

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

**Petition:** 02-038-02-1-5-00547  
**Petitioners:** Brian and Laurie Snyder  
**Respondent:** Aboite Township Assessor (Allen County)  
**Parcel:** 11-5148-0239  
**Assessment Year:** 2002

The Indiana Board of Tax Review (Board) issues this determination in the above matter. The Board finds and concludes as follows:

**Procedural History**

1. The Petitioners initiated an assessment appeal with the Allen County Property Tax Assessment Board of Appeals (PTABOA) by written document dated April 29, 2004.
2. The PTABOA issued notice of its decision on September 21, 2004.
3. The Petitioners filed an appeal to the Board by filing a Form 131 with the county assessor on October 19, 2004. The Petitioners elected to have this case heard according to small claim procedures.
4. The Board issued a notice of hearing to the parties dated February 14, 2006.
5. On March 22, 2006, the Board held its hearing before the duly appointed Administrative Law Judge Brian McKinney.
6. Persons sworn as witnesses at the hearing were Brian Snyder, taxpayer, and Carolyn Berghorn, Aboite Township Assessor.<sup>1</sup>
7. The Respondent objected to the admission of the Petitioners' exhibits because the Petitioners failed to provide copies of those exhibits five days prior to the hearing. The Petitioners opted to use the small claims rules in 52 IAC 3. The Respondent did not opt out of those rules. Therefore, the parties are required to "make available to all other parties copies of any documentary evidence... intended to be presented at the hearing at least five (5) days before the day of a small claims hearing." 52 IAC 3-1-5(f). This language means that "unless a party asked for the documents, and the other party refused to make copies available, the requesting party would have no basis for objecting to the

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<sup>1</sup> Scott M. Federorf was present as counsel for the Petitioners. Mark E. GiaQuinta and F. John Rogers were present as counsel for the Respondent.

documents being submitted at the hearing.” See Board Memorandum on Exchange of Evidence between Parties dated April 2004 (available on the Board’s website, www.in.gov/ibtr/). Testimony established that the Respondent did not request copies of the exhibits from the Petitioners. Therefore, the Respondent’s objections are overruled and the Petitioners’ exhibits are admitted.

### Facts

8. The property is a single-family residence located at 326 Chestnut Forest Cove, Fort Wayne, Indiana.
9. The Administrative Law Judge did not conduct an on-site inspection of the subject property.
10. The assessed value of the subject property as determined by the PTABOA is:  
land \$107,200            improvements \$430,900            total \$538,100.
11. The assessed value requested by the Petitioners is:  
land \$69,825            improvements \$395,675            total \$465,500.

### Issue

12. Summary of the Petitioners’ contentions in support of alleged error in the assessment:
  - a) The Petitioners purchased the home on February 24, 2003, for \$533,000. The assessment of \$538,000 is higher than that purchase price. *Snyder testimony.*
  - b) The Petitioners used the House Price Index, collected by the Office of Federal Housing Enterprise Oversight (OFHEO) for the Fort Wayne area, to trend their purchase price of their home back to January 1, 1999. *Id.; Pet’rs Exs. 4, 6d, 6e.* Using that price index and their own purchase price, the value of the home was \$465,500 as of January 1, 1999. *Snyder testimony; Pet’rs Ex. 4.*
  - c) On October 13, 2000, a previous owner bought the subject property for \$501,075. Using the same price index and that sale, that value would have been \$473,000 as of January 1, 1999. *Pet’rs Ex. 5.*
  - d) The Petitioners’ trended 2003 purchase price reflects the value they received from the property. It is more reliable than the prior sale price to establish the market value-in-use. *Snyder testimony.*
  - e) The Petitioners presented an appraisal estimating the total value of the property was \$550,000 as of January 20, 2003. According to this appraisal, the land value is \$85,000. *Id.; Pet’rs Ex. 6c.* Deducting the 2003 replacement cost for the home as determined by the Petitioners’ insurance company from the purchase price establishes the land is worth \$75,000. *Snyder testimony; Pet’rs Ex. 3.* The

Petitioners trended those values and used the average to support a land value of \$69,825. *Snyder testimony*.

