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

Petition Nos.:	**07-003-02-1-5-00098**
	07-003-02-1-5-00099
	07-003-02-1-5-00100
	07-003-02-1-5-00101
	07-003-02-1-5-00102
Petitioners:	**Karen, James & Vercii Watson**
Respondent:	**Van Buren Township Trustee Assessor (Brown County)**
Parcel Nos.:	**002084200000100**
	002084170001702
	002084170001700
	002084200000101
	002084170001701[1]
Assessment Year:	**2002**

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

Procedural History

1. The Petitioners filed appeals with the Brown County Property Tax Assessment Board of Appeals (PTABOA) on May 10, 2005.

2. The PTABOA mailed notice of its determinations on June 21, 2006.

3. The Petitioners filed Form 131 Petitions to the Indiana Board of Tax Review for Review of Assessment on June 27, 2006. The Petitioners elected to have their appeals heard in small claims.

4. The Board issued notices of hearing to the parties on March 20, 2007.

5. On May 9, 2007, the Board held a consolidated administrative hearing on the Petitioners' appeals before its duly appointed Administrative Law Judge, Jennifer Bippus ("ALJ").

[1] These are the parcel numbers listed on the property record cards that Jacqueline Watson submitted at the hearing. The Petitioners listed key numbers, rather than parcel numbers, on their Form 131 petitions. Those key numbers are 002-63000-00, 002-63000-01, 002-63000-02, 002-63000-03, and 002-63000-20

6. Persons present and sworn in at hearing:

   a) For Petitioners: Jacqueline Watson[2]

   b) For Respondent: Nettie Walls, Van Buren Township Trustee Assessor

7. The subject property consists of five contiguous parcels totaling approximately 157 acres with street addresses on Grandview Road and Poplar Road in Van Buren Township, Brown County. The property contains three improvements, although the parties did not provide information concerning nature or use of those improvements. A significant portion of the property is wooded. Ms. Watson contended that the Petitioners used an approximately 21.6-acre portion of the property that is not heavily wooded as a wildlife habitat and cropland reserve.

8. The ALJ did not inspect the subject property.

9. The PTABOA determined the assessed value of subject property to be:

Petition #	Parcel #	Land	Improvements
07-003-02-1-5-00098	002084200000100	$ 49,400	$ 100
07-003-02-1-5-00099	002084170001702	$ 80,900	$ 0
07-003-02-1-5-00100	002084170001700	$111,900	$89,000
07-003-02-1-5-00101	002084200000101	$ 7,200	$ 0
07-003-02-1-5-00102	002084170001701	$ 17,900	$18,300

10. The Petitioners requested the following assessed values on their Form 131 petitions:

Petition #	Parcel #	Land	Improvements
07-003-02-1-5-00098	002084200000100	$ 26,000	$ 0
07-003-02-1-5-00099	002084170001702	$ 40,000	$ 0
07-003-02-1-5-00100	002084170001700	$ 39,500	$60,000
07-003-02-1-5-00101	002084200000101	$ 500	$ 0

[2]The Petitioners neither appeared at the hearing nor submitted a notarized power of attorney authorizing Jacqueline Watson to represent them. And, while Ms. Watson testified that she is a "Level II Assessor certified by the State of Indiana," she is not on the list of certified tax representatives maintained by the Department of Local Government Finance. Similarly, Ms. Watson did not present any evidence to show that she fits within the limited category of people authorized to represent others before the Board without being a certified tax representative. *See* 52 IAC 1-1-6 (excluding, *e.g.*, full-time permanent employees of the taxpayer and attorneys from the definition of "tax representative"). At most, Ms. Watson signed the Form 131 petitions as the "property manager." The Board will not assume from that statement that Ms. Watson is a full-time permanent employee of the Petitioners. Thus, Ms. Watson was not authorized to represent the Petitioners before the Board. *See* 52 IAC 1-1-6; 52 IAC 1-2-1. Because she was not authorized to represent the Petitioners, any arguments presented by Ms. Watson on the Petitioners' behalf are, in essence, nullities, and the Petitioners' failure to appear at the hearing in person or by authorized representative subjects their appeals to dismissal. The Board, however, recognizes that the Respondent did not object to Ms. Watson's participation in the hearing, and that resolution of the case on the merits ultimately leads to the same result—that the assessment should not be changed. The Board therefore addresses the merits of the claims raised by Ms. Watson.

