

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

**Petition #:** 89-002-06-1-5-00486  
**Petitioner:** Thomas F. Porfidio  
**Respondent:** Boston Township Assessor (Wayne County)  
**Parcel #:** 442700020900002  
**Assessment Year:** 2006

The Indiana Board of Tax Review (“Board”) issues its determination in the above matter, and finds and concludes as follows:

**Procedural History**

1. The Petitioner filed his written request asking the Wayne County Property Tax Assessment Board of Appeals (“PTABOA”) to reduce his property’s assessment. On May 10, 2007, the PTABOA mailed notice of its determination denying that request.
2. The Petitioner then timely filed a Form 131 Petition to the Indiana Board of Tax Review for Review of Assessment. In that petition, he elected to proceed under the Board’s rules for small claims.
3. The Board’s duly appointed Administrative Law Judge, Alyson Kunack (“ALJ”), held an administrative hearing on November 27, 2007.
4. Persons present and sworn in at hearing:
  - a) For Petitioner: Thomas F. Porfidio, Owner
  - b) For Respondent: Dan Williams, PTABOA Member  
Joseph Kaiser, PTABOA President  
Marie Elstro, PTABOA Member

Charles Todd Jr. appeared as counsel for the Respondent. A deputy from the county assessor’s office observed the hearing.

**Facts**

5. The subject property contains a single-family home located at 4684 State Road 227 S, Richmond, Indiana.

6. The ALJ did not inspect the subject property.
7. The Respondent assessed the subject property using the following values:  
Land \$25,600                      Improvements \$167,200                      Total \$192,800
8. The subject property’s Form 11 Notice of Reassessment of Land and Structures and property record card both reflect those values. And in denying the Petitioner’s appeal, the PTABOA indicated that it was not changing the subject property’s assessment. The PTABOA, however, inexplicably listed a higher improvement value—\$169,300—than what was listed on the Form 11 notice and property record card. The parties agreed that the higher improvement value was a typographical error and that the PTABOA did not intend to change the property’s assessment.
9. At the hearing, the Petitioner requested a total assessment of \$138,000.<sup>1</sup>

### Contentions

10. Summary of the Petitioner’s contentions:
  - a) At the Petitioner’s request, a local realtor gave him “Paragon Reports” for properties that sold for \$188,000 to \$200,000. He chose that range because the median is \$194,000, which is roughly the same as the assessment shown on the PTABOA’s determination. *Porfidio testimony.*
  - b) The Petitioner examined 14 of the 60 properties in that price range. He believes that each of those properties is more desirable than his property. All 14 houses have more bedrooms and bathrooms than his house. And unlike his house, those 14 houses all have central air conditioning. Similarly, while most of those 14 properties have finished basements and paved driveways, his property has neither. And those properties are in better locations than his property. They have city water, city gas, trash pickup, street lights, and the benefit of a 77-man police department. His property, by contrast, is located in a rural area between two farm fields, and it is only one-half mile from an airport. Plus, his property is on well water and a septic system, and it is under the jurisdiction of the county sheriff rather than the city police department. *Porfidio testimony; Pet’r Exs. 4, 5.*
  - c) The Petitioner also looked for two-bedroom, two-story houses that were similar to his house. He found two. Like his house, both have detached garages and gravel driveways. And all three houses sit on large lots—the comparable lots average 5.2 acres while the Petitioner’s lot is 4 acres. The two comparable properties sold for \$95,000 and \$87,000, respectively. *Porfidio testimony; Pet’r Exs. 6, 7.*

---

<sup>1</sup> The Petitioner asked for a different assessment on his Form 131 petition:  
Land \$21,300                      Improvements \$135,000                      Total \$156,300

- d) The Petitioner bought the subject property for \$188,000 in June 2003. The Boston Township Assessor, Patrick Stack, said that he would not lower the Petitioner's assessment because that sale price "set the market" for the property. The Petitioner disagrees. He bought the property because certain characteristics appealed to him, such as its location between two farm fields. While he did not mind the property's rural location and proximity to an airport, other buyers might have. *Porfidio testimony*.

