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**BEFORE THE  
INDIANA BOARD OF TAX REVIEW**

Marian & George Parks,	)	Petition No.:	05-006-02-1-4-00054
	)	Parcel:	05-10-303-012-00005
Petitioners,	)		
	)		
v.	)		
	)	County:	Blackford
Licking Township Assessor,	)	Township:	Licking
	)	Assessment Year:	2002
Respondent.	)		
	)		

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

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**February 1, 2006**

**FINAL DETERMINATION**

The Indiana Board of Tax Review ("Board") has reviewed the facts and evidence presented in this case. The Board enters its findings of fact and conclusions of law on the following issue:

*Is the land assessment excessive?*

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

**PROCEDURAL HISTORY**

1. On May 6, 2004, the Blackford County Property Tax Assessment Board of Appeals ("PTABOA") issued an assessment determination for the subject property. Pursuant to Ind. Code § 6-1.1-15-1, George and Marian Parks filed a Form 131 Petition for Review of Assessment, petitioning the Board to conduct an administrative review of the above petition. The Petitioners filed Form 131 on May 20, 2004.

## THE HEARING AND OTHER MATTERS OF RECORD

2. Pursuant to Ind. Code § 6-1.1-15-4 and § 6-1.5-4-1, a hearing was held on June 22, 2005, in Hartford City, Indiana before Patti J. Kindler, the duly designated Administrative Law Judge (the “ALJ”) authorized by the Board under Ind. Code § 6-1.5-3-3.
3. The following persons were sworn as witnesses and presented testimony at the hearing:  
For the Petitioners – George Parks, property owner,  
For the Respondent – Jeff Kiess, Appraisal Research,  
Donald Goetz, Licking Township Assessor,  
Fred Tobey, Blackford County Assessor.
4. The following exhibits were presented for the Petitioners:  
Petitioner Exhibit 1 – Summary of Contentions,  
Petitioner Exhibit 2 – 2002 property record card for 1610 Water Street (not the subject property),  
Petitioner Exhibit 3 – Subject 2003 property record card,  
Petitioner Exhibit 4 – Newspaper article,  
Petitioner Exhibit 5 – Photograph of the subject lot in summer,  
Petitioner Exhibit 6 – Photograph of the subject lot in winter,  
Petitioner Exhibit 7 – Aerial Plat of subject property and neighboring parcels,  
Petitioner Exhibit 8 – Sketch of property and neighbor,  
Petitioner Exhibit 9 – Subject Form 131 Petition with attachments,  
Petitioner Exhibit 10 – Neighborhood factors for Blackford County.<sup>1</sup>
5. The following exhibits were presented for the Respondent:  
Respondent Exhibit 1 – Summary of comments,  
Respondent Exhibit 2 – Subject property record cards for the 2002 and 2003 assessments,  
Respondent Exhibit 3 – Two aerial maps showing the subject property and surrounding area,  
Respondent Exhibit 4 – Neighborhood Valuation Form for neighborhood 0551400,  
Respondent Exhibit 5 – Blackford County Excess Frontage Influence Factor Graph,<sup>2</sup>  
Respondent Exhibit 6 – Statement explaining the determination of the PTABOA.

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<sup>1</sup> The Petitioners attempted to submit additional information with a letter to the Board dated August 22, 2005. There is no indication that this letter or the attachments that came with it were served on the Respondent. In addition, there is no indication that the Board requested any additional information. For both of these reasons, that letter and additional information are not considered to be part of the record. Therefore, they will not be considered in reaching the Board’s final determination. 52 IAC 2-3-4; 52 IAC 2-8-8.

<sup>2</sup> The Respondent stated that the data sheet titled Standard Operating Procedures for Excess Frontage Influence Factor Graph is owned by Appraisal Research Corporation and requested it be kept confidential. The Board notes that request, but takes no position in this decision on that point.

6. The following additional items are officially recognized as part of the record of proceedings and labeled Board Exhibits:
  - Board Exhibit A – Form 131 Petition,
  - Board Exhibit B – Notice of Hearing,
  - Board Exhibit C – Hearing sign in sheet.
7. The subject property is a vacant commercial lot with 1.14 acres located in the 1600 block of West Water Street in Hartford City.
8. The ALJ did not conduct an on-site inspection of the subject property.
9. The assessed value of the property determined by the PTABOA is:
 

Land \$16,300	Improvements \$0	Total \$16,300. <sup>3</sup>
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10. The Petitioners did request a specific assessed value for the subject property.

