shifting statute, Indiana Code section 6-1.1-15-17.2, was misplaced.¹⁰⁷ That statute, which shifted the burden to the assessor in some instances involving significant increases in assessed value, did not apply to regular appeals and could not be read to impose a heightened "correctness" requirement on taxpayers in such cases.¹⁰⁸ The court emphasized that adopting the Assessor's position would invert the regulatory framework by requiring taxpayers to prove not only that the assessment was too high, but also the exact value that should be substituted in its place—something the regulations do not require.¹⁰⁹

Reaffirming that property valuation is "more art than science," the court endorsed the principle that a persuasive upper limit on true tax value—while not definitive—may justify relief when the evidence clearly establishes over-assessment.¹¹⁰ Drawing a parallel to the reversionary clause in the now-repealed statute, the court explained that in the absence of a precise valuation, a prior-year value—or in this case, a reasonable estimate based on credible evidence—may serve as an appropriate substitute.¹¹¹ Because the IBTR had found that the appraisals, though including some personal property, nonetheless set a credible upper limit below the assessed values, the court upheld the reductions as consistent with law and supported by the record.¹¹²

101. *See id.* at 685.

102. *Id.* at 686.

103. *Id.* at 685.

104. *Id.* at 684.

105. *Id.* at 686–87.

106. *Id.* at 686.

107. *Id.* at 687.

108. *Id.*

109. *Id.*

110. *Id.* at 688.

111. *Id.*

112. *Id.*

Accordingly, the Tax Court affirmed the IBTR's decision. The court's opinion in *O'Day* reflects a judicial philosophy underlying Indiana tax appeals: that the pursuit of an exact true tax value must yield to the broader aim of fairness. In the court's view, when credible evidence demonstrates that an assessment exceeds market reality, the law permits correction—even without perfect precision—because fairness in taxation is achieved not through mathematical exactness, but through reasonable judgment grounded in probative evidence.

C. Snyder v. Dearborn County Assessor

The issue before the Tax Court was whether the IBTR erred in upholding the 2022 assessment of the taxpayer's residential property, which the taxpayer claimed was excessive compared to prior-year assessments imposed on comparable properties.¹¹³

The taxpayer, Gabrielle Snyder ("Snyder"), owned a one-and-a-half-story residence in Guilford, Indiana, which contained 1,582 square feet of finished living area, a 1,034-square-foot unfinished basement, and was situated on a 1.64-acre lot.¹¹⁴ For the 2022 assessment year, the Dearborn County Assessor ("Assessor") assigned the property an assessed value of \$207,600, reflecting a 36.5% increase over its 2021 assessment of \$152,000.¹¹⁵ Snyder appealed the 2022 assessment, first to the Dearborn County PTABOA and then to the IBTR. Before the IBTR, the Assessor conceded that because the assessment increased by more than 5% over the prior year, the burden-shifting provision in Indiana Code section 6-1.1-15-20 applied.¹¹⁶

Before the IBTR, the Assessor presented a ratio study, an appraisal, and testimony from a licensed appraiser to support the 2022 assessment.¹¹⁷ The appraisal, prepared in accordance with the Uniform Standards of Professional Appraisal Practice, applied the sales comparison approach and valued the property at \$242,000 as of the 2022 assessment date.¹¹⁸ This valuation exceeded the actual assessed value in dispute by approximately \$35,000.¹¹⁹ Nonetheless, both the Assessor and the appraiser maintained that the \$207,600 assessment was reasonable, citing a sustained rise in countywide residential sale prices since 2019 and explaining that assessed values typically trail market values.¹²⁰

Snyder contested the validity of the Assessor's appraisal by arguing that the three comparable properties it relied upon were not truly comparable, as they featured superior amenities that her home lacked, such as lakefront locations,

113. Snyder v. Dearborn Cnty. Assessor, 248 N.E.3d 1277, 1279 (Ind. T.C. 2024).

114. *Id.*

115. *Id.* at 1279–80.

116. *Id.* at 1279.

117. *Id.*

118. *Id.*

119. *Id.*

120. *Id.*

fireplaces, wraparound decks, outdoor kitchens, and finished basements.¹²¹ She also submitted her own evidence, including a realtor's valuation placing her home in the upper \$140,000s, online property data for similar homes assessed in the low \$150,000s, and information on newer or larger properties with additional features that were assessed similarly to hers.¹²² Additionally, she asserted that the assessment may have overstated her home's square footage and failed to account for substantial deferred maintenance and structural issues.¹²³ Finally, she challenged the assessment's fairness by highlighting its disproportionate increase: while most county properties saw increases of 6% to 9% from 2021 to 2022, her assessment surged by 36.5%.¹²⁴

The IBTR upheld the 2022 assessment, finding that the Assessor's appraisal offered a credible estimate of the property's value that Snyder did not meaningfully rebut.¹²⁵ While acknowledging the property's deficiencies and differences from the chosen comparables, the IBTR concluded that Snyder failed to show how these distinctions affected her home's market value-in-use.¹²⁶ It also rejected her claim of non-uniform treatment, determining that she had not provided sufficient evidence to support it.¹²⁷ Although the appraisal valued the property above the assessed amount, the IBTR left the assessment unchanged because the Assessor had not sought an increase.¹²⁸

Snyder filed a petition for rehearing with the IBTR, arguing that the Assessor failed to disclose the comparable properties used in the appraisal until the day of the hearing and that the appraiser had relied solely on "drive-by" visual inspections.¹²⁹ She reiterated her objections to the comparability of the cited properties, noting their superior features and locations in private communities.¹³⁰ Snyder also reasserted her earlier evidence, including a realtor's valuation, the absence of renovations to her home, and disparities in features and assessed value trends among other properties.¹³¹ The IBTR denied the petition, and Snyder initiated an original tax appeal before the Indiana Tax Court.¹³²

Snyder proceeded before the Tax Court *pro se*, reiterating the same concerns and arguments she presented before the IBTR.¹³³ These included objections to the comparability of the three properties used in the Assessor's appraisal, criticisms of the magnitude of the assessment increase, and emphasis on her

121. *Id.*

122. *Id.* at 1279–80.

123. *Id.* at 1280.

124. *Id.*

125. *Id.*

126. *Id.*

127. *Id.*

128. *Id.*

129. *Id.*

130. *Id.*

131. *Id.*

132. *Id.*

133. *Id.* at 1281.

property's physical deficiencies, deferred maintenance, lack of renovations, and a realtor's lower valuation.¹³⁴ She also challenged the appraisal's methodology, focusing on the appraiser's reliance on "drive-by" inspections and the late disclosure of comparable sales data.¹³⁵

The Tax Court emphasized that it serves as a "record-reviewing body" in appeals from IBTR decisions, not as a trier of fact. Citing its 2022 decision in *Gold Coast Rand Development Corp. v. Lake County Assessor*,¹³⁶ the Indiana Code,¹³⁷ and other Indiana Supreme Court and Tax Court precedents, the Tax Court reaffirmed that it may not reweigh evidence or assess witness credibility—functions reserved to the IBTR, whose administrative law judges observe witness demeanor and evaluate evidentiary persuasiveness.¹³⁸

The Tax Court concluded that Snyder merely sought a new evidentiary hearing before the tax court, something it could not grant her.¹³⁹ It found that Snyder had a full and fair opportunity to present her case during the administrative hearing. She submitted several exhibits, cross-examined witnesses, and offered her own testimony.¹⁴⁰ The IBTR credited the Assessor's USPAP-compliant appraisal, which valued the property at \$242,000, and determined that Snyder had not "significantly impeached" it.¹⁴¹ Although the IBTR acknowledged Snyder's concerns about her property's condition and the appraisal's comparables, it concluded that she failed to offer quantified or persuasive evidence demonstrating how these alleged differences materially affected the property's market value-in-use.¹⁴² The Tax Court held that the IBTR's findings were supported by substantial evidence—defined as "relevant evidence a reasonable mind might accept as adequate to support a conclusion."¹⁴³ Snyder's cross-examinations were limited and did not yield significant contradictions or admissions.¹⁴⁴ Although she identified differences between her property and the comparables, she did not present analysis or data establishing how those differences impacted valuation.¹⁴⁵

The court explained that it cannot substitute its judgment for that of the IBTR unless there is an abuse of discretion. Finding none, it concluded that Snyder's disagreement with the outcome, while understandable, did not warrant

134. *Id.*

135. *Id.*

136. 197 N.E.3d 1274 (Ind. T.C. 2022).

137. *Snyder*, 248 N.E.3d at 1281 (citing IND. CODE § 6-1.1-15-20(f) (2024)) ("In an appeal under [Chapter 15], the [IBTR] shall, as trier of fact, weigh the evidence and decide the true tax value of the property as compelled by the totality of the probative evidence before it.").

138. *See id.*

139. *Id.* at 1281–82.

140. *Id.* at 1282.

141. *Id.*

142. *Id.*

143. *Id.* (quoting *Clark-Pleasant Cmty. Sch. Corp. v. Dep't of Loc. Gov't Fin.*, 889 N.E.2d 762, 765 (Ind. T.C. 2008)).

144. *Id.*

145. *Id.*

reversal.¹⁴⁶ Accordingly, the court affirmed the IBTR's final determination upholding the 2022 assessment.¹⁴⁷

In many property tax appeals, as exemplified by *Snyder*, taxpayers present evidence they believe is persuasive—only to see it dismissed or disregarded by the county PTABOA or IBTR and upheld by the Tax Court. This persistent pattern raises a critical question: What more could the taxpayer have done?

The answer lies in the mismatch between taxpayer intuition and the IBTR's evidentiary standards. Taxpayers often cite conditions like deferred maintenance, interior deterioration, or disproportionately large assessment increases, assuming these facts alone warrant relief. However, the IBTR typically requires more than anecdotal or comparative evidence. It requires valuation-specific evidence that quantifies the impact of such differences on market value-in-use, rather than just observations or assertions of unfairness.

*D. Muir Woods Section One Ass'n, Inc. v.
Marion County Assessor (Muir Woods IV)*

The purported issue before the Tax Court was whether it had subject matter jurisdiction under Indiana Code section 6-1.1-15-5(g) to hear a direct appeal from the IBTR's summary dismissal of the taxpayer's administrative appeal for failure to appear, based on the taxpayer's claim that its objection to the dismissal constituted a petition for rehearing sufficient to trigger direct-appeal jurisdiction.¹⁴⁸

The litigation in *Muir Woods Section One Ass'n, Inc. v. Marion County Assessor* spans nearly a decade and includes multiple rulings by both the Indiana Tax Court and the Indiana Supreme Court. The litigation consists of the following four decisions:

- ***Muir Woods I***: *Muir Woods Section One Ass'n, Inc. v. Marion County Assessor*, 154 N.E.3d 877 (Ind. T.C. 2020).
- ***Muir Woods II***: *Muir Woods Section One Ass'n, Inc. v. Marion County Assessor*, 172 N.E.3d 1205 (Ind. 2021). The Indiana Supreme Court partially affirmed and partially reversed the Tax Court's decision in *Muir Woods I* and remanded the case to the IBTR for further proceedings.
- ***Muir Woods III***: *Muir Woods Section One Ass'n, Inc. v. Marion County Assessor*, 225 N.E.3d 236 (Ind. T.C. 2023). This decision followed the Indiana Supreme Court's remand to the IBTR.
- ***Muir Woods IV***: *Muir Woods Section One Ass'n, Inc. v. Marion County Assessor*. This decision represents the second Tax Court ruling issued after the Supreme Court's remand to the IBTR.

146. *Id.*

147. *Id.* at 1283.

148. *Muir Woods Section One Ass'n, Inc. v. Marion Cnty. Assessor (Muir Woods IV)*, 254 N.E.3d 1158, 1161 (Ind. T.C. 2025).

To provide essential context for understanding the Tax Court's ruling in *Muir Woods IV*, it is necessary to explain the Tax Court's decisions in *Muir Woods I* and *III*, as well as the Indiana Supreme Court's remand of the case to the IBTR in *Muir Woods II*.