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07-003-02-1-5-00102	002084170001701	$ 6,000	$ 0

Parties' Contentions

11. Summary of Petitioners' contentions:

a) Ms. Watson argued that the Petitioners' land should be assessed as agricultural and that the vast majority of the land is woodland, which is entitled to an 80% negative-influence factor. *Watson testimony*.

b) The subject property consists of five contiguous parcels totaling approximately 160 acres. *Watson testimony*. The subject property has been a working farm since Ms. Watson's father purchased it in 1949. *Id.* The Petitioners sell lumber and are part of the United States Department of Agriculture's Forest/Woodland Program. *Id.*

c) Although the Petitioners have not sold timber for several years, foresters who have visited the property within the last three years have said that the Petitioners' trees were not ready to be harvested. *Id.* Ms. Watson contends that the Petitioners intend to sell trees when they are ready for harvest and that they continue to buy and replant trees. *Id.* To support that claim, Ms. Watson submitted an invoice for "Scotch Pine" and a "wildlife packet" from the Department of Natural Resources Division of Forestry. *Pet'rs Ex. 6 at 1.* The order was for $12.88 and was paid on November 7, 1975. *Id.*

d) The Petitioners also maintain an 18.6-acre portion of the subject property as wildlife habitat. *Watson testimony; Pet'rs Ex. 5.* Ms. Watson presented a document she described as a conservation plan from the United States Department of Agriculture ("USDA"). The conservation plan is not dated, but it shows columns for the years 1997 to 2001. *Id.*

e) Ms. Watson also testified that a portion of the subject property is "cropland reserve." The USDA has classified the subject land as highly erodible, as evidenced by a "Highly Erodible Land and Wetland Conservation Certification." *Watson testimony.* The certification is for the crop year 1987, but nothing has changed. *Watson testimony; Pet'rs Ex. 4 at 2.*

f) According to Ms. Watson, the PTABOA agreed to combine the subject parcels and assess them as agricultural land. *Watson testimony.* The Petitioners presented copies of the PTABOA determinations, all of which state: "21.6 AC @ cropland @ AG land, 3 homesites instead of 4, remaining acreage @ 1050 w/no influence factor, & combine parcels together." *Pet'rs Ex. 7.* Donna Lutes, the former county assessor, who opposed the PTABOA determinations, wrote a note on the determinations stating that the township trustee changed the values in the county's computer system. *Id.; Watson testimony*. The note further says that Ms. Lutes was not going to change the values again because she was sure that the Petitioners would appeal to the "State." *Id.* Ms. Watson suspects that the Respondent may be biased, because the Petitioners

have done everything necessary to show that the subject property is a farm. *Watson testimony.* She does not believe that other farmers have experienced similar difficulty in having their land correctly assessed. *Id.*

12. Summary of Respondent's contentions:

a) Only land devoted to agricultural use may be assessed as agricultural. *Walls argument; Resp't Ex. 2 at 6.* The Respondent contends the Petitioners use the subject property for recreation, not agriculture. *Walls argument.* Ms. Watson sent the Respondent a letter on letterhead containing the phrase "El Recreo Estate" above the subject properties' street address. *Resp't Ex. 1 at 5.* Ms. Watson also sent the Respondent a letter on letterhead with the phrase "El Recreo 'The Watsons'" above a different address. *Id.* at 4. The Respondent looked up "recreo" on Word Reference.com English-Spanish Dictionary and found that it basically translates to "recreation." *Walls testimony; Resp't Ex. 1 at 1-3.*

b) The Respondent initially offered to combine the parcels for the Petitioners. *Walls testimony.* Respondent's Exhibit 3 shows the Respondent's calculations. *Id.; Resp't Ex. 3 at 1.* The Petitioners did not agree and wanted to take their case to the PTABOA. *Walls testimony.*

