

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

**Petition No.:** 82-019-12-1-5-00001  
**Petitioner:** Edward B. and Tina T. Learned  
**Respondent:** Vanderburgh County Assessor  
**Parcel No.:** 82-04-31-002-450.008-019  
**Assessment Year:** 2012

The Indiana Board of Tax Review (“Board”) issues this determination in the above-captioned matter, and finds and concludes the following:

**Procedural History**

1. Edward B. and Tina T. Learned (“Petitioners”) initiated the 2012 assessment appeal with the Vanderburgh County Property Tax Assessment Board of Appeals (“PTABOA”) by filing a Form 130 on April 15, 2013.
2. The PTABOA failed to act on the Form 130 and Petitioners sought review by the Board.<sup>1</sup>
3. Petitioners elected to have the hearing conducted under the Board’s small claims procedures. The Vanderburgh County Assessor (“Respondent”) did not elect to have the proceeding removed from the small claims procedures.
4. Gary Ricks, the Administrative Law Judge (“ALJ”) appointed by the Board, held the hearing on June 30, 2015. Neither the ALJ nor the Board inspected the property.
5. Nick Cirignano represented Respondent. Jacquelyn Doty-Fox, PTABOA Deputy, and Janice Evans, Certified General Appraiser, were sworn and testified for Respondent. Edward B. Learned represented Petitioners *pro se* and was sworn and testified.

**Facts**

6. The subject property is a residential property located at 1201 April Drive in Evansville.
7. The assessed value of the subject property for 2012 was \$122,700.

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<sup>1</sup> See Ind. Code § 6-1.1-15-1(o) (allowing a taxpayer to seek review by the Board if the PTABOA does not hold a hearing within 180 days of the taxpayer filing its notice of review with the county or township assessor).

## Record

8. Petitioners presented the following exhibits:
  - Petitioner Exhibit 1 – Printouts from Department of Local Government Finance (“DLGF”) website
  
9. Respondent presented the following exhibits:
  - Respondent Exhibit A – Property record card for the subject property
  - Respondent Exhibit B – Printouts of email messages between Petitioner and Respondent
  - Respondent Exhibit C – Documents and photographs related to Respondent’s inspection/valuation of the subject property
  - Respondent Exhibit D – Appraisals of subject property for 2012, 2013, and 2014
  - Respondent Exhibit E – Printout of Indiana Code Sections
  - Respondent Exhibit F – Letter to Petitioner from Respondent
  
10. The following items are also recognized as part of the record:
  - Board Exhibit 1 – Form 131 with attachments
  - Board Exhibit 2 – Notice of Hearing
  - Board Exhibit 3 – Appearance of Nick Cirignano
  - Board Exhibit 4 – Hearing Sign-In sheet

## Burden of Proof

11. Generally, a taxpayer seeking review of an assessing official’s determination has the burden of proving that a property’s assessment is wrong and what the correct assessment should be. *See Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d 465, 468 (Ind. Tax Ct. 2003); *see also Clark v. State Bd. Of Tax Comm’rs*, 594 N.E.2d 1230 (Ind. Tax Ct. 1998). A burden-shifting statute creates two exceptions to that rule.
  
12. First, Ind. Code § 6-1.1-15-17.2 “applies to any review or appeal of an assessment under this chapter if the assessment that is the subject of the review or appeal is an increase of more than five percent (5%) over the assessment for the same property for the prior tax year.” Ind. Code § 6-1.1-15-17.2(a). “Under this section, the county assessor or township assessor making the assessment has the burden of proving that the assessment is correct in any review or appeal under this chapter and in any appeals taken to the Indiana board of tax review or to the Indiana tax court.” Ind. Code 6-1.1-15-17.2(b).
  
13. Second, Ind. Code 6-1.1-15-17.2(d) “applies to real property for which the gross assessed value of the real property was reduced by the assessing official or reviewing authority in an appeal conducted under IC 6-1.1-15,” except where the property was valued using the

income capitalization approach in the appeal. Under subsection (d), “if the gross assessed value of real property for an assessment date that follows the latest assessment date that was the subject of an appeal described in this subsection is increased above the gross assessed value of the real property for the latest assessment date covered by the appeal, regardless of the amount of the increase, the county assessor or township assessor (if any) making the assessment has the burden of proving that the assessment is correct.” Ind. Code § 6-1.1-15-17.2(d).

14. These provisions may not apply if there was a change in improvements, zoning, or use. Ind. Code § 6-1.1-15-17.2(c).
15. The assessment of the subject property increased by more than 5% over the previous year’s assessment. The parties agreed on the record that Respondent has the burden of proof.

### **Respondent’s Contentions**

16. Janice Evans is an Indiana Certified General Appraiser and a member of the Appraisal Institute. She has conducted “thousands” of appraisals since entering the profession in 1981. *Evans testimony.*
17. Petitioners refused to allow Ms. Evans to inspect the interior of the house, but allowed her to conduct an exterior site visit. She did a “drive-by” assessment and subsequently provided a USPAP compliant appraisal of the subject property. *Doty-Fox testimony, Evans testimony, Resp’t Ex. D.*
18. In her appraisal, Ms. Evans considered sales of six comparable one-story properties with basements constructed between 1954 and 1977. Adjusted sales prices ranged from \$105,000 to \$174,000 and living space prices ranged from \$76.84 to \$98.66 per square foot. *Evans testimony, Resp’t Ex. D.*
19. The subject property was built in 1974 and is in a less desirable location in the neighborhood. It is in fair condition and has undergone less physical maintenance than the majority of other structures in the neighborhood. It suffers from minor inutility and lacks amenities that a majority of other structures in the neighborhood have. *Doty-Fox testimony.*
20. Ms. Evans assumed that the subject property had a finished basement, that the square footage as reported by Respondent was correct, and that the house had been adequately maintained with few updates over the past decade. *Evans testimony.*
21. The increase was attributed to a reassessment year. Respondent received new cost manuals from the state. The price changes in the cost manual indicate what it would cost

to construct a home and Respondent used sales from the market area for trending accordingly. *Doty-Fox testimony*.