1. *Muir Woods I and II*.—The *Muir Woods* litigation arose from property tax assessments imposed on common-area land owned by several homeowners' associations ("HOAs") in Marion County.¹⁴⁹ The HOAs challenged assessments for tax years 2001 through 2003, asserting that the assessments were legally erroneous and correctable through Petitions for Correction of an Error (Form 133).¹⁵⁰

After the Marion County PTABOA denied the petitions, the IBTR consolidated the matters and dismissed them without a hearing, concluding that the alleged errors were not correctable through Form 133 because they involved subjective valuation judgments rather than objective errors.¹⁵¹ The HOAs argued that the Marion County Assessor failed to apply an 80% base-rate discount mandated by the 1995 Marion County Land Valuation Order and the 2002 Indiana Assessment Guidelines when valuing their common-area property.¹⁵² Because application of the discount was required by law, the HOAs contended that the Assessor's failure to apply it constituted an objective error correctable through Form 133.¹⁵³ The Tax Court disagreed. Relying on its precedent, the court held that the assessment and valuation of real property is inherently subjective and therefore upheld the IBTR's dismissal of the claim.¹⁵⁴

In *Muir Woods II*, however, the Indiana Supreme Court reached a different conclusion. While agreeing that the initial determination of a property's base value is inherently subjective, the Supreme Court drew a critical distinction

149. *Muir Woods II*, 172 N.E.3d at 1206.

150. *Id.*

151. *Muir Woods I*, 154 N.E.3d at 879. As an aside, the Indiana General Assembly significantly revised the property tax appeal process in 2017. See Act of Apr. 28, 2017, Pub. L. No. 232-2017, § 10, 2017 Ind. Acts 2773, 2786–88 (enacting IND. CODE § 6-1.1-15-1.1). The legislation eliminated the longstanding "dueling form" problem by consolidating the so-called "subjective appeals" (formerly governed by IND. CODE § 6-1.1-15-1 and initiated with Form 130/131) and "objective appeals" (formerly governed by IND. CODE § 6-1.1-15-12 and initiated with Form 133) into a single process. See § 10, 2017 Ind. Acts at 2786–88. Under the new system, a taxpayer initiates an appeal by filing Form 130—Taxpayer's Notice to Initiate an Appeal—with the local assessing official (typically, the county assessor). *Id.* If the assessor denies the claim in whole or in part, the appeal is forwarded to the county's property tax assessment board of appeals ("PTABOA"). The PTABOA's decision may then be appealed to the IBTR via Form 131. *Id.* The IBTR's final determination may be appealed to the Indiana Tax Court by filing a petition and serving notice on the IBTR. See IND. CODE § 6-1.1-15-5(b)(1); IND. TAX CT. R. 4(B). A party may seek discretionary review of the Indiana Tax Court's decision by petitioning the Indiana Supreme Court. See IND. APP. R. 63(A). The revised Form 130 and related information are available at *Appeals Property Tax*, IND. DEP'T OF LOC. GOV. FIN., <https://www.in.gov/dlgf/appeals-property-tax/> [<https://perma.cc/5XH5-JGFT>] (last visited Mar. 27, 2026).

152. See *Muir Woods I*, 154 N.E.3d at 882.

153. *Id.*

154. *Id.*

between valuation and the application of mandatory legal directives affecting that valuation.¹⁵⁵ It held that whether the Assessor applied a required discount rate under the 1995 Marion County Land Valuation Order presented an objective inquiry.¹⁵⁶ Once a base rate is determined, the application—or nonapplication—of a prescribed discount is a binary, mechanical determination. Accordingly, the Supreme Court held that Form 133 was the proper vehicle for challenging the failure to apply the mandatory discount to common-area land.¹⁵⁷ It reversed the Tax Court’s dismissal of that claim and remanded the matter to the IBTR for further proceedings, while summarily affirming the remainder of the Tax Court’s decision.¹⁵⁸

2. *Muir Woods III*.—When the dispute returned to the Indiana Tax Court in *Muir Woods III*, the threshold issue was whether the court had subject matter jurisdiction to review the HOAs’ challenge to the IBTR dismissal of their administrative appeal.¹⁵⁹ The IBTR had dismissed the appeal after the HOAs failed to appear at a remand hearing, and the HOAs subsequently filed a motion to vacate that dismissal while also seeking reconsideration of a related procedural ruling.¹⁶⁰

The Tax Court concluded that it lacked subject matter jurisdiction.¹⁶¹ It reasoned that judicial review of an original tax appeal requires a final determination from the IBTR and that a party must exhaust all administrative remedies before invoking the court’s jurisdiction.¹⁶² Although the IBTR’s dismissal initially constituted an appealable final determination, the Tax Court held that the HOAs’ post-dismissal filings—together with the IBTR’s decision to take the matter under advisement and schedule further proceedings—meant that the administrative process had not yet concluded. In the court’s view, the dismissal therefore ceased to be a final determination, and the absence of final agency action deprived the court of subject matter jurisdiction.¹⁶³

On that basis, the Tax Court dismissed the appeal and remanded the matter to the IBTR for further proceedings. That jurisdictional conclusion—and its treatment of finality and exhaustion—forms the critical backdrop for the court’s subsequent analysis in *Muir Woods IV*.¹⁶⁴ The Tax Court’s jurisdictional rationale in *Muir Woods III* is difficult to reconcile with the case’s procedural record and to align with existing rules and precedent governing administrative

155. *Muir Woods II*, 172 N.E.3d at 1207.

156. *Id.*

157. *Id.* at 1208.

158. *Id.*

159. *Muir Woods Section One Ass’n, Inc. v. Marion Cnty. Assessor (Muir Woods III)*, 225 N.E.3d 236, 238 (Ind. T.C. 2023).

160. *Id.* at 240.

161. *Id.* at 242–44.

162. *Id.* at 242 (citing IND. CODE §§ 33-26-3-1, -3 (2023)).

163. *See id.* at 243.

164. *Id.* at 244.

finality, rehearing procedures, and exhaustion of remedies. These issues are addressed in greater depth in prior commentary.¹⁶⁵

3. *Muir Woods IV*.—The *Muir Woods* litigation reached its fourth iteration in *Muir Woods IV*, following the Tax Court’s remand in *Muir Woods III*, as described in the previous section. In response to that remand, the IBTR issued an order scheduling a new hearing to address “all pending matters,” including the Motion to Vacate, the applicability of statutory deadlines for rehearing petitions, and the HOAs’ underlying assessment and taxation claims.¹⁶⁶ Before the scheduled hearing occurred—and before the IBTR ruled on the HOAs’ renewed request to vacate the dismissal—the HOAs filed a new appeal directly with the Tax Court.¹⁶⁷

In their petition, the HOAs argued that the IBTR’s failure to act on the Motion to Vacate within the time limits applicable to rehearing petitions under Indiana Code section 6-1.1-15-5(a) triggered the Tax Court’s direct-appeal jurisdiction under Indiana Code section 6-1.1-15-5(g).¹⁶⁸ Specifically, they contended that because the Tax Court had previously treated the Motion to Vacate as a petition for rehearing in *Muir Woods III*, the IBTR’s inaction within ninety days effectively activated the direct-review mechanism under subsection 5(g).¹⁶⁹ In other words, by failing to issue a new final determination within ninety days after taking the Motion to Vacate under advisement, the IBTR forfeited its exclusive jurisdiction.¹⁷⁰

Indiana Code section 6-1.1-15-5(g) permits a party to initiate judicial review before the Tax Court if the IBTR fails to issue a final determination within the time limits set by subsection 5(a) or by Indiana Code section 6-1.1-15-4(f)¹⁷¹—that is, within ninety days after granting a rehearing or by the extended deadline if the IBTR lawfully issues an extension order, not to exceed 180 additional days. If a final determination is not issued and judicial review is initiated in a timely manner, the Tax Court must resolve the matter de novo.

The Assessor responded with a motion to dismiss, arguing that the Motion to Vacate did not qualify as a statutory petition for rehearing under Indiana Code section 6-1.1-15-5(a), and thus the HOAs had not satisfied the statutory prerequisites for judicial review.¹⁷² Because the HOAs had allegedly failed to

165. See Andrew W. Swain, *When Courts Rewrite or Obfuscate Precedent Rather than Overrule It*, 116 TAX NOTES (ST.) 893, 897–901 (2025) (analyzing the court’s jurisdictional rationale in *Muir Woods III* and identifying significant procedural and statutory inconsistencies).

166. *Muir Woods Section One Ass’n, Inc. v. Marion Cnty. Assessor (Muir Woods IV)*, 254 N.E.3d 1158, 1163 (Ind. T.C. 2025).

167. *Id.*

168. *Id.*

169. *Id.*

170. *Id.*

171. See IND. CODE § 6-1.1-15-4(f) (2025) (requiring the IBTR to issue a final determination within 90 days after the hearing, unless it issues an extension order, in which case the deadline may be extended by no more than 180 additional days).

172. *Muir Woods IV*, 254 N.E.3d at 1163.

exhaust their administrative remedies, the Assessor maintained that the Tax Court lacked subject matter jurisdiction over the appeal.¹⁷³

The Tax Court stated that the issue before it now was whether it had subject matter jurisdiction under Indiana Code section 6-1.1-15-5(g) to hear a direct appeal from the IBTR's summary dismissal of the taxpayer's administrative appeal for failure to appear, based on the taxpayer's claim that its objection to the dismissal constituted a petition for rehearing sufficient to trigger direct-appeal jurisdiction.¹⁷⁴ The court clarified that direct-appeal jurisdiction under subsection 5(g) arises only when the IBTR fails to issue a timely final determination after either: (1) granting a rehearing petition under subsection 5(a), or (2) exceeding the time limits set forth in section 4.¹⁷⁵ The threshold jurisdictional question, therefore, was whether the HOAs' Motion to Vacate constituted a petition for rehearing or, instead, an objection governed by the IBTR's failure-to-appear rule.¹⁷⁶ If the motion qualified as a rehearing petition and the IBTR failed to issue a new final determination within ninety days, subsection 5(g) would authorize judicial review.¹⁷⁷ If not, the HOAs were required to await a final determination under subsection 5(b) before appealing to the Tax Court. The court ultimately rejected the HOAs' jurisdictional theory.¹⁷⁸

The Tax Court's decision turned on a critical doctrinal distinction between two procedural mechanisms available to parties who disagree with or seek to overturn an IBTR action: the petition for rehearing under Indiana Code section 6-1.1-15-5(a) and the failure-to-appear objection process under 52 Indiana Administrative Code 4-9-4.¹⁷⁹ This administrative provision addresses the consequences of a party or its representative failing to appear at an IBTR hearing. If a party fails to appear, the IBTR will issue a default or dismissal order. The party has ten days to file a written objection to vacate the order, providing supporting facts for their non-appearance. The IBTR can then choose to vacate the order for good cause shown.¹⁸⁰ Both Indiana Code section 6-1.1-15-5(a) and 52 Indiana Administrative Code section 4-9-4, as stated by the Tax Court, are mechanisms for further administrative review; however, they serve markedly different purposes and operate under distinct timelines and procedural frameworks.¹⁸¹

The Tax Court explained that a petition for rehearing under subsection 5(a) must be filed within fifteen days after the IBTR issues its final determination—or after the time for issuing such a determination expires—and allows the IBTR

173. *Id.*

174. *Id.* at 1161.

175. *Id.* at 1165.

176. *Id.*

177. *Id.*

178. *Id.*

179. *Id.*

180. See 52 IND. ADMIN. CODE 4-9-4 (2025).

181. *Muir Woods IV*, 254 N.E.3d at 1165.

to affirm or modify its final order.¹⁸² If the IBTR grants rehearing, the court noted, it must issue a new final determination within ninety days.¹⁸³ Critically, the court explained, subsection 5(g) permits a direct appeal to the Tax Court only when the IBTR fails to act on a valid rehearing request within that ninety-day window.¹⁸⁴ The rehearing process, the court emphasized, is narrow in scope: it does not permit new arguments or evidence but is confined to correcting errors in the IBTR's prior determination.¹⁸⁵

In contrast, the Tax Court continued, the failure-to-appear process exists entirely outside the statutory rehearing framework.¹⁸⁶ It is governed solely by administrative rule and is triggered when a party fails to appear at a scheduled hearing.¹⁸⁷ The rule permits the IBTR to dismiss the case but also allows the non-appearing party to file an objection within ten days explaining their absence and requesting that the dismissal be set aside for good cause.¹⁸⁸ This process is corrective in a different sense: it enables a party to restore its procedural standing in the appeal, rather than challenging the substantive merits of a final determination.¹⁸⁹

The Tax Court concluded that the HOAs conflated these two processes when they claimed that their Motion to Vacate—filed in response to a dismissal for failure to appear—was functionally equivalent to a rehearing petition.¹⁹⁰ The court rejected that argument, emphasizing that the motion did not reference subsection 5(a), did not challenge a substantive determination, and did not limit itself to the record already before the IBTR.¹⁹¹ Rather, it advanced new factual explanations and exhibits regarding the parties' failure to appear—conduct falling squarely within the failure-to-appear rule.¹⁹² Because the statutory ninety-day deadline applies only to valid rehearing petitions under subsection 5(a), and not to failure-to-appear objections, the court found no jurisdictional basis under subsection 5(g) to proceed with a direct appeal.¹⁹³ In this portion of the holding in *Muir Woods IV*, the court tried to draw a firm line that underscores the limited and exclusive nature of the Tax Court's statutorily conferred subject matter jurisdiction.