- f) Two previous Board decisions support using trending factors to determine value as of January 1, 1999. The Petitioners provided copies of the Nelson decision (Pet. No. 82-027-02-1-5-00089) and the Clark decision (Pet. No. 82-019-02-1-5-00099) to establish that trending is acceptable, if the method is sound. *Snyder testimony; Pet'rs Exs. 7.2, 7.3*.
13. Summary of the Respondent's contentions in support of the assessment:
- a) The subject property was not constructed until 2000. It did not exist in 1999. *Berghorn testimony; Resp't Ex. 2*. The assessed value determined by using the Real Property Assessment Guidelines for 2002 – Version A is \$538,100. *Id.* The Petitioners purchased the home in 2003 for \$533,000. That fact supports the current assessed value of \$538,100. *Berghorn testimony*.
  - b) The original purchase price for the home was \$501,075 in October 2000. *Id.; Resp't Ex. 2*. The original building permit stated the value of the home would be \$519,900. A deck was added in August 2000 with a value of \$3,740, according to a subsequent building permit. In July 2001, a third building permit was issued to finish the basement. This permit shows the value of the basement interior finish to be \$20,000. *Berghorn testimony; Resp't Ex. 3*. The total value of the building permits was \$543,640. That amount corroborates the \$538,100 assessed value for the subject property. *Berghorn testimony*.
  - c) The Petitioners presented an appraisal showing the value of the property was \$550,000 as of January 20, 2003. *Id.*
  - d) There is a lot of new construction in Aboite Township in Allen County. That construction is assessed similarly to new construction in other townships in Allen County. No homes built in Allen County after January 1, 1999, were assessed using trending data as suggested by the Petitioners. *Id.*
  - e) The Board decisions presented by the Petitioners show that trending is proper if the home existed in 1999. Trending values to 1999 for homes that did not exist in 1999 is not proper. *GiaQuinta argument*.

### **Record**

14. The official record for this matter is made up of the following:
- a) The Petition,
  - b) The digital recording of the hearing,

- c) Petitioners Exhibit 1 – Settlement statement dated February 21, 2003,  
 Petitioners Exhibit 2 – Two aerial photographs of the neighborhood, dated April 6, 1998, and April 10, 2002,  
 Petitioners Exhibit 3 – Insurance replacement cost for the subject property,  
 Petitioners Exhibit 4 – Trending tables,  
 Petitioners Exhibit 5 – Property record card (PRC) for the subject property,  
 Petitioners Exhibit 6a – PTABOA decision regarding the subject property,  
 Petitioners Exhibit 6b – PRC for the subject property,  
 Petitioners Exhibit 6c – Appraisal of the subject property as of January 20, 2003,  
 Petitioners Exhibit 6d – OFHEO trending data,  
 Petitioners Exhibit 6e – Overview of OFHEO house price index,  
 Petitioners Exhibit 6f – None submitted,  
 Petitioners Exhibit 6g – "Investment Returns and Price Discovery in the Market for Owner-Occupied Housing,"  
 Petitioners Exhibit 7 – List of Board decisions,  
 Petitioners Exhibit 7.1 – Harcourt decision, Pet. No. 84-002-02-1-5-00932,  
 Petitioners Exhibit 7.2 – Nelson decision, Pet. No. 82-027-02-1-5-00089,  
 Petitioners Exhibit 7.3 – Clark decision, Pet. No. 82-019-02-1-5-00099,  
 Respondent Exhibit 1 – Photograph of the subject property,  
 Respondent Exhibit 2 – PRC for the subject property,  
 Respondent Exhibit 3 – Three building permits issued for the subject property,  
 Respondent Exhibit 4 – Sales disclosure form dated February 21, 2003,  
 Respondent Exhibit 5 – Listing from the Allen County Multiple Listing Service book for the subject property,  
 Respondent Exhibit 6 – Appraisal of the subject property as of January 20, 2003,  
 Respondent Exhibit 7 – None submitted,  
 Respondent Exhibit 8 – Sketch/worksheet showing total living area,  
 Respondent Exhibit 9 – Plat of neighborhood and comparison to neighboring lots,  
 Board Exhibit A – Form 131 petition,  
 Board Exhibit B – Notice of hearing,
- d) These Findings and Conclusions.

### **Analysis**

- 15. The most applicable governing cases are:
  - a) A Petitioner seeking review of a determination of an assessing official must establish a prima facie case that the current assessment is incorrect and specifically what the correct assessment would 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 taxpayer must explain how each piece of evidence is relevant to the requested assessment. *See Indianapolis Racquet Club, Inc. v. Washington Twp. Assessor*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004).