22. Ms. Evans valued the subject property at \$135,000 for 2012. *Evans testimony, Resp't Ex. D.*
23. Respondent did not engage in the practice of "sales-chasing." The assessment of the subject property increased due to neighborhood trending. *Doty-Fox testimony*.
24. Respondent has made a prima facie case that the assessment of the subject property is accurate and Petitioners failed to effectively rebut that case. *Cirignano argument*.

### **Petitioners' Contentions**

25. No significant improvements have been made to the subject property since it was purchased in 1991 and the assessed value is too high. *Learned testimony*.
26. The assessment of a house should not be increased until it has been sold for a higher value than its purchase price. *Learned testimony*.
27. Petitioners argued that Respondent committed "sales-chasing" which is the practice of using the sale of a property to trigger a reappraisal of that property at or near the selling price (citing the IAAO Standard on Ratio Studies, 2007). *Learned testimony, Pet'r Ex 1*. Petitioners argue that since their house has not sold at a price higher than its original purchase price, and since they have made no substantive improvements to the house since they purchased it, that the assessed value of their house should not increase. *Learned testimony, Pet'r Ex. 1*.

### **Analysis**

28. Real property is assessed based on its "true tax value," which means "the market value-in-use of a property for its current use, as reflected by the utility received by the owner or by a similar user, from the property." 2011 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.4-1-2); *see also* Ind. Code § 6-1.1-31-6(c). The cost approach, the sales comparison approach, and the income approach are three generally accepted techniques to calculate market value-in-use. MANUAL at 2. Assessing officials primarily use the cost approach. MANUAL at 3. The cost approach estimates the value of the land as if vacant and then adds the depreciated cost new of the improvements to arrive at a total estimate of value. MANUAL at 2. Any evidence relevant to the true tax value of the property as of the assessment date may be presented to rebut the presumption of correctness of the assessment, including an appraisal prepared in accordance with generally recognized appraisal standards. MANUAL at 3.
29. Regardless of the method used to prove a property's true tax value, a party must explain how its evidence relates to the subject property's market value-in-use as of the relevant valuation date. *O'Donnell v. Dep't of Local Gov't Fin.*, 854 N.E.2d 90, 95 (Ind. Tax Ct.

2006); *see also Long v. Wayne Twp. Assessor*, 821 N.E.2d 466 471 (Ind. Tax Ct. 2005). The valuation date for a 2012 assessment was March 1, 2012. Ind. Code § 6-1.1-4-4.5(f); 50 IAC 27-5-2(c).

30. Respondent offered a USPAP compliant appraisal of the subject property. Respondent supported the appraisal with testimony and evidence of comparable sales between 2010 and 2012. Respondent also offered USPAP compliant appraisals with regard to 2013 and 2104 indicating values similar to that of 2012. Consequently, the Board finds that Respondent has made a prima facie case supporting the 2012 assessment of the subject property. Once Respondent established a prima facie case, the burden shifted to Petitioners to rebut Respondent's evidence. Ind. Code § 6-1.1-15-17.2(b). Petitioners must offer evidence that impeaches or rebuts Respondent's evidence. *Meridian Towers*, 805 N.E.2d at 479.
31. Petitioners in this case did little to impeach Respondent's case. They only offered one exhibit consisting of six screen shots describing "sales-chasing" from the DLGF website. The Board finds that Petitioners' understanding and explanation of "sales-chasing," as described in Petitioners' Exhibit 1, are misguided and that such was not attributable to the increase in the assessed value of the subject property.
32. To successfully make a case, a taxpayer must show the assessment does not accurately reflect the market value-in-use of the property and show evidence of a more accurate valuation. *Id.*; *see also P/A Builders & Developers, LLC v. Jennings County Assessor*, 842 N.E.2d 899, 890 (Ind. Tax Ct. 2006). By focusing only on the alleged "sales-chasing" aspect of Respondent's assessment, Petitioners failed to establish that the 2012 appraisal is incorrect.

### **Conclusion**

33. Respondent's appraisal is the most credible and convincing evidence of the value of the subject property. The Board finds the Respondent established a prima facie case for an increase in the assessed value and that the Petitioner failed to rebut or impeach the Respondent's case with substantial probative evidence. Consequently, the Board finds for the Respondent. While the Respondent's appraisal indicates a value of \$135,000 for 2012, Respondent did not expressly request that the assessed value be increased over that of the original assessed value of \$122,700.

## Final Determination

34. In accordance with the above findings and conclusions, the assessed value of the subject property will not be changed.

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Chairman, Indiana Board of Tax Review

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Commissioner, Indiana Board of Tax Review

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Commissioner, Indiana Board of Tax Review

### - APPEAL RIGHTS -

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