The Tax Court's reasoning in *Muir Woods IV* presents a number of unresolved doctrinal and procedural difficulties, particularly when viewed in light of its prior decision in *Muir Woods III*—issues examined in greater detail

182. *Id.*

183. *Id.*

184. *Id.*

185. *Id.*

186. *Id.* at 1165–66.

187. *Id.* at 1166.

188. *Id.*

189. *Id.*

190. *Id.*

191. *Id.*

192. *Id.* at 1166–67.

193. *Id.* at 1167.

in prior commentary.¹⁹⁴ Despite these arguable deficiencies, on October 30, 2025, the Indiana Supreme Court denied review of the Tax Court's decision.¹⁹⁵

E. Gary II LLC v. Lake County Assessor

The issues before the Tax Court were whether the IBTR erred in upholding the Assessor's valuation of the taxpayer's properties despite the alleged use of improper methods, timing, and comparables, and whether the IBTR incorrectly applied the 3% non-residential property tax cap in contravention of Indiana law.¹⁹⁶

The taxpayer, Gary II LLC ("Gary II"), was a limited liability company that owned hundreds of property parcels in Calumet Township in Gary, Indiana.¹⁹⁷ Five of those parcels were located in neighborhoods that contained both vacant and improved land.¹⁹⁸ Gary II initially contested the assessed values of these five parcels for the 2014 and 2017 tax years.¹⁹⁹ After the Lake County PTABOA upheld the original assessments for four of the parcels and reduced the value of one, Gary II pursued further review by filing separate appeals with the IBTR.²⁰⁰ This resulted in five distinct administrative hearings—one for each parcel—before the IBTR.²⁰¹

At each of the administrative hearings, Gary II advanced two main arguments: first, that the Lake County Assessor ("Assessor") employed improper procedures, timing, and comparables in establishing base rates in Calumet Township; and second, that applying Indiana's 3% nonresidential property tax cap to its parcels was contrary to law.²⁰² To support these claims, Gary II introduced a range of evidence, including property record cards, parcel identification information, county treasurer tax records, GIS maps, appraisal reports for other properties, academic studies from Indiana University Northwest ("IU Northwest"), excerpts from the Real Property Assessment Manual, a county land order, and a page from a final determination in an unrelated case.²⁰³

The IBTR issued five nearly identical final determinations, concluding that, despite its evidentiary submissions, Gary II failed to present probative, market-based evidence to establish the market value-in-use of any of the parcels for the

194. Swain, *supra* note 165, at 901–08 (analyzing the Tax Court's shifting jurisdictional rationale across *Muir Woods III* and *IV* and the resulting implications for administrative finality and judicial review).

195. *See* *Muir Woods Sec. One Ass'n, Inc. v. Marion Cnty. Assessor*, No. 24T-TA-00008, 270 N.E.3d 960 (Ind. 2025).

196. *Gary II LLC v. Lake Cnty. Assessor*, 256 N.E.3d 600, 602 (Ind. T.C. 2025).

197. *Id.*

198. *Id.* at 602–03.

199. *Id.* at 603.

200. *Id.*

201. *Id.*

202. *Id.* at 603–04.

203. *Id.* at 604–05.

2017 assessment year.²⁰⁴ As a result, the IBTR held that Gary II had not made a prima facie case for reducing the assessments.²⁰⁵ The IBTR also rejected Gary II's argument regarding the 3% nonresidential property tax cap, holding that the applicable cap is determined by the plain language of the governing statutes—not by a property's zoning classification.²⁰⁶ Gary II initiated a pro se appeal in the Indiana Tax Court, challenging the IBTR's final determinations.²⁰⁷

The three issues addressed by the Tax Court on appeal were whether: (1) the process, timing, and comparables the Assessor used to establish the base rates underlying its assessments were faulty (i.e., the “base rate issue”);²⁰⁸ (2) the IBTR's rigid reading of the tax cap statutes was contrary to the Indiana Constitution's requirements for classifying properties for property tax cap purposes (i.e., the “contrary to law issue”);²⁰⁹ and (3) Gary II presented sufficient probative evidence to make a prima facie case, thereby triggering the Assessor's duty to support the assessments with substantial evidence (i.e., the “prima facie issue”).²¹⁰

Regarding the base rate issue, Gary II argued that the Lake County Assessor violated statutory requirements by reversing the proper order of responsibilities—asserting that, instead of the Assessor establishing base land rates and transmitting them to the Calumet Township Assessor (“Township Assessor”), the process was performed in contravention of the statutory sequence.²¹¹ Gary II further contended that, due to insufficient sales of vacant lots in Calumet Township, the Assessor was obligated under assessment regulations to obtain an opinion of value from a licensed real estate professional using truly comparable properties.²¹² The Tax Court rejected both claims as conclusory and unsupported.²¹³ It found that Gary II failed to offer probative evidence identifying who performed the base rate analysis, when it occurred, or how the statutory framework was violated.²¹⁴ The court also noted that, regardless of the order of operations, the Township Assessor is statutorily empowered to carry out assessment duties under Indiana Code.²¹⁵ As for the alleged failure to obtain an expert opinion, the court again emphasized the

204. *Id.* at 605.

205. *Id.*

206. *Id.*

207. *Id.* at 602.

208. *Id.* at 602–04.

209. *Id.* at 605.

210. *Id.* at 608.

211. *Id.* at 604 (citing IND. CODE § 36-6-5-3(a) (2017), which outlines the general duties of a township assessor, including the statutory responsibility to assess property for taxation under IND. CODE art. 6.1.1. This obligation applies unless those duties have been transferred to the county assessor pursuant to IND. CODE § 6-1.1-1-24 (2025) or IND. CODE ch. 15 of art. 2, tit. 36).

212. *Id.*

213. *Id.* at 605.

214. *Id.* at 604.

215. *Id.*

absence of any evidentiary support or analysis, concluding that Gary II's assertions lacked persuasive force.²¹⁶

In addition to challenging the process by which the Assessor established base rates, Gary II argued that the base rates applied to its 2017 assessments were untimely.²¹⁷ Specifically, Gary II contended that the relevant base rates had been submitted more than four years after they were due and were based on sales data from transactions that occurred up to four years after the base rates were supposed to take effect.²¹⁸ In Gary II's view, this rendered the assessments procedurally flawed.²¹⁹

The Tax Court rejected this argument, finding it rested on a misapprehension of the reassessment timing framework set forth in Indiana Code sections 6-1.1-4-4.2(a)(4) and (a)(7).²²⁰ The court clarified that the statutory four-year reassessment period does not prescribe the duration for which a particular base rate remains in effect; rather, it defines the cycle within which new land values must be determined once.²²¹ Accordingly, once base rates are determined, they apply prospectively to assessments for taxes first due and payable in the subsequent year, as specified in Indiana Code section 6-1.1-4-4.2(a)(7).²²² Here, the base rates applicable to Gary II's 2017 assessments derived from a 2012 land values determination, not from a later one conducted in or after 2018.²²³ In light of this statutory structure, the court found no procedural defect in the timing of the base rates used and concluded that Gary II's argument lacked merit.²²⁴

Lastly, with respect to the base rate issue, Gary II argued that the Assessor relied on flawed comparables in establishing the base land rates in Calumet Township.²²⁵ Specifically, Gary II contended that the Assessor commissioned appraisals of three representative parcels, but despite those appraisals yielding valuations that differed substantially from the then-existing assessed values, no subsequent adjustments were made to bring the assessments into alignment with the appraisal findings.²²⁶ Gary II further argued that the sales data used to

216. *Id.*

217. *Id.*

218. *Id.*

219. *Id.*

220. *Id.* IND. CODE § 6-1.1-4-4.2(a)(4) is part of Indiana's statutory framework for cyclical reassessment of real property. It requires county assessors, as part of their reassessment plans, to divide all parcels into four distinct groups, with each group comprising approximately 25% of the parcels within each class of real property. The statute mandates that each group be reassessed once during every four-year cycle, ensuring that all real property is reassessed on a recurring and systematic basis. Subsection (a)(7) provides that the reassessed value for property in a reassessment group serves as the basis for property taxes payable in the year following the year in which the reassessment is scheduled to be completed.

221. *Gary II*, 256 N.E.3d at 604.

222. *Id.*

223. *Id.*

224. *Id.*

225. *Id.*

226. *Id.*

develop the base rates predominantly reflected transactions involving improved properties rather than vacant land, owing to an insufficient number of vacant lot sales.²²⁷ To bolster this claim, Gary II submitted reports from IU Northwest discussing the difficulty of marketing certain vacant parcels—commonly referred to as “churners”—within the township.²²⁸

The Tax Court acknowledged that Gary II’s submissions raised general concerns about the Assessor’s methodology but found the legal challenge insufficient.²²⁹ Citing Tax Court precedent, the court emphasized that a taxpayer must present objectively verifiable, market-based evidence showing that its own parcels were over-assessed.²³⁰ Because Gary II failed to meet this evidentiary burden, the court concluded that the IBTR’s determinations were not arbitrary, capricious, or unsupported by substantial evidence.²³¹ Accordingly, the court resolved the base rate issue in the Assessor’s favor, declining to reverse the assessments on this ground.²³²

The Tax Court next considered the second issue—the contrary to law issue—regarding the proper application of Indiana’s property tax cap classifications.²³³ Before the IBTR, Gary II contended that the IBTR’s classification of its properties as ineligible for the 2% residential property tax cap was contrary to law and unsupported by substantial evidence.²³⁴ The statutory framework in effect at the time defined “residential property” narrowly, limiting the classification to (1) single-family dwellings not part of a homestead, along with up to one acre of underlying land; (2) buildings containing two or more dwelling units, together with associated land and common areas; and (3) land leased or rented for the placement of manufactured or mobile homes.²³⁵ The statute expressly excluded properties such as hotels, motels, and tourist cabins.²³⁶ As the Tax Court noted, the definition reflects a dwelling-centric approach: property qualifies as “residential” only if it contains, supports, or is being developed for the placement of residential dwellings.²³⁷

Applying this statutory definition, the IBTR found that Gary II’s properties did not contain dwelling units and were not leased for manufactured housing. Consequently, the IBTR concluded that the properties did not fall within the

227. *Id.*

228. *Id.* at 604–05.

229. *Id.* at 605.

230. *Id.* (citing *Piotrowski BK #5643, LLC v. Shelby Cnty. Assessor*, 177 N.E.3d 127, 133 (Ind. T.C. 2021), which held that, without objectively verifiable, market-based evidence, claims are mere conjecture).

231. *See id.*

232. *Id.*

233. *Id.*

234. *Id.*

235. *Id.* (citing IND. CODE § 6-1.1-20.6-2.5 (2017)).

236. *Id.*

237. *Id.*

scope of “residential property” as defined in Indiana Code section 6-1.1-20.6-4.²³⁸

Instead, the IBTR applied the statutory definition of “nonresidential real property.”²³⁹ That provision includes two categories: (1) improved property that is not a homestead or residential property, and (2) undeveloped land remaining after subtracting any portion of the parcel that qualifies as homestead or residential.²⁴⁰ Based on this latter prong, the IBTR concluded that Gary II’s parcels—lacking dwellings and not forming part of a homestead or residential development—were properly classified as “nonresidential real property.”²⁴¹ As such, the IBTR determined that the 3% nonresidential property tax cap, rather than the 2% residential cap, applied to the assessments in question.²⁴²

Before the Tax Court, Gary II argued that the IBTR’s rigid adherence to the statutory definitions of “residential property” and “nonresidential real property” failed to comport with the Indiana Constitution’s framework for classifying property for tax cap purposes.²⁴³ To contextualize the contrary-to-law issue, the court reviewed its precedent on statutory tax caps, noting that it had frequently addressed the meaning and application of the tax cap statutes in cases in which the classification of a property determined which cap applied.²⁴⁴ However, the court emphasized that *Gary II* marked only the second time Indiana’s statutory property tax cap scheme had been challenged on constitutional grounds.²⁴⁵ It cited *Sawlani v. Lake County Assessor*,²⁴⁶ as the first such case, which involved a constitutional challenge to the legislature’s decision to limit the 1% cap to the home and one acre of land—a restriction purportedly not found in the constitutional text.²⁴⁷ The *Gary II* case, by contrast, was one of first impression specifically addressing whether the statutory definition of “residential property”

238. *Id.*

239. *Id.* at 605–06 (citing § 6-1.1-20.6-2.5).