11. Summary of Respondent's contentions:

- a) The Petitioner did not meet his burden of showing either that his property's assessment is incorrect or what its correct assessment should be. The two purportedly comparable houses that the Petitioner identified were less than one-half the size of the Petitioner's house. Similarly, the 14 purportedly superior properties were located in the city, while the Petitioner's property is in a rural area. Thus, under the Uniform Standards of Professional Appraisal Practice ("USPAP"), none of those properties are comparable to the subject property. The Petitioner also failed to provide ages or addresses for any of the houses he identified. *Williams testimony*.
- b) Mr. Williams is a certified residential real estate appraiser, although he did not appraise the Petitioner's property. He testified that nice two-story brick homes like the Petitioner's were hard to find in rural areas. He also considered the Petitioner's den to be a potential third bedroom. Based on those facts, he believed that the property's current assessment was correct. *Williams testimony*.
- c) The Petitioner bought the subject property in an arm's-length transaction for less than its listed price. Both USPAP and appraisal practice use a property's sale price in determining its value. *Todd argument*. While the Respondent assessed the Petitioner's property for slightly more than he paid for it, the sale was from 2003, and the assessment was for 2006. *Todd argument*.

**Record**

12. The official record for this matter is made up of the following:

- a) The Form 131 petition,
- b) The digital recording of the hearing,
- c) Exhibits:
  - Petitioner Exhibit 1: Notice of Assessment - Form 11,
  - Petitioner Exhibit 2: Notification of Final Assessment Determination - Form 115,
  - Petitioner Exhibit 3: Notice of Hearing,
  - Petitioner Exhibit 4: List of sold properties in \$188,000 to \$200,000 range,
  - Petitioner Exhibit 5: Paragon Reports for properties in Exhibit 4,

Petitioner Exhibit 6: List of sold 2-bedroom properties,  
Petitioner Exhibit 7: Paragon Reports for properties in Exhibit 6,

Respondent Exhibit 1: Subject Property Record Card (“PRC”),  
Respondent Exhibit 2: Copy of document provided by Petitioner regarding sell of  
subject property from prior owner,

Board Exhibit A: Form 131 petition with attachments,  
Board Exhibit B: Notice of hearing,  
Board Exhibit C: Hearing sign-in Sheet,  
Board Exhibit D: Appearance by Attorney for Respondent,

d) These Findings and Conclusions.

### Analysis

13. The most applicable governing cases are:

- a) A petitioner seeking review of an assessing official’s determination must establish a prima facie case proving both that the current assessment is incorrect, and what the correct assessment should be. *See Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also Clark v. State Bd. of Tax Comm’rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998).
- b) In making its case, the petitioner must explain how each piece of evidence relates to its requested assessment. *See Indianapolis Racquet Club, Inc. v. Washington Twp. Assessor*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004) (“[I]t is the taxpayer’s duty to walk the Indiana Board . . . through every element of the analysis”).
- c) Once the petitioner establishes a prima facie case, the burden shifts to the assessing official to impeach or rebut the petitioner’s evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004); *Meridian Towers*, 805 N.E.2d at 479.

14. The Petitioner did not make a prima facie case for reducing his property’s assessment. The Board reaches this conclusion for the following reasons:

- a) Real property is assessed based on its "true tax value," which the 2002 Real Property Assessment Manual defines as “the market value-in-use of a property for its current use, as reflected by the utility received by the owner or a similar user, from the property.” 2002 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.3-1-2). Appraisers traditionally have used three methods to determine a property’s market value: the cost, sales-comparison, and income approaches. *Id.* at 3, 13-15. Indiana assessing officials generally use a mass-appraisal version of the cost approach, as set forth in the Real Property Assessment Guidelines for 2002 – Version A.