c) Troy Hobson, with the USDA Farm Services Agency, sent a letter to Ms. Watson indicating that she was listed as an owner or producer on a production flexibility contract for three acres of corn. *Walls testimony; Resp't Ex. 3 at 2.* Based on that letter, the Respondent added three acres to the 18.6 acres identified by the Petitioners and determined that the subject property had cropland totaling 21.6 acres. *Id.* The Petitioners also gave the Respondent excerpts from the Winter 2006 issue of *The Woodlands Steward* and various internet articles about woodlands. *Walls testimony; Resp't Ex. 4.* But that information did not show that the Petitioners were in the woodlands' program. *Id.*

d) The PTABOA heard the Petitioners' appeals and ordered that the subject property be assessed as follows: 21.6 acres as cropland; 3 homesites instead of 4; and all other acreage at $1,050 with no influence factor. The PTABOA also ordered that the subject parcels be combined. *Walls testimony; Pet'rs Ex. 7.*

e) Ms. Walls made the changes ordered by the PTABOA decision in the county's computer system because the county assessor did not make the changes. *Walls testimony.* The changes she made were consistent with the PTABOA determination. Although the PTABOA ordered the parcels to be combined, the subject land is located in different sections and cannot be combined. *Walls testimony.* Ms. Walls therefore priced the subject land by section, and did not combine the different sections. *Id.*

Record

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

a) The Form 131 petitions,

b) The digital recording of the hearing,

c) Exhibits:

Petitioners Exhibit 1A: Pages from Rules 5 & 6 (50 IAC 2.2-5 and 2.2-6) [*Note: 50 IAC 2.2 was repealed effective 3/1/02*],
Petitioners Exhibit 1: Copy of Property Record Cards (front only) for subject parcels,
Petitioners Exhibit 2: Copy of Form 131 Petitions,
Petitioners Exhibit 3: Brief Discussing Land Classification,
Petitioners Exhibit 4: Department of Agriculture CPR – Photograph and Highly Erodible Land Conservation Certification,
Petitioners Exhibit 5: USDA – Wildlife Habitat Established 1979 [*Note: Dates show 1997 to 2001*],
Petitioners Exhibit 6: USDF Forestry Timber/Woodland Management,
Petitioners Exhibit 7: Form 115 notices with notes from County Assessor,

Respondent Exhibit 1: Copy of definition of the word recreo,
Respondent Exhibit 2: Copy of Final Determination from IBTR for Bryan Piles,
Respondent Exhibit 3: Copy of offer to the Watson's by the Township Assessor, for new values for the land,
Respondent Exhibit 4: Copy of the Winter Issue 2005 of the Indiana Woodland Steward Institute bulletin provided by the Petitioners to the Respondent,

Board Exhibit A: Form 131 petitions,
Board Exhibit B: Notices of Hearing,
Board Exhibit C: Hearing Sign In Sheet.

d) These Findings and Conclusions.

Objections

Relevancy

14. Ms. Watson objected to Respondent's Exhibits 1 and 2 on relevancy grounds. *Watson objection.* The ALJ took this objection under advisement. The Board now overrules Ms. Watson's objection.

15. Evidence is irrelevant if it lacks "any tendency to make the existence of any fact that is of consequence to the determination more probable or less probable than it would be without the evidence." Ind. Evidence Rule 401.

16. Respondent's Exhibit 1 contains two letters written by Ms. Watson on letterhead using the term "El-Recreo," and a three-page printout from Word Reference.com English-Spanish Dictionary, containing English translations for "recreo." One of those translations is "entertainment, pleasure." *Resp't Ex. 1*. The Respondent offered Exhibit 1 to show that the Petitioners used the subject property for recreational purposes. Exhibit 1 therefore has at least some tendency to show that the Petitioners devoted the subject property to a non-agricultural use. And the Petitioners' use of the subject property is central factual question in these appeals

17. The mere fact that the Respondent's Exhibit 1 is admissible, however, does not mean that the Board must give it significant weight. Indeed, by itself, Respondent's Exhibit 1 does little to support an inference that the Petitioners used the subject property for recreational purposes.