240. *Id.*

241. *Id.* at 606.

242. *Id.*

243. *Id.*

244. *Id.* (citing *Schiffler v. Marion Cnty. Assessor*, 184 N.E.3d 726, 729–31 (Ind. T.C. 2022) (holding that a carriage house and garage qualified for the 1% cap as extensions of the taxpayer’s principal residence); *Buckeye Hosp. Dupont, LLC v. O’Day*, 144 N.E.3d 850, 855–56 (Ind. T.C. 2020) (holding that statutory classification, not use, governed eligibility for the 2% cap); *Universal Health Realty v. Fluty*, 144 N.E.3d 857, 861–63 (Ind. T.C. 2020) (holding that property was ineligible for the 2% cap because it lacked multiple dwelling units or long-term care licensure); *Hamilton Square Invs., LLC v. Hamilton Cnty. Assessor*, 60 N.E.3d 313, 317–18 (Ind. T.C. 2016) (holding that common areas qualified for the 2% cap when shared by tenants)).

245. *Id.*

246. 240 N.E.3d 734 (Ind. T.C. 2024), *rev’d*, 267 N.E.3d 419 (Ind. 2025).

247. *Gary II*, 256 N.E.3d at 606. Reliance on *Sawlani* as persuasive precedent is problematic, as it is arguably a poorly reasoned decision. See Andrew W. Swain, *Overloading the 1% Circuit Breaker: The Indiana Tax Court Constitutionally Expands Curtilage*, 11 TEX. A&M J. PROP. L. 491 (2025) (critiquing the court’s rationale in *Sawlani*, its departure from judicial norms, and the decision’s negative implications for Indiana’s tax system and constitutional interpretation). Also, on October 7, 2025, the Indiana Supreme Court reversed *Sawlani*. See *infra* Part III.

accords with the constitutional requirement that tax cap classifications be based on property use.²⁴⁸

To resolve the dispute, the court examined the relevant constitutional and statutory provisions. In 2010, the Indiana Constitution was amended to require the General Assembly to classify real property for purposes of limiting tax liability to certain percentage caps based on use.²⁴⁹ Article 10, Section 1(f), as amended, limits a taxpayer's property tax liability to 1%, 2%, or 3% of a property's gross assessed value, depending on whether the property is used as a principal residence, for other residential purposes, for agricultural use, or for other purposes.²⁵⁰ These classifications are expressly tied to the *use* of the property, as confirmed by the definitional provisions in section 1(e) and section 1(c)(4) of the Constitution.²⁵¹

The court contrasted this use-based constitutional framework with the more restrictive and categorical statutory definitions. Indiana Code section 6-1.1-20.6-4 defines "residential property" in terms of specific physical characteristics—such as the presence of dwelling units, the type of structure, and the size of the parcel—rather than actual use.²⁵² Similarly, Indiana Code section 6-1.1-20.6-2.5 defines "nonresidential real property" primarily as either improved property not qualifying as a homestead or residential property, or undeveloped land.²⁵³ Neither provision acknowledges use as the governing criterion, despite its constitutional centrality.²⁵⁴

Recognizing this disconnect, the court held that the statutory definitions must be construed in a manner that conforms to the Indiana Constitution.²⁵⁵ Citing longstanding interpretive principles, the court reaffirmed that statutes must be presumed constitutional and interpreted to give full effect to constitutional requirements.²⁵⁶ Accordingly, the court found that a strict reliance on the statutory definitions was contrary to law because the definitions failed to encompass all property that, based on actual use, may qualify for the 2% or 3% caps under the Constitution.²⁵⁷

Moreover, the court concluded that the IBTR's classification of Gary II's properties as "nonresidential real property" was itself factually flawed. Although the IBTR characterized the properties as "undeveloped land," the court noted that they were, in fact, improved parcels with platted lots, paved

248. *Gary II*, 256 N.E.3d at 606.

249. *Id.*

250. *Id.* at 606–07 (quoting IND. CONST. art. 10, § 1(f)).

251. *Id.* at 607 (quoting IND. CONST. art. 10, § 1(c)(4), (e)).

252. IND. CODE § 6-1.1-20.6-4 (2025). Although the substance is unchanged, it is important to note that the Tax Court used the 2017 version of the Indiana Code in its decision.

253. IND. CODE § 6-1.1-20.6-2.5 (2025).

254. *Gary II*, 256 N.E.3d at 607.

255. *Id.*

256. *Id.*

257. *Id.* at 608.

roads, sidewalks, and public utilities.²⁵⁸ As such, the determinative inquiry was not whether Gary II's properties met the narrow statutory criteria for "residential property," but whether the record evidence demonstrated that the parcels were actually *used* for residential purposes, as required by the Indiana Constitution.²⁵⁹ The court then proceeded to the third issue—the *prima facie* issue—to evaluate the factual record in accordance with its interpretation of the constitutional standard.²⁶⁰

The Tax Court considered whether the IBTR erred in concluding that Gary II failed to present probative evidence sufficient to establish a *prima facie* case that its properties were used for residential purposes and thus entitled to the 2% tax cap under Article 10, Section 1 of the Indiana Constitution.²⁶¹ Gary II's evidentiary presentation focused on its Property Record Cards (PRCs), which uniformly classified the parcels as "residential" under the 2011 Real Property Assessment Manual and Guidelines.²⁶² The PRCs identified the parcels as "Property Class 500 – Vacant Platted Land," a subclass of residential property.²⁶³ The neighborhood and market model codes further reflected residential categorization, as did details about the parcels' infrastructure: paved streets, public utilities, and zoning consistent with residential development.²⁶⁴ The PRCs also included valuation tables that, with one exception, reflected classification as residential for assessment purposes.²⁶⁵ Gary II supplemented this with aerial GIS maps and PRC notations indicating that two parcels previously contained residences that had been destroyed, further suggesting residential use.²⁶⁶

The Tax Court emphasized that the Manual and Guidelines base classification on a property's predominant current use, a standard consistent with the Constitution's use-based framework for tax cap eligibility.²⁶⁷ Although the IBTR dismissed Gary II's argument as relying solely on zoning, the court found this characterization inaccurate.²⁶⁸ The Guidelines explicitly recognize zoning as relevant to classification and define residential land as land "utilized or zoned for residential purposes."²⁶⁹ The court concluded that the IBTR had failed to engage meaningfully with Gary II's broader evidentiary presentation or to articulate reasoning for disregarding it.²⁷⁰

258. *Id.*

259. *Id.*

260. *Id.*

261. *Id.*

262. *Id.*

263. *Id.* at 609.

264. *Id.* at 609–10.

265. *Id.* at 610.

266. *Id.*

267. *Id.*

268. *Id.*

269. *Id.* (quoting IND. DEP'T LOC. GOV'T FIN., REAL PROPERTY ASSESSMENT MANUAL AND GUIDELINES (2011)).

270. *Id.* at 611.

Reaffirming that probative evidence is that which tends to prove a material fact, the court held that Gary II's evidence collectively tended to prove residential use as of the 2017 assessment date.²⁷¹ It therefore constituted a *prima facie* case, shifting the burden to the Assessor to produce substantial evidence in rebuttal.²⁷² The Assessor failed to meet this burden, offering only conclusory statements and no contrary evidence.²⁷³ Because the IBTR did not address Gary II's evidence or make any reasoned findings in response, and because the Assessor's failure to rebut left Gary II's *prima facie* case un rebutted, the court found in Gary II's favor on this issue.²⁷⁴

Accordingly, the Tax Court affirmed the IBTR's determination regarding the base rates applied to Gary II's properties.²⁷⁵ However, it reversed its classification decision, holding that the statutory provisions governing property tax cap classifications must be applied in a manner consistent with the Indiana Constitution—namely, based on the property's actual use.²⁷⁶ Finding that each of Gary II's five properties qualified as residential under the constitutional use standard in 2017, the court remanded the case with instructions for the IBTR to direct the Assessor to apply the 2% tax cap accordingly.²⁷⁷

II. UNPUBLISHED INDIANA TAX COURT DECISION

A. Tippecanoe County Assessor v. May

The issue before the Tax Court was whether an elected county assessor, appearing without counsel, may represent the assessor's office in an original tax appeal.²⁷⁸

271. *Id.*

272. *Id.*

273. *Id.*

274. *Id.*

275. *Id.*

276. *Id.* at 611–12.

277. *Id.* at 612.

278. Tippecanoe Cnty. Assessor v. May, No. 25T-TA-00016, 2025 WL 2945666, at *1 (Ind. T.C. Oct. 17, 2025) (not designated for publication). On the same day, the Indiana Tax Court issued nine additional decisions that were identical in all material respects, differing only in the named taxpayer. *See* Tippecanoe Cnty. Assessor v. Mock, No. 25T-TA-00015, 2025 WL 2945601 (Ind. T.C. Oct. 17, 2025); Tippecanoe Cnty. Assessor v. Lund-Mikkelsen, No. 25T-TA-00014, 2025 WL 2945600 (Ind. T.C. Oct. 17, 2025); Tippecanoe Cnty. Assessor v. Abbott, No. 25T-TA-00013, 2025 WL 2945625 (Ind. T.C. Oct. 17, 2025); Tippecanoe Cnty. Assessor v. Stewart, No. 25T-TA-00012, 2025 WL 2945620 (Ind. T.C. Oct. 17, 2025); Tippecanoe Cnty. Assessor v. D & J Black Second Ltd. P'ship, No. 25T-TA-00011, 2025 WL 2945630 (Ind. T.C. Oct. 17, 2025); Tippecanoe Cnty. Assessor v. D & J Black Second Ltd. P'ship, No. 25T-TA-00010, 2025 WL 2945699 (Ind. T.C. Oct. 17, 2025); Tippecanoe Cnty. Assessor v. D & J Black Second Ltd. P'ship, No. 25T-TA-00009, 2025 WL 2945658 (Ind. T.C. Oct. 17, 2025); Tippecanoe Cnty. Assessor v. Goergen, No. 25T-TA-00008, 2025 WL 2945598 (Ind. T.C. Oct. 17, 2025); Tippecanoe Cnty. Assessor v. Goergen, No. 25T-TA-00007, 2025 WL 2945661 (Ind. T.C. Oct. 17, 2025). All these companion decisions were likewise not designated for publication.

The appeal was filed by Tippecanoe County Assessor Eric Grossman, acting pro se and purporting to appear in his official capacity.²⁷⁹ Recognizing a potential defect, the Court sua sponte ordered the Assessor either to obtain counsel or brief why a non-attorney elected official may represent a governmental office before the Tax Court.²⁸⁰ After briefing—and in the absence of any response from opposing parties—the court concluded that the Assessor could not proceed without licensed counsel.²⁸¹

The Tax Court first examined whether any statute authorizes a county assessor to represent the assessor's office in Tax Court proceedings. Grossman relied primarily on Indiana Code sections 33-26-7-1 and 6-1.1-35.7-2. The court rejected both arguments. Indiana Code section 33-26-7-1 provides that a county assessor may elect either to retain private counsel or be represented by the Attorney General when the assessor is a defendant in a Tax Court proceeding. The court emphasized the parallel “may elect” language in subsections (a) and (b), explaining that the statute establishes a choice of counsel—not a choice between representation and self-representation.²⁸² Moreover, the statute did not apply on its own terms. Section 33-26-7-1 applies only when the assessor “is a defendant” in Tax Court. Because Grossman initiated an original tax appeal, the statute was inapplicable, and the court declined to expand it beyond its plain meaning.²⁸³

The Tax Court likewise rejected reliance on Indiana Code section 6-1.1-35.7-2, which defines “tax representative” for proceedings before a county's PTABOA and the Department of Local Government Finance (DLGF). That statute expressly excludes representatives of local government units from the definition of tax representative, but the court explained that exclusion from a definition governing administrative proceedings does not confer authority to practice law in court.²⁸⁴ The court analogized county assessors to other non-attorney employees who are excluded from the definition of tax representative but are nonetheless prohibited from representing organizations in court.²⁸⁵ The statute's limited scope could not be extended to authorize representation in the Tax Court.²⁸⁶

Turning from statutes to constitutional structure, the Tax Court emphasized that the Indiana Supreme Court has exclusive authority to regulate the practice of law, including who may appear on behalf of others in judicial proceedings.²⁸⁷ Under settled Indiana law, a natural person may appear pro se only on his or her own behalf; representation of another—whether an individual, corporation, or

279. *May*, 2025 WL 2945666, at *1.