### JURISDICTIONAL FRAMEWORK

11. The Indiana Board must conduct an impartial review of all appeals concerning the assessed valuation of tangible property, property tax deductions, and property tax exemptions that are made from a determination by an assessing official or a county property tax assessment board of appeals to the Indiana board under any law. Ind. Code § 6-1.5-4-1(a). All such appeals are conducted under Ind. Code § 6-1.1-15.

### ADMINISTRATIVE REVIEW AND THE PETITIONER’S BURDEN

12. Petitioners seeking review of a determination of an assessing official has the burden to establish a prima facie case proving 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).
13. In making a case, taxpayers 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) (“[I]t is the taxpayer's duty to walk the Indiana Board . . . through every element of the analysis”).
14. Once the Petitioners establish a prima facie case, the burden shifts to the assessing official to rebut the Petitioners' 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 Petitioners' evidence. *Id.*; *Meridian Towers*, 805 N.E.2d at 479.

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<sup>3</sup> The Form 131 Petition and Form 115 Notification of Final Assessment Determination state the assessed value is \$16,400. The Respondents testified at the hearing that the appropriate assessed value when rounded on the computerized subject property record card should be \$16,300.

## FACTS AND CONTENTIONS

15. The Petitioners presented the following evidence and contentions:
- a) The Petitioners contend that the current assessment of the subject property is too high and exceeds its market value. *Parks testimony; Petitioner Exhibit 1.* The assessment on this property rose from \$600 in 2001 to \$36,000 in 2002, before influence factors were applied. *Parks testimony; Petitioner Exhibit 1.*
  - b) The Petitioners point to several reasons that the lot is overvalued. The Petitioners testified that flooding caused by heavy rains, commercial occupancy of neighboring properties, and highway frontage reduce the value of the subject property. *Parks testimony; Petitioner Exhibit 5, 6, 7, 8.* In support of their claim, the Petitioners submitted photographs of the property with water on it taken in both summer and winter, an aerial map showing the neighboring commercial entities, and a hand drawn plat of the subject property that explains the reasons for flooding. *Parks testimony; Petitioner Exhibit 5, 6, 7, 8.*
  - c) The Petitioners submitted a newspaper article from the Indianapolis Star discussing the assessment of a vacant lot located in Indianapolis discussing property taxes on the lot that rose from \$56 to \$127 as a result of the reassessment and the taxpayer's sale of the property. *Petitioner Exhibit 4.*
  - d) In 1975, the subject property was purchased along with another lot for \$10,000. *Parks testimony.* The value of the subject property should be approximately \$2,000 to \$3,000. *Parks testimony.*
16. The Respondent presented the following evidence and contentions:
- a) The subject property was originally assessed at \$21,000. *Kiess testimony; Respondent Exhibit 1, 2.* The value was revised to \$16,300 by the township assessor and upheld by the PTABOA by the application of negative influence factors for vacancy and excessive frontage. *Keiss testimony; Respondent Exhibit 1, 2.*
  - b) Two sales located in the subject neighborhood reflect a front foot value between \$110 and \$115 when the "county vacancy determined amount" was added back into their sale prices. *Respondent Exhibit 3, 4.*
  - c) The Respondent presented testimony that the flooding experienced by the subject property after heavy rains is typical for an undeveloped lot in this city. The lot is not submerged. The property could be divided into three standard lots and sold for residential purposes. *Kiess testimony; Respondent Exhibit 1.*
  - d) The Respondent submitted the Neighborhood Valuation Form showing the standard lot for the area is one measuring 100 feet by 150 feet. The deduction for lots with no water or sewage systems or other development costs is \$3,190 (about a negative 30%

influence factor), which was applied to the subject lot. *Kiess testimony; Respondent Exhibit 4.*