- c) Once the Petitioner establishes a prima facie case, the burden shifts to the assessing official to rebut the Petitioner's evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). The assessing official must offer evidence that impeaches or rebuts the Petitioner's evidence. *Id.*; *Meridian Towers*, 805 N.E.2d at 479.
16. The Petitioners provided sufficient evidence to support their contentions. This conclusion was arrived at because:
- a) Real property is assessed on the basis of its "true tax value," which does not mean fair market value. It means "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." Ind. Code § 6-1.1-31-6(c); 2002 REAL PROPERTY ASSESSMENT MANUAL (hereafter MANUAL) at 2 (incorporated by reference at 50 IAC 2.3-1-2). There are three generally accepted techniques to calculate market value-in-use: the cost approach, the sales comparison approach, and the income approach. The primary method for assessing officials to determine market value-in-use is the cost approach. *Id.* at 3. To that end, Indiana promulgated a series of guidelines that explain the application of the cost approach. The value established by use of the Guidelines, while presumed to be accurate, is merely a starting point. A taxpayer is permitted to offer evidence relevant to market value-in-use to rebut that presumption. Such evidence may include actual construction costs, sales information regarding the subject or comparable properties, appraisals, and any other information compiled in accordance with generally accepted appraisal principles. MANUAL at 5.
- b) For the 2002 reassessment, an assessment is to reflect the value of the property as of January 1, 1999. MANUAL at 4. Should the Petitioners present any evidence of value relating to a different time, the Petitioners are required to provide some explanation how those values demonstrate, or are relevant to, the subject property's value as of January 1, 1999. *See Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005).
- c) The actual sale price of property is often the best indication of market value, and that is the case here. This property sold for \$501,000 in 2000 and again for \$533,000 in 2003. The basement was not finished until 2001. Accordingly, the 2003 purchase price has more weight because it accounts for all features present in the home on March 1, 2002. Although the Respondent introduced copies of three building permits that list a total value of \$543,640 for the subject property, the Respondent failed to prove that such evidence is stronger or more reliable than the actual sale prices of the subject property.
- d) The Petitioners were required to provide some explanation about how the 2003 price is relevant to the value as of the valuation date, January 1, 1999. To establish this link, the Petitioners used trending data developed by OFHEO in the

Fort Wayne area to show the value was \$465,500 as of January 1, 1999. Thus, the Petitioners established a prima facie case.

- e) The Respondent did not contend the trending calculation presented by the Petitioners is inaccurate. Instead, the Respondent claimed that the value of a home not in existence on January 1, 1999, cannot be trended back to that date. The Respondent is mistaken. Indiana's assessment regulations state that for the 2002 general reassessment, a property's assessment is to reflect its value as of January 1, 1999. MANUAL at 4. The Guidelines used by the Respondent to assess the property are based on cost data as of January 1, 1999. GUIDELINES, Intro. at 1. The Respondent did not cite to any regulations, rules, or statutes in support of the contention that the value of homes built after January 1, 1999, cannot be trended to that date. In fact, equal treatment principles require that the values for all homes, both older and newer, relate to the same point of time.
- f) Similarly, both parties offered an appraisal as evidence that the market value of the subject property was \$550,000 as of January 20, 2003. The record fails, however, to relate that evidence to the required valuation date. Therefore, this appraisal lacks probative value. *Long*, 821 N.E.2d at 471.
- g) The Respondent failed to rebut the Petitioners' evidence.

### **Conclusion**

17. The Petitioners made a prima facie case. The Respondent did not rebut the Petitioners' evidence. The Board finds in favor of the Petitioners.

### **Final Determination**

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should be changed to \$465,500.

ISSUED: June 5, 2006

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Commissioner,  
Indiana Board of Tax Review

## IMPORTANT NOTICE

### - APPEAL RIGHTS -

You may petition for judicial review of this final determination pursuant to the provisions of Indiana Code § 6-1.1-15-5. The action shall be taken to the Indiana Tax Court under Indiana Code § 4-21.5-5. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice. You must name in the petition and in the petition's caption the persons who were parties to any proceeding that led to the agency action under Indiana Tax Court Rule 4(B)(2), Indiana Trial Rule 10(A), and Indiana Code § 4-21.5-5-7(b)(4), 6-1.1-15-5(b). The Tax Court Rules provide a sample petition for judicial review. The Indiana Tax Court Rules are available on the Internet at <http://www.in.gov/judiciary/rules/tax/index.html>. The Indiana Trial Rules are available on the Internet at [http://www.in.gov/judiciary/rules/trial\\_proc/index.html](http://www.in.gov/judiciary/rules/trial_proc/index.html). The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code>.