280. *Id.*

281. *Id.*

282. *Id.* at *1–2.

283. *Id.* at *2.

284. *Id.*

285. *Id.*

286. *Id.*

287. *Id.* at *3.

governmental office—constitutes the practice of law and requires admission to the bar.²⁸⁸ The court reasoned that, like a corporation, a county assessor's office represents interests broader than the elected official personally, including those of the county and its taxpayers.²⁸⁹ The court further noted that when the Indiana Supreme Court permits non-attorney representation, it does so expressly and narrowly, as in Indiana Small Claims Rule 8.²⁹⁰ No comparable judicial rule authorizes a county assessor to appear without counsel in Tax Court.²⁹¹

Relying on Indiana Supreme Court precedent, the Tax Court also drew a clear distinction between technical expertise in property tax matters and the practice of law.²⁹² While non-attorneys may possess specialized knowledge relevant to valuation disputes in administrative forums, constitutional claims and procedural challenges fall squarely within the domain of legal practice.²⁹³ Because Grossman's petition raised constitutional due process claims, the court concluded that allowing him to proceed pro se would amount to permitting the unauthorized practice of law.²⁹⁴

The Tax Court identified an additional concern underscoring the risks of non-attorney representation. Grossman's brief cited *Hamilton County Assessor v. Allisonville Rd. Partnership*, 170 N.E.3d 1117 (Ind. Tax Ct. 2021), a case that, the court noted, does not exist.²⁹⁵ The court observed that the fictitious citation appeared likely the product of a generative artificial intelligence hallucination and cautioned litigants against relying on AI-generated legal research without independent verification.²⁹⁶ The Tax Court explained that other courts have sanctioned both attorneys and pro se litigants for citing fictitious precedents.²⁹⁷ For this reason, it admonished Grossman for citing a fictitious case in his brief and cautioned attorneys and pro se litigants from doing the same in future pleadings.²⁹⁸ The court ordered that counsel enter an appearance by a specified date or, alternatively, that the assessor document unsuccessful efforts to retain counsel.²⁹⁹

288. *Id.*

289. *Id.*

290. IND. SMALL CLAIMS RULE 8.

291. *May*, 2025 WL 2945666, at *3.

292. *Id.* at *2–3.

293. *Id.* at *2.

294. *Id.*

295. *Id.* at *4.

296. *Id.* at *4 n.1.

297. *Id.* at *4 (citing *Williams v. Kirch*, 268 N.E.3d 284, 287 (Ind. Ct. App. 2025) (discussing the award of attorney's fees as part of costs to the prevailing party when a court finds that the opposing party (1) brought a frivolous, unreasonable, or groundless claim; (2) continued to litigate after the claim clearly became frivolous, unreasonable, or groundless; or (3) litigated in bad faith); *In re Baby Boy*, 271 N.E.3d 524, 556 (Ill. App. Ct. 2025) (requiring an attorney who cited fictitious cases generated by AI in his briefs to pay monetary sanctions and directing that a copy of the opinion be sent to the Illinois Attorney Registration and Disciplinary Commission)).

298. *See id.* at *4 n.1.

299. *Id.* at *4.

Although unpublished,³⁰⁰ *May* is significant for two reasons. First, it reaffirms that no elected status or subject-matter expertise permits a non-attorney to represent a governmental office before the Indiana Tax Court absent express judicial or statutory authorization. Second, it provides an early and explicit judicial warning about the risks of unverified AI-generated legal research—an issue with direct implications for attorney discipline and professional responsibility.

III. INDIANA SUPREME COURT DECISION

A. Sawlani v. Lake County Assessor

The issue before the Indiana Supreme Court was whether the Indiana Tax Court had properly ruled that the Indiana General Assembly's statutory definition of curtilage as one acre of surrounding land was unconstitutional.³⁰¹

In 2024, in *Sawlani v. Lake County Assessor*, the Indiana Tax Court considered whether the Indiana General Assembly could constitutionally limit application of the 1% property tax cap to a single acre of land—the curtilage—surrounding a taxpayer's principal residence.³⁰² The Tax Court concluded that the legislature's statutory definition of curtilage as one acre of surrounding land was unconstitutional, reasoning that the relevant constitutional provision contains no language supporting such a limitation.³⁰³ The Tax Court's reasoning, however, is open to serious criticism.³⁰⁴ The decision represented a marked departure from established principles of constitutional interpretation and deference to legislative implementation, undermining legislative authority and introducing uncertainty into Indiana's property tax framework. On October 7, 2025, the Indiana Supreme Court reversed the Tax Court's decision in *Sawlani*.³⁰⁵ To appreciate the significance of the Supreme Court's ruling—and

300. Indiana designates certain memorandum decisions as “Not for Publication” (NFP). Under IND. APPELLATE RULE 65 (Opinions and Memorandum Decisions), NFP opinions “shall not be regarded as precedent and shall not be cited to any court except by the parties to the case to establish *res judicata*, collateral estoppel, or law of the case.” The Indiana Supreme Court has explained that NFP opinions are posted online solely for public access and that their availability does not constitute publication for purposes of APP. R. 65. See *Not-for-Publication (NFP) Opinions*, IND. JUD. BRANCH, <https://www.in.gov/courts/public-records/nfp-opinions/> [https://perma.cc/L6YY-A62Q] (last visited Feb. 14, 2026).

301. *Sawlani v. Lake Cnty. Assessor*, 267 N.E.3d 419, 421–22 (Ind. 2025), *rev'g*, 240 N.E.3d 734 (Ind. T.C. 2024).

302. *Id.* at 421 (citing *Sawlani*, 240 N.E.3d 734).

303. *Id.*

304. See Swain, *supra* note 247 (providing an in-depth analysis of the Indiana Tax Court's rationale in *Sawlani* and critiquing its constitutional interpretation of the 1% tax cap and the Indiana legislature's authority to limit that cap to one acre of curtilage surrounding the taxpayer's domicile).

305. See *Sawlani*, 267 N.E.3d at 419.

its limitations—it is necessary to examine the Tax Court’s original opinion and expose the analytical flaws that prompted reversal.

1. *Indiana’s So-Called Property Tax “Circuit Breaker.”*—One of the significant early developments of residential property tax relief in the United States came with the introduction of the “circuit breaker.” First developed in 1964 by Wisconsin and then imitated by other states,³⁰⁶ a traditional circuit breaker is a property tax credit designed to prevent a household’s property tax burden from exceeding a certain proportion of its income.³⁰⁷ There are two main types: threshold and sliding scale. A threshold program gives the credit for taxes exceeding a set income percentage.³⁰⁸ In a sliding scale program, the credit amount decreases as income increases.³⁰⁹ Circuit breakers may be administered as an income tax credit or through a separate application process.³¹⁰

Indiana’s first statewide “circuit breaker” limited property taxes to 2% of assessed value for homesteads and 3% for all other properties.³¹¹ Since Indiana’s so-called circuit breaker is not based on a property owner’s income, commentators do not consider it a traditional circuit breaker but rather a tax cap.³¹² In 2010, the tax caps were modified to 1% for homesteads, 2% for other residential properties and farmland, and 3% for business properties.³¹³ In November 2010, Indiana voters approved incorporating these property tax caps into Indiana’s Constitution³¹⁴ via Article 10, Section 1. These tax limits are commonly referred to as “property tax caps,” “circuit breakers caps,” or a “Circuit Breaker tax credit.”³¹⁵

Indiana’s property tax caps are prescribed in Article 10, Section 1(f) of the Indiana Constitution, which provides the following:

306. See, e.g., Marc Bendick, Jr., *Designing Circuit Breaker Property Tax Relief*, 27 NAT’L TAX J. 19, 19 (1974).

307. Steven D. Gold, *Circuit-Breakers and Other Relief Measures*, 35 PROP. TAX & LOC. FIN. 148, 149 (1983).

308. *Id.*

309. *Id.*

310. *Id.*

311. See Lawrence A. Jegen III et al., *Recent Developments in Indiana Taxation*, 40 IND. L. REV. 1103, 1106–07 (2007).

312. See, e.g., John H. Bowman, *Property Tax Circuit Breakers in 2007: Features, Use, and Policy Issues* 45 (Lincoln Inst. of Land Pol’y, Working Paper No. WP08JB1) (discussing the 2006 Indiana law that ensured that Indiana property tax owners did not pay more than 2 percent of their property’s value in taxes). Despite the Indiana DLGF describing this protection as a circuit breaker, it is better viewed as a tax cap.

313. See Larry DeBoer, *What Do We Know About Indiana’s Property Tax Caps?*, IND. FISCAL POL’Y INST., Dec. 2015, at 5 (providing a detailed discussion of Indiana’s attempts to reform its property tax scheme and the development of circuit breakers or tax caps).

314. *Id.*

315. See *id.*; see also *County Homestead/LIT 1% Credit*, PORTER CNTY. IND., <https://www.portercountyin.gov/807/County-Homestead-Credit> [<https://perma.cc/2AXP-U6X4>] (stating that Indiana’s property tax caps are known as “the Circuit Breaker tax credit”).

- (f) This subsection applies to property taxes first due and payable in 2012 and thereafter. The General Assembly shall, by law, limit a taxpayer's property tax liability as follows:
- (1) A taxpayer's property tax liability on tangible property described in subsection (c)(4) may not exceed one percent (1%) of the gross assessed value of the property that is the basis for the determination of property taxes.
 - (2) A taxpayer's property tax liability on other residential property may not exceed two percent (2%) of the gross assessed value of the property that is the basis for the determination of property taxes.
 - (3) A taxpayer's property tax liability on agricultural land may not exceed two percent (2%) of the gross assessed value of the land that is the basis for the determination of property taxes.
 - (4) A taxpayer's property tax liability on other real property may not exceed three percent (3%) of the gross assessed value of the property that is the basis for the determination of property taxes.
 - (5) A taxpayer's property tax liability on personal property (other than personal property that is tangible property described in subsection (c)(4) or personal property that is other residential property) within a particular taxing district may not exceed three percent (3%) of the gross assessed value of the taxpayer's personal property that is the basis for the determination of property taxes within the taxing district.³¹⁶

Accordingly, section 1(f) amended Indiana's Constitution to limit real and personal property tax liability to 1%, 2%, or 3% of a property's gross assessed value, depending on the property's type and use classification.³¹⁷ The property tax caps were introduced to alleviate the property tax burden on taxpayers, with varying limits depending on the property type.³¹⁸ For homesteads, which are the taxpayer's principal place of residence, a 1% cap is applied.³¹⁹ Other residential properties, such as rental properties and agricultural land, are subject to a 2% cap.³²⁰ Finally, a 3% cap is applied to all other real properties, including commercial and industrial properties.³²¹ These differentiated caps ensure that the tax burden is more equitable across different property types.

Indiana's property tax caps provide property tax credits, ensuring taxpayers do not pay a tax exceeding a specific percentage of their property's assessed value. When taxpayers' property tax liability surpasses the designated cap, they

316. *See* IND. CONST. art. 10, § 1(f)(1)–(5).

317. *Id.*

318. *Id.*

319. *Id.*

320. *Id.*

321. *Id.*

receive a credit for the excess, reducing their tax liability to the capped limit. For example, consider a homestead property with a gross assessed value of \$200,000, which serves as the homeowner's principal place of residence. For this type of property, the applicable tax cap is 1%. The maximum property tax liability under the cap is 1% of the property's assessed value, \$200,000, resulting in a \$2,000 limit. If the actual property tax, based on local rates, amounted to, for instance, \$2,500, the taxpayer's liability exceeds the cap. In this scenario, the taxpayer receives a credit, bringing the property tax liability down to the \$2,000 cap. Consequently, the taxpayer pays \$2,000 in property taxes instead of the initially assessed \$2,500.

In another example, consider a rental property with a gross assessed value of \$300,000, subject to a 2% tax cap. The maximum property tax liability for rental properties (as well as agricultural land) is 2% of the property's assessed value, \$300,000, which equals \$6,000. If the calculated property tax based on local rates is \$7,500, the taxpayer's liability again exceeds the cap. Therefore, the taxpayer receives a credit that reduces his or her property tax liability to the capped amount of \$6,000. As a result, the taxpayer pays \$6,000 in property taxes instead of \$7,500.