- b) A property's assessment under the Guidelines is presumed to accurately reflect its true tax value. *See* MANUAL at 5; *Koostard Property VI, LLC v. White River Twp. Assessor*, 836 N.E.2d 501, 505 (Ind. Tax Ct. 2005). But a taxpayer may rebut that presumption with evidence compiled according to generally accepted appraisal principles. MANUAL at 5.
- c) The Petitioner attempted to rebut his property's assessment by pointing to the sale prices for two groups of properties. First, he looked at properties that sold for prices close to his property's assessment, but which had what he considered to be more desirable features. Second, he identified two properties that he claimed were comparable to his property, but which sold for roughly half the amount of his property's assessment. In either case, by looking to the sale prices of other properties, the Petitioner sought to value his property using the sales-comparison approach.
- d) That valuation approach assumes that potential buyers will pay no more for a subject property than it would cost them to purchase an equally desirable substitute property that already exists in the market place. MANUAL at 13-14. A person applying the sales-comparison approach must first identify comparable improved properties that have sold. *Id.* He or she must then adjust those properties' sale prices to reflect the subject property's total value. *Id.* The adjustments reflect differences between the subject and comparable properties that affect value. And they must be quantified using objectively verifiable market evidence. *Id.*
- e) Thus, in order to use the sales-comparison approach as evidence in a property assessment appeal, a party must show that the properties being examined are comparable to each other. Conclusory statements that two properties are "similar" or "comparable" to each other are not probative. *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 470 (Ind. Tax Ct. 2005). Instead, the party must identify the subject property's relevant characteristics and explain how those characteristics compare to the purportedly comparable properties' characteristics. *Id.* at 471. Similarly, the party must explain how any differences between the properties affect their relative market values-in-use. *Long*, 821 N.E.2d at 470-71.
- f) The Petitioner did not follow the sales-comparison approach's requirements in addressing either group of properties. Indeed, he acknowledged that the 14 properties in the first group did not strongly compare to his property. But he insisted that their sale prices showed that his property's assessment was too high. Even if that were true, the Petitioner did not explain how the 14 properties' sale prices supported his requested assessment. To do so, he would have had to adjust those sale prices to reflect the contributory values of those properties' supposedly more desirable features.
- g) Similar flaws defeat the Petitioner's attempt to value his property using the sale prices of the two properties in his second group. Once again, he failed to

establish comparability. While he showed that all three properties shared a few characteristics, he ignored various other characteristics that affect market value. And, as with the first group, he did not attempt to adjust the purportedly comparable properties' sale prices to reflect significant ways in which they differed from his property. For example, while the Petitioner's house is more than twice the size of the other two houses, the Petitioner did not address that disparity. *Porfidio testimony; Pet'r Exs. 6-7.*

- h) Interestingly, the Petitioner downplays the one sale requiring no adjustments—his own arm's length purchase of the subject property for \$188,000. A property's actual sale price is often the best evidence of its market value. And the Petitioner's unsupported speculation that other buyers might not have valued the subject property as highly as he did does not change that proposition.<sup>2</sup>
- i) Finally, a party to an assessment appeal must explain how its evidence relates to the appealed property's market value-in-use as of the relevant valuation date. *See O'Donnell v. Dep't of Local Gov't Fin.*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006); *see also Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). The valuation date for the March 1, 2006 assessment is January 1, 2005. Ind. Admin. Code tit. 50, r. 21-3-3. The sales at issue, however, occurred at various times ranging from May 15, 2003 to July 31, 2007. *Pet'r Exs. 5-7.* Thus, it is not readily apparent how a number of those sale prices relate to the subject property's value as of the relevant valuation date. And the Petitioner did not explain their relationship.
- j) Thus, the Petitioner failed to offer any probative market-based evidence to rebut the presumption that his property's assessment is accurate. He therefore failed to make a prima facie case for changing that assessment.

### **Conclusion**

- 15. The Petitioner failed to make a prima facie case for reducing his property's assessment beyond making the PTABOA's determination match the amount on the subject property's Form 11 notice and property record card.

### **Final Determination**

The subject property's assessment should be \$192,800—the amount appearing on the subject property's Form 11 notice and property record card. In all other respects, the Board finds for the Respondent.

---

<sup>2</sup> The Board, however, does not rely on the subject property's sale price to support its decision. Like the Petitioner, the Respondent failed to explain how that 2003 sale price related to the property's value as of January 1, 2005. *See infra* ¶14(i).

ISSUED: \_\_\_\_\_

---

Commissioner,  
Indiana Board of Tax Review

### **IMPORTANT NOTICE**

#### **- Appeal Rights -**

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5, as amended effective July 1, 2007, by P.L. 219-2007, and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice. The Indiana Tax Court Rules are available on the Internet at <http://www.in.gov/judiciary/rules/tax/index.html>. The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code>. P.L. 219-2007 (SEA 287) is available on the Internet at <http://www.in.gov/legislative/bills/2007/SE/SE0287.1.html>