- e) The Respondent also submitted an Excess Frontage Influence Factor Graph showing that a negative 35 percent influence factor is appropriate for the subject property because it has a frontage of 300 feet, but the typical frontage for the neighborhood is only 100 feet. *Respondent Exhibit 5.* The Respondent maintains that, based on the Neighborhood Valuation Form and the Excess Frontage Graph, the value for the subject property is calculated properly as follows: \$36,000 less 30 percent for a vacant lot and less 35 percent for excess frontage, which equals \$16,400 (rounded by the computer to \$16,300). *Kiess testimony; Respondent Exhibit 1.*
- f) The Respondent noted that the Petitioners claimed commercial properties located next to the subject property lowered its value; however, not all of the properties surrounding the subject lot are commercial in nature. Several residential dwellings surround the subject property and a golf course is located to the southwest. *Kiess testimony; Respondent Exhibit 3.*
- g) Based on the comparable sales, the current assessment of \$16,300 is fair and represents the subject property's market value. *Kiess testimony.*

#### ANALYSIS

- 17. The record does not support Petitioners' claim that the subject property's current assessment is excessive because of its location among several commercial properties. While there is no doubt that some of the neighboring property is used for commercial purposes, the Petitioners did not submit probative evidence to establish that the neighboring commercial properties reduce the market value-in-use of the subject property.<sup>4</sup> For example, the Petitioners did not submit any comparable sales to show the purported negative effect of the neighboring commercial properties. The record lacks probative evidence that the subject parcel is influenced, either positively or negatively, by the surrounding commercial properties.
- 18. The photographs show limited flooding in a small area of the subject property after heavy rains. The record contains nothing but conclusory statements about how the flooding reduces the value of the subject property. Conclusory statements do not constitute probative evidence. *Lacy Diversified Indus. v. Dep't of Local Gov't Fin.*, 799 N.E.2d 1215, 1221 (Ind. Tax Ct. 2003). The Petitioners did not present probative evidence that the flooding is atypical for the subject neighborhood or that the flooding lowers the value-in-use to the property.

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<sup>4</sup> The Board's file contains a photograph of several parked trailers that appears to correspond with testimony about the commercial use of neighboring property; however, that photograph is not identified with an exhibit number. The photograph does not appear to have been actually put into the record of this case. Regardless of its status, the photograph would not make a difference to the Board's decision.

19. The subject property has frontage on Highway 26, but the record lacks probative evidence that this fact reduces its value-in-use. Furthermore, the Petitioners did not provide an explanation about how or why the highway frontage is detrimental to value. Again, conclusory statements are not probative evidence. *Id.*
20. The Petitioners pointed to the previous assessment of \$600 and the increase in the assessment resulting from the 2002 reassessment to \$36,000 before influence factors were deducted as evidence of an excessive assessment. This evidence is not probative evidence that the current land value is wrong because each tax year is separate and distinct. *See Barth v. State Bd. of Tax Comm'rs*, 699 N.E.2d 800, 806 (Ind. Tax Ct. 1998) (each tax year stands on its own and where taxpayer challenges an assessment the resolution does not depend on how the property was previously assessed).
21. The Petitioners did not offer probative evidence, such as comparable assessments, sales or an appraisal, to establish the market value-in-use of the subject property. The Petitioners relied solely upon conclusory assertions that the value was excessive. Those unsubstantiated conclusory statements do not constitute probative evidence. *Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E. 2d 1113, 1119 (Ind. Tax Ct. 1998). Further, the Petitioner has the burden to prove not only that the current assessment is incorrect, but also specifically what the correct assessment would be. *See Meridian Towers*, 805 N.E.2d at 478. In this appeal, other than conclusory statements that the land should be valued at about \$2,000 to \$3,000, the Petitioners did not offer any evidence of what the correct assessment should be.
22. Where the Petitioner has not supported the claim with probative evidence, the Respondent's duty to support the assessment with substantial evidence is not triggered. *Lacy Diversified*, 799 N.E.2d at 1222.

#### **SUMMARY OF FINAL DETERMINATION**

23. The Petitioners did not make a prima facie case. The Board finds in favor of the Respondent. There is no change to the assessment.

This Final Determination of the above captioned matter is issued by the Indiana Board of Tax Review on the date first written above.

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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/coder>>.**

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