In both examples, the implementation of tax caps essentially serves as an excess-tax credit, limiting taxpayers' property tax liability to a specified maximum percentage of their property's assessed value, thereby preventing excessive tax burdens. When these examples are examined in conjunction with the traditional definition of a circuit breaker, it becomes clear that Indiana's current circuit breaker functions, not in the conventional sense, but rather as a tax rate cap based on a property's assessed value rather than the taxpayer's ability to pay.³²²

Section 1(f)(1) of the Indiana Constitution provides that the "tangible property described in section (1)(c)(4)" may not exceed 1% of the gross assessed value of the property.³²³ Section (1)(c)(4)(A) defined the tangible property subject to the 1% cap as "[t]angible property, including curtilage, used as a principal place of residence by an . . . owner of the property."³²⁴ Because these tax caps were not self-implementing, Article 10's sections (1)(a), (1)(b), (1)(c), and (1)(f) required additional legislative measures to make them operational and enforceable.³²⁵ These sections mandated that the Indiana General Assembly enact legislation to define, clarify, and apply the constitutional limitations.

322. See Jegen, *supra* note 311, at 1106 n.21.

323. See IND. CONST. art. 10, § 1(f)(1).

324. See *id.* § 1(c)(4)(A).

325. See, e.g., *id.* § 1(a) ("Subject to this section, the *General Assembly* shall provide, by law, for a uniform and equal rate of property assessment and taxation and shall prescribe regulations to secure a just valuation for taxation of all property, both real and personal." (emphasis added)); *id.* § 1(c) ("The *General Assembly* may exempt from property taxation any property . . . [including] . . . [t]angible property, including curtilage, used as a principal place of residence by an . . . owner of the property[.]" (emphasis added)); and *id.* § 1(f) ("The *General Assembly* shall, by law, limit a taxpayer's property tax liability as follows[.]" (emphasis added)).

Accordingly, the section 1(f) amendment to Indiana's Constitution gave the Indiana General Assembly authority to further define and interpret the constitutionally mandated property tax caps. Indiana's legislature performed its obligation and, regarding the 1% cap on property used as a principal place of residence by its owner, defined the type of property eligible for this cap as "homestead" property.³²⁶ The legislature further defined "homestead" property as property granted a standard homestead deduction (i.e., Indiana Code section 6-1.1-12-37(k), the "Homestead Statute")³²⁷ and consisting of a dwelling located in Indiana, including one acre of real estate that "immediately surround[s] that dwelling."³²⁸ Finally, the legislature defined "dwelling" as a single house with a garage, a mobile home, or a manufactured home that an individual uses as his or her residence, regardless of whether the garage is attached or detached and whether the home is assessed as real property.³²⁹ The implementation of these property tax reforms, including the 1% tax cap, set the stage for a legal challenge concerning their application. That challenge arose in *Sawlani v. Lake County Assessor*, in which the Indiana Tax Court was asked to determine the constitutionality of the statutory limitations placed on the 1% cap.

2. *The Tax Cap Case Before the Tax Court.*—In *Sawlani*, Dr. Tulsi and Kamini Sawlani (the "Sawlanis") owned a two-story home on 3.981 acres in Crown Point, Indiana.³³⁰ For the 2019 tax assessment year, the Lake County Assessor (the "Assessor") classified their home and one acre of surrounding land as residential property subject to the 1% property tax cap, while classifying the remaining 2.981 acres as nonresidential property subject to the 3% tax cap.³³¹ Believing that the Indiana Constitution mandated their entire property eligible for the 1% tax cap, the Sawlanis challenged the Assessor's classifications to the Lake County PTABOA and then to the IBTR.³³² Both administrative agencies rejected their claim, with the IBTR acknowledging its

326. See IND. CODE § 6-1.1-20.6-7.5(a)(1) (2025) ("homestead exceeds one percent (1%)").

327. See IND. CODE § 6-1.1-20.6-2(a)(1) (2025).

328. See IND. CODE § 6-1.1-12-37(a)(2) (2025) ("‘Homestead’ means an individual's principal place of residence . . . in Indiana . . . that consists of a dwelling and includes up to one (1) acre of land immediately surrounding that dwelling, and [specified] improvements . . .").

329. See § 6-1.1-12-37(a)(1).

330. See *Sawlani v. Lake Cnty. Assessor*, 240 N.E.3d 734, 736 (Ind. T.C. 2024), *rev'd*, 267 N.E.3d 419 (Ind. 2025).

331. *Id.*

332. *Id.*

lack of authority to resolve the constitutional issue.³³³ The Sawlanis initiated an original tax appeal to the Indiana Tax Court.³³⁴

Before the Indiana Tax Court, the Sawlanis noted that the Indiana Constitution applied the 1% tax cap to all property used as a principal residence, including curtilage, without imposing an acreage limit.³³⁵ However, the Sawlanis asserted that the statute limited the cap to homestead property, defined as a dwelling and its curtilage, with curtilage further defined by statute as one acre of land surrounding the homestead.³³⁶ The Sawlanis argued that this statutory limitation was unconstitutional because Indiana's Constitution did not impose such an acreage restriction on applicable curtilage.³³⁷ The Assessor contended that the statutorily imposed limitation comported with the term "curtilage" as used in Article 10, Section (1)(c)(4)(A) of Indiana's Constitution and the relevant statute's legislative history (i.e., Indiana Code section 6-1.1-12-37(a)(2)(A), (C)).³³⁸ The Sawlanis did not contest any other aspect of Indiana's property tax scheme or their property's assessment. Accordingly, the Tax Court was tasked with deciding if the statutory one-acre limitation was consistent with the constitutional mandate. If not, the limitation had to be set aside, allowing the additional 2.981 acres to qualify for the 1% tax cap.

3. *The Tax Court's Analysis and Decision in Sawlani.*—The Tax Court began its analysis by reviewing and comparing the phrases and words used in Article 10, Section 1 of the Indiana Constitution with those in the cap's implementing statute, Indiana Code section 6-1.1-12-37(a)(2)(A) and (C), focusing on their definitions and meanings. The Constitution specified that the 1% cap applies to "[t]angible property, including curtilage, used as a *principal place of residence*."³³⁹ However, the statute that administered the constitutionally mandated tax cap applied the 1% cap to "homestead" property that received a standard homestead deduction. The statute defined a homestead as an *individual's principal place of residence* comprising a dwelling and one acre of

333. *Id.* See also, e.g., *Osborn v. Schultz*, 238 N.E.3d 730, 734 n.4 (Ind. T.C. 2024) (in which the Indiana Tax Court said that the IBTR, as an administrative agency, lacked the authority to declare a statute unconstitutional. Despite this, the court reminded the IBTR that, when litigants present claims beyond its authority to resolve, such as constitutional challenges to Indiana's assessment system, it should still make factual findings on the claims. This would allow the Tax Court to review and resolve the constitutional issues presented.); *Bielski v. Zorn*, 627 N.E.2d 880, 887–88 (Ind. T.C. 1994) (providing that "[t]he [IBTR] and its subordinate local officers and agencies have no authority whatsoever to determine the constitutionality of a statute . . . [and that] . . . [a]llegations that a statute is unconstitutional are matters solely for judicial determination").

334. *Sawlani*, 240 N.E.3d at 736.

335. *Id.* at 736–37.

336. *Id.*

337. *Id.*

338. *Id.* at 737.

339. *Id.* at 743 (alteration in original) (emphasis added) (quoting IND. CONST. art. 10, § 1(c)(4), (f)(1)).

surrounding real estate.³⁴⁰ The excess land was subject to higher tax caps depending on the property type.

The court noted that the constitutional text did not use the word “homestead” or impose size limits on eligible properties. Its analysis of the phrases “tangible property” and “principal place of residence,” as well as the word “curtilage,” suggested no implicit size constraints.³⁴¹ The court explained that “tangible property” referred to physical property, while “principal place of residence” indicated the main home without fixed size restrictions.³⁴² The varying definitions of “curtilage,” none of them including specific size limits, referred to the area surrounding a dwelling.³⁴³ Therefore, the Tax Court concluded that the verbiage in Article 10, Section 1 of the Indiana Constitution, which mandated the 1% tax cap on a *principal place of residence*, did not support the statute’s limitation of that 1% cap to one acre of property surrounding the *principal place of residence*.³⁴⁴ Accordingly, the court held that the constitutional 1% tax cap in Article 10, Section 1 of the Indiana Constitution did not impose fixed size or acreage limitations; it allowed land eligible for the cap to be more than one acre based on that land’s practical usage rather than its size alone.³⁴⁵

The Tax Court continued its analysis, asserting that its conclusion regarding the 1% cap comported with the other two tax caps.³⁴⁶ The court noted that Subsection 1(f)’s verbiage and overall structure describing the 1%, 2%, and 3% tax caps defined five distinct property classes.³⁴⁷ Specifically, the 1% cap pertains to “tangible property” utilized as a principal place of residence, as outlined in Subsection (1)(c)’s paragraph (4). Conversely, the 2% cap applied to “other residential property” and “agricultural land,” both delineated by use rather than size.³⁴⁸ “Other residential property” was described as property used for residential purposes but ineligible for the 1% cap, whereas “agricultural land” referred to land dedicated to agricultural use.³⁴⁹ The 3% cap included “other real property” and non-residential personal property, defined through exclusion—that is, those properties not used for agricultural or residential purposes.³⁵⁰ The Tax Court said the consistent drafting of the constitutional provision among these property classes suggested that the absence of a size or acreage restriction within the 1% cap was deliberate.³⁵¹ When interpreting a statute, the court said, courts should consider its overall structure and the plain

340. *See id.* (citing IND. CODE §§ 6-1.1-20.6-7.5(a)(1), 6-1.1-12-37(a)(2) (2019)).

341. *See id.* at 744–45.

342. *Id.* at 744.

343. *Id.* at 744–45.

344. *Id.* at 745 (emphasis added).

345. *Id.*

346. *Id.* at 746–47.

347. *Id.* at 746.

348. *Id.*

349. *Id.*

350. *Id.* at 746–47.

351. *Id.* at 747.

meanings of its verbiage.³⁵² The explicit omission of size restrictions in other property classes indicated that such limitations would have been clearly articulated if the 1% cap had been intended.³⁵³ The Tax Court concluded that, absent explicit language in Article 10, Section 1(f), imposing a one-acre restriction within the 1% cap would undermine the “stated [constitutional] goal of ensuring permanent property tax relief to homeowners.”³⁵⁴

The Assessor argued that the 2008 statutory tax caps and the constitutional tax caps should be interpreted together, as they were enacted in the same legislative session.³⁵⁵ The Assessor emphasized that the digests of the joint resolutions referred to “homestead property,” suggesting a legislative intent to confine the constitutional tax caps to the same scope as the statutory tax caps.³⁵⁶ However, the Tax Court found this argument flawed due to, in its opinion, the Assessor’s fundamental misunderstanding of the constitutional tax caps.³⁵⁷ The court noted that the defining verbiage of the constitutional 1% tax cap, specifically Subsection (1)(c)’s paragraph (4), originated in a 2004 constitutional amendment that expanded the General Assembly’s power to exempt certain properties from taxation.³⁵⁸ This amendment allowed exemptions for “[t]angible real property, including curtilage, used as a principal place of residence by an . . . owner of the property,” reflecting broad legislative authority.³⁵⁹

There is no evidence, the Tax Court said, that the 2004 amendment intended to restrict the scope to a statutory homestead definition or impose size limitations.³⁶⁰ The verbiage in Subsection (1)(c)’s paragraph (4) was fixed when ratified by voters in 2004, with the only subsequent change in 2010 broadening its scope to include both real and personal property.³⁶¹ The court concluded that, if Subsection (1)(c)’s paragraph (4) were narrowly interpreted to align with the 2010 amendment, as the Assessor asserted, this would conflict with the broad legislative power granted in 2004, thereby creating tension between the provisions.³⁶² The Tax Court said that courts strive to interpret statutes harmoniously to reflect legislative intent, and the 2010 amendment did not indicate an intent to narrow the 2004 amendment.³⁶³ Therefore, the Tax Court rejected the Assessor’s interpretation, emphasizing that the legislative digests

352. *Id.* (citing *Ernst & Ernst v. Underwriters Nat’l Assurance Co.*, 381 N.E.2d 897, 900 (Ind. Ct. App. 1978)).

353. *Id.*

354. *Id.*

355. *Id.*

356. *Id.* (citing DIGEST OF S.J. RES. 1, 115TH GEN. ASSEMB., 2D REG. SESS. (IND. 2008); DIGEST OF H.J. RES. 1, 116TH GEN. ASSEMB., 2D REG. SESS. (IND. 2010)).

357. *See id.* at 748.

358. *Id.*

359. *Id.* (alteration in original).

360. *Id.*

361. *Id.*

362. *Id.*

363. *Id.*

lack legal authority and should not outweigh the original language of Subsection (1)(c)'s paragraph (4).³⁶⁴ The court concluded that the Assessor's reliance on the digests improperly elevated them to a status akin to constitutional amendments, contrary to Indiana's legislative process.³⁶⁵

The Assessor also argued that the ballot question presented to voters in 2010, which included the term "homestead," demonstrated that the 1% tax cap was intended to align with the statutory definition of "homestead."³⁶⁶ However, the Tax Court found that this interpretation conflated the ordinary meaning of "homestead" with its statutory definition.³⁶⁷ The ordinary meaning of "homestead" did not include the statutory one-acre limitation.³⁶⁸ The court determined that the voters likely understood "homestead" in the ballot question according to its everyday usage, not its technical legal sense.³⁶⁹ Furthermore, the court held that allowing the ballot question to alter or limit the constitutional amendment's language would have violated the constitutional amendment process outlined in Article 16, Section 1 of the Indiana Constitution, which requires ratification by voters after passage by two different Indiana General Assemblies separated by an intervening general election.³⁷⁰ Since the ballot question was passed like any other ordinary legislation, the court held that it could not modify the constitutional language or redefine "homestead" beyond what voters approved.³⁷¹ Therefore, the Tax Court concluded that the legal force lay in the constitutional amendment's verbiage, not the ballot question—a conclusion the court said followed the legal precedent that prioritized a ratified amendment's text over any legislative intent expressed in supplementary materials.³⁷²

The Tax Court concluded that the one-acre limitation imposed by the statutory 1% cap was not unconstitutional on its face because it could be constitutionally applied in some circumstances, such as to residential properties with less than one acre.³⁷³ However, the court found that the one-acre limitation may be unconstitutional as applied to taxpayers such as the Sawlanis, who had residential properties exceeding that size.³⁷⁴ Consequently, the Tax Court reversed the IBTR's determination that the Sawlanis were not entitled to the 1%

364. *Id.* at 749.

365. *Id.*

366. *Id.*

367. *Id.*

368. *Id.* at 750.

369. *Id.*

370. *Id.*

371. *Id.*

372. *Id.* (citing *Holcomb v. Bray*, 187 N.E.3d 1268, 1280–83 (Ind. 2022)).

373. *Id.* at 751 (citing *Meredith v. Pence*, 984 N.E.2d 1213, 1218 (Ind. 2013)) (holding that a statute is unconstitutional on its face if there are no circumstances under which it can be constitutionally applied).

374. *See id.* at 751–52.

tax cap credit on their residential acreage exceeding the one-acre limitation and remanded the case back to the IBTR.³⁷⁵

In remanding the case to the IBTR, the Tax Court directed it to make additional factual findings necessary to resolve the Sawlanis' as-applied constitutional claim.³⁷⁶ Because the IBTR had not developed a sufficient record to determine whether Indiana Code section 6-1.1-20.6-7.5(a)(1)—which limits the one-percent tax cap to one acre—was unconstitutional as applied, the Tax Court ordered further proceedings focused on the use of the Sawlanis' remaining 2.981 acres.³⁷⁷ The court explained that the inquiry on remand should not revisit the eligibility of the first acre, which all parties agreed qualified for the one-percent cap, but should instead determine whether the additional acreage was “used as part of the Sawlanis' principal place of residence,” consistent with both the constitutional and statutory frameworks.³⁷⁸ The Tax Court authorized the IBTR to take whatever actions were necessary to make that determination, including the possibility of a new evidentiary hearing to examine how the disputed acreage functioned in relation to the Sawlanis' home.³⁷⁹ In effect, the remand order implemented the Tax Court's new case-by-case approach, under which property owners with more than one acre could seek factual findings on whether their excess acreage constitutes “curtilage” eligible for the one-percent cap.

4. *Problems with the Tax Court's Rationale in Sawlani.*—The Indiana Tax Court's reasoning in *Sawlani* reveals several fundamental analytical and constitutional flaws. Although the court sought to protect the constitutional boundaries of the state's 1% property tax cap, its approach disregarded core principles governing legislative authority, judicial restraint, and uniform tax administration. Four primary errors illustrate the depth of the court's misjudgment: its disregard of the Constitution's enabling clauses, its adoption of an ad hoc approach that undermines uniformity, its misunderstanding of the non-self-executing nature of the 1% cap, and its continued rejection of the deference owed to legislative and administrative policymaking in tax matters.

a. *Enabling clauses ignored.*—The first and most fundamental error in the Tax Court's reasoning was its failure to recognize the enabling clauses embedded throughout Article 10, Section 1 of the Indiana Constitution.³⁸⁰ These clauses explicitly empower the General Assembly to operationalize the property tax system, including the tax caps. By disregarding those clauses, the court effectively stripped the General Assembly of its constitutionally delegated authority to enact statutes defining the contours of the 1% cap—such as the one-acre curtilage limitation.

375. *Id.* at 752.

376. *Id.*

377. *Id.*

378. *Id.*

379. *Id.*

380. IND. CONST. art. 10, § 1.

Article 10, Section 1(f) states that the “General Assembly shall, by law, limit” property tax liability,³⁸¹ while Section 1(c)(4) provides that the “General Assembly may exempt” certain property from taxation.³⁸² These provisions are classic enabling clauses that constitutionally mandate legislative implementation. The Tax Court’s decision to treat the 1% cap as self-operating ignored this structure and, by implication, nullified the legislature’s implementing authority. In doing so, the court substituted its own interpretive preferences for the constitutionally prescribed legislative process, undermining the very separation of powers the Constitution protects. The Tax Court also disregarded its own precedent³⁸³ issued just two years earlier, in which it acknowledged the codependency between the terms defined in the Homestead Deduction Statute and those used in the 1% tax cap provisions of Article 10, Sections 1(c)(4) and 1(f)(1) of the Indiana Constitution.³⁸⁴

b. Ad hoc vs. uniformity.—Second, the Tax Court’s insistence on a case-by-case determination of curtilage directly conflicts with Article 10, Section 1(a)’s requirement that Indiana’s property tax system be “uniform and equal.”³⁸⁵ The court’s ad hoc approach invites inconsistent outcomes among counties and assessors, depending on how each defines curtilage in the absence of a statutory rule. Uniformity and predictability are central to any equitable system of taxation. By rejecting the legislature’s clear, objective one-acre limitation, the Tax Court replaced certainty with subjectivity, thereby eroding taxpayer confidence and administrative consistency. This approach risks disparate tax treatment among similarly situated taxpayers—a result the constitutional uniformity clause was designed to prevent.³⁸⁶

c. Non-self-executing provision overlooked.—Third, the Tax Court failed to give effect to the well-established principle that Article 10, Section 1(f) is not self-executing. The Indiana Supreme Court has repeatedly held that constitutional provisions containing enabling language require implementing legislation before they can be enforced.³⁸⁷ Without such legislation, the 1% tax

381. *Id.* § 1(f).

382. *Id.* § 1(c)(4).

383. *See* Schiffler v. Marion Cnty. Assessor, 184 N.E.3d 726 (Ind. T.C. 2022).

384. *See* Swain, *supra* note 247, at 512–14, 524–25 (discussing the constitutional enabling clauses in Article 10, Section 1 and their delegation of authority to the General Assembly).

385. IND. CONST. art. 10, § 1(a).

386. Swain, *supra* note 247, at 527–38 (contrasting the legislature’s one-acre curtilage definition with the Tax Court’s ad hoc approach and explaining its conflict with Indiana’s constitutional requirement of uniform and equal taxation).

387. *See, e.g.,* Horner v. Curry, 125 N.E.3d 584, 599 (Ind. 2019) (quoting *State ex rel. Att’y Gen. v. Meyer*, 63 Ind. 33 (Ind. 1878)) (reaffirming that Article 8, Section 2 of the Indiana Constitution, establishing the Common School Fund, is not self-executing and therefore requires legislative enactment to give it operative effect, emphasizing that the judiciary cannot enforce the provision absent such legislation); *Solomon v. State*, 119 N.E.3d 173, 176–78 (Ind. Ct. App. 2019) (holding that Article 1, Section 1 is not self-executing because it expresses general principles lacking sufficient completeness for judicial enforcement without legislative implementation);

cap lacks operational effect. By invalidating the statute defining the cap's application to one acre of curtilage, the Tax Court effectively suspended the 1% cap's operation until the legislature acts again. This outcome contradicts both historical precedent and the doctrine of legislative discretion under non-self-executing provisions. In short, the court's ruling disabled the very taxpayer protection it purported to safeguard.³⁸⁸

d. Judicial overreach and the rejection of deference.—Finally, the *Sawlani* decision reflects the Tax Court's ongoing pattern of judicial overreach and disregard for the Indiana Supreme Court's deference doctrine. The court's refusal to defer to the legislature's or DLGF's reasonable interpretations echoes its reasoning in *Ingredion, Inc. v. Marion County Assessor*³⁸⁹ and similar cases, in which this refusal to acknowledge constitutionally mandated policymaking by the legislative and executive branches transforms the Tax Court from an adjudicative body into a quasi-legislative actor. Its absolutist textualism elevates judicial interpretation over statutory implementation, undermining the stability of Indiana's tax system and the constitutional balance of powers that sustains it.³⁹⁰

5. The Supreme Court's Reversal Rationale.—Following the Indiana Tax Court's decision favoring the Sawlanis, the Lake County Assessor petitioned the Indiana Supreme Court for review.³⁹¹ In a unanimous 5-0 opinion authored by Justice Christopher M. Goff, the court reversed the Tax Court's ruling.³⁹² While the decision reinstated the statutory one-acre limitation on the 1% tax cap, the court's analysis was notably narrow—and logically inconsistent—focusing exclusively on the taxpayers' failure of proof rather than addressing the deeper constitutional and interpretive questions the Tax Court had raised.

a. The constitutional and statutory framework for the 1% homestead tax cap.—The Supreme Court began its opinion by explaining how the Indiana General Assembly operationalizes the Indiana Constitution's property tax cap on a principal place of residence and by outlining the parties' opposing arguments. Under Article 10, Section 1 of the Indiana Constitution, “[t]he

Thomas v. Lauer, 86 N.E.2d 71, 73–74 (Ind. 1949) (concluding that Article 1, Section 21, concerning just compensation, is not self-executing and merely authorizes, but does not compel, legislative action to permit takings without prior payment); State Bd. of Tax Comm'rs v. Holliday, 49 N.E. 14, 15–16, 18 (Ind. 1898) (distinguishing between self-executing provisions, which operate as law without further legislation, and non-self-executing provisions, which remain dormant and unenforceable until the General Assembly enacts laws to effectuate them, thereby underscoring that invalidating an implementing statute leaves the underlying constitutional provision inoperative).

388. See Swain, *supra* note 247, at 514–24 (explaining that the 1% cap is non-self-executing and requires implementing legislation; otherwise, the constitutional exemption has no practical effect).

389. 184 N.E.3d 731 (Ind. T.C. 2022), *trans. denied*, 197 N.E.3d 822 (Ind. 2022).

390. See Swain, *supra* note 247, at 505–12 (criticizing the Tax Court's historical rejection of agency deference and strict textualist overreach).

391. *Sawlani v. Lake Cnty. Assessor*, 267 N.E.3d 419, 422 (Ind. 2025).

392. *Id.* at 420–21, 425.

General Assembly shall, by law, limit a taxpayer's property tax liability" in several ways, depending on the class of property involved.³⁹³ For "[t]angible property, including curtilage, used as a principal place of residence," a taxpayer's liability "may not exceed one percent (1%) of the gross assessed value of the property that is the basis for the determination of property taxes."³⁹⁴ This constitutional tax cap is implemented through the Indiana Code, particularly the Homestead Statute.³⁹⁵ The Homestead Statute defines a homeowner's "homestead," in pertinent part, as a "dwelling and the real estate, not exceeding one (1) acre, that immediately surrounds that dwelling" and is used as the homeowner's "principal place of residence."³⁹⁶ Under this definition, a person with a homestead is entitled to a credit against their property-tax liability in the amount that the tax exceeds one percent.³⁹⁷ In other words, "property taxes on a homeowner's homestead are effectively capped at one percent of assessed value."³⁹⁸

b. The term "curtilage" has no size limit.—The Sawlanis argued that, because Article 10, Section 1 caps property taxes at one percent for tangible property used as a principal place of residence, "including curtilage," and because some homeowners may use more than one acre as curtilage, "the Homestead Statute's one-acre limitation is unconstitutional as applied to them and others similarly situated."³⁹⁹ They contended that their entire 3.981-acre parcel in Crown Point, Indiana, functioned as curtilage of their home and therefore qualified for the one-percent cap.⁴⁰⁰ The Lake County Assessor, however, classified only one acre as homestead property subject to the one-percent rate and assessed the remaining 2.981 acres at the nonresidential three-percent rate, a determination upheld by the IBTR.⁴⁰¹ The resulting dispute before the Indiana Supreme Court thus turned on whether the statutory one-acre limit conflicted with Article 10's reference to "curtilage" and whether the taxpayers had proved that their additional acreage constituted part of their principal place of residence.⁴⁰²

The Sawlanis' argument continued, asserting that the plain meaning of "curtilage" had no inherent size limit.⁴⁰³ They maintained that, consistent with the common understanding of the framers and ratifiers of Article 10, Section 1, the term "curtilage" referred broadly to the area surrounding a home that is

393. *Id.* at 422 (alteration in original) (quoting IND. CONST. art. 10, § 1(c)(4), (f)(1)).

394. *Id.* (alteration in original) (emphasis omitted) (quoting IND. CONST. art. 10, § 1(c)(4), (f)(1)).

395. *Id.*

396. *Id.* (emphasis omitted) (quoting IND. CODE § 6-1.1-12-37(k)(1)–(2)).

397. *Id.* (citing IND. CODE § 6-1.1-20.6-7.5(a)).

398. *Id.*

399. *Id.*

400. *Id.* at 421.

401. *Id.*

402. *Id.* at 421–22.

403. *Id.* at 423.

intimately associated with domestic life.⁴⁰⁴ Citing definitions from well-renowned dictionaries, the Sawlanis emphasized that “curtilage” traditionally describes the grounds and outbuildings connected to a dwelling and “has no standard limits as to square footage or size.”⁴⁰⁵ They also pointed to property-tax cases from other states in which courts recognized that curtilage could extend well beyond a single acre when reasonably necessary for the enjoyment and use of a residence.⁴⁰⁶ Finally, relying on *United States v. Dunn*,⁴⁰⁷ the Sawlanis urged that the concept of curtilage depends not on acreage but on use—particularly proximity to the home, enclosure, purpose, and the degree of privacy maintained.⁴⁰⁸ From these sources, the Sawlanis concluded that the framers and ratifiers of the constitutional provision could not have intended a one-acre limitation and that the Homestead Statute’s restriction was therefore unconstitutional as applied to homeowners whose residential use extends beyond that boundary.⁴⁰⁹

c. The framers understood the tax cap could be limited.—The Assessor argued that the framers and ratifiers of Article 10, Section 1 intended the one-percent property tax cap to incorporate the contemporaneous statutory definition of “homestead,” including its one-acre limitation.⁴¹⁰ Amending the Indiana Constitution requires identical resolutions passed by two successive General Assemblies, separated by a general election, followed by voter ratification.⁴¹¹

In 2008, the General Assembly approved Senate Joint Resolution 1, proposing the current constitutional language and describing it as limiting a taxpayer’s liability on “homestead property” to one percent of assessed value.⁴¹² During that same session, it enacted Indiana Code section 6-1.1-20.6-7.5(a)(1), effective January 1, 2009, which applied the 1% tax cap to a “homestead” defined as a dwelling and “the real estate, not exceeding one (1) acre, that immediately surrounds that dwelling.”⁴¹³ Two years later, the identical resolution was reapproved by the succeeding General Assembly, and voters ratified the amendment at the 2010 general election.⁴¹⁴ Although the ballot

404. *Id.*

405. *Id.* (emphasis omitted) (citation omitted).

406. *Id.* (first citing *Bullis Sch., Inc. v. Appeal Tax Ct. for Montgomery Cnty.*, 114 A.2d 41, 42 (Md. 1955); then quoting *McTague v. Monroe Twp.*, 1 N.J. Tax 66, 68, 72 (N.J. Tax Ct. 1980); and then citing *Solebury Twp. Bd. of Supervisors v. Bucks Cnty. Bd. of Assessment & Revision of Taxes*, 1966 WL 226518, at *1 (C. P. Pa. Aug. 29, 1966) (unpublished)).

407. 480 U.S. 294 (1987) (holding that the Fourth Amendment protects the curtilage of a home from warrantless searches and identifying four factors—proximity to the dwelling, enclosure, use, and privacy measures—to determine whether an area constitutes curtilage).

408. *Sawlanis*, 267 N.E.3d at 423–24.

409. *Id.* at 424.

410. *Id.*

411. *Id.* (citing IND. CONST. art. 16, § 1(a)–(c); IND. CODE § 2-2.1-1-1(2) (2024)).

412. *See id.*

413. *Id.* (emphasis omitted) (citing Act of Mar. 19, 2008, Pub. L. No. 146-2008, §§ 115, 223, 2008 Ind. Acts 2307, 2414, 2538).

414. *See id.*

question referred simply to a “1% [cap] for an owner-occupied primary residence (homestead),” the Assessor maintained that lawmakers and voters understood the amendment as incorporating the one-acre limitation.⁴¹⁵ Relying on the contemporaneous statutory enactment, legislative digests, and public materials, the Assessor argued that the constitutional amendment codified the statutory definition of “homestead” into Article 10, Section 1.⁴¹⁶ Because this interpretation was consistent with the presumption of constitutionality, the Assessor urged that the Homestead Statute be upheld.⁴¹⁷

d. The Sawlanis’ burden of proof.—In rejecting the Sawlanis’ as-applied constitutional challenge, the Supreme Court reaffirmed that legislative enactments are presumed valid and that the challenger bears a heavy burden to show unconstitutionality.⁴¹⁸ Although the taxpayers argued that curtilage had no fixed size limit—citing dictionary definitions, property-tax precedents from other jurisdictions, and the U.S. Supreme Court’s decision in *Dunn*—the court held that the record contained insufficient evidence demonstrating that the additional acreage functioned as part of their residence.⁴¹⁹

The Supreme Court observed that the taxpayers’ property lacked physical demarcations or use patterns suggesting that the entire 3.981-acre parcel was used in connection with the home.⁴²⁰ There was no fencing, no clear boundary formed by trees, and no showing that the excess acreage was intimately associated with the activities of domestic life and “should be treated as the home itself.”⁴²¹ The court further noted that residence within a gated community does not, by itself, establish curtilage.⁴²² Because the taxpayers failed to prove that more than one acre of their property constituted curtilage, they did not overcome the statute’s presumption of constitutionality.⁴²³

e. The Supreme Court’s holding and remand.—The court declined to decide whether the Constitution permits the General Assembly to limit curtilage to one acre.⁴²⁴ Instead, it reiterated the strong presumption of constitutionality afforded to legislative enactments and emphasized the challenging party’s “high burden of proof” to rebut that presumption.⁴²⁵ Even assuming, as the Sawlanis contended, that “curtilage” may constitutionally extend beyond one acre, the court concluded that they failed to demonstrate that the additional 2.981 acres constituted curtilage.⁴²⁶ Because the Sawlanis did not meet their burden of

415. *Id.* (emphasis omitted).

416. *Id.* at 424–25.

417. *Id.* at 425 (citing *State Bd. of Tax Comm’rs v. Town of St. John*, 702 N.E.2d 1034, 1037 (Ind. 1998)).

418. *Id.* (quoting *St. John*, 702 N.E.2d at 1037).

419. *See id.*

420. *Id.*

421. *Id.*

422. *Id.* (citing *United States v. Powell*, 943 F. Supp. 2d 759, 786 (E.D. Mich. 2013)).

423. *Id.*

424. *Id.*

425. *Id.*

426. *Id.*

proving their constitutional claim, the court reversed the Tax Court's decision and remanded the case with instructions to affirm the IBTR's determination in favor of the Assessor.⁴²⁷

f. Problems left unresolved by the court.—The Indiana Supreme Court's remand follows the pattern typically expected when a reviewing court determines that a statute is constitutional on its face and the lower court erred in holding otherwise. Normally, if an appellate court declines to reach a constitutional question because the challenging party failed to develop a sufficient evidentiary record or preserve the issue for review, the proper course is to remand the case for further factual development. Such a remand would allow the challenger—here, the Sawlanis—to present evidence before the IBTR demonstrating that their residential use extended beyond one acre. In fact, this was the one aspect the Tax Court arguably got right—that is, its remand order properly directed the IBTR to determine whether the Sawlanis' use of the acreage exceeding one acre qualified as part of their principal residence. This alignment between the Tax Court's ruling and its remand order stood in contrast to the Supreme Court's decision, which, in this case, inexplicably did a little of both. It reversed the Tax Court's constitutional holding, thereby reinstating the statute, on the ground that the Sawlanis failed to factually establish an as-applied challenge to the Homestead Statute, while at the same time remanding the case with instructions to affirm the IBTR's determination in favor of the Assessor, as if the IBTR had correctly interpreted the Homestead Statute in the first instance.

This procedural outcome creates a logical inconsistency. The Supreme Court's opinion rests on the Sawlanis' failure to prove that their excess acreage was used as curtilage, yet its remand order leaves them no opportunity to make that evidentiary showing. Because the IBTR interpreted the Homestead Statute as limiting the 1% tax cap to one acre regardless of use, any evidence that a taxpayer's residential use extended beyond one acre would be deemed irrelevant. Without further guidance from the Supreme Court regarding the statute's proper interpretation, no taxpayer can ever develop the evidentiary record before the IBTR necessary to raise or preserve an as-applied constitutional challenge. In practical effect, the court's decision forecloses the very factual inquiry it faulted the Sawlanis for failing to make.

Equally significant, the Supreme Court avoided addressing the deeper constitutional and structural problems that underpinned the Tax Court's flawed decision. The court ignored the enabling clauses in Article 10, Section 1—provisions that expressly delegate to the General Assembly the authority to define and operationalize the 1% tax cap. It failed to reaffirm its own precedent holding that constitutional provisions containing enabling language are non-self-executing and have no operative effect without legislative implementation. By overlooking that doctrine, the court sidestepped the reality that the Tax

427. *Id.*

Court's invalidation of the Homestead Statute effectively nullified the 1% cap until the General Assembly enacted new legislation to restore it—a legislative action the Tax Court, in essence, held that the General Assembly could not take. Likewise, the Supreme Court left unaddressed the Tax Court's case-by-case "curtilage" approach, which directly conflicts with the constitutional requirement that Indiana's property-tax system be "uniform and equal." Nor did it confront the broader trend of judicial overreach in the Tax Court's jurisprudence—its recurring refusal to defer to reasonable legislative and administrative interpretations.

Ultimately, the Supreme Court's decision in *Sawlani* corrected the immediate outcome but left the underlying doctrinal errors untouched. The court was right to overturn the Tax Court's poorly reasoned opinion, but it did so for the wrong reason. Rather than clarifying the constitutional framework or reaffirming the legislature's authority under the enabling clauses, the court confined its analysis to the Sawlanis' evidentiary shortcomings. In doing so, it resolved the case while preserving the confusion. For now, the decision restores the General Assembly's ability to administer the 1% tax cap through the Homestead Statute, but it leaves unanswered the broader constitutional questions that the Tax Court's opinion raised—and that future litigants will inevitably raise again. In the end, *Sawlani* may stand as a rare instance in which two judicial wrongs managed to make a practical right: the Tax Court's flawed constitutional analysis and the Supreme Court's evasive reasoning together produced a result that, at least for now, allows the legislature to exercise the authority expressly granted to it by the Constitution's enabling clauses to interpret and administer the 1% tax cap.

CONCLUSION

Taken together, the decisions surveyed in this Article reveal a tax adjudicatory system under strain—not from a lack of doctrine, but from the manner in which doctrine is applied, explained, and, at times, resisted or ignored. Across cases involving valuation evidence, administrative finality, jurisdiction, and constitutional tax caps, the recurring fault line is not disagreement over outcomes so much as uncertainty about institutional roles. When agencies fail to articulate their reasoning, courts may assume corrective postures that risk substituting judicial policymaking for constitutionally assigned legislative policy choices and statutorily authorized administrative implementation. When courts, in turn, depart from established principles of deference, finality, and statutory coherence, they introduce instability into a system that depends on predictability to function equitably.

The deeper lesson of the 2025 survey period is that tax law does not tolerate ambiguity—procedural, jurisdictional, or constitutional. Indiana's property tax system is necessarily technical yet fundamentally structural, relying on clearly delineated responsibilities among assessors, administrative boards and agencies,

courts, and the legislature. When those boundaries blur, the consequences ripple outward, affecting not only litigants but also public confidence in the fairness and uniformity of taxation. The task ahead is therefore not merely to resolve individual disputes correctly but to reaffirm the disciplined allocation of authority that allows the system to operate coherently. Whether the next tax survey period will reflect a reassertion of that balance—or reveal further tensions in the system’s institutional design—will be an important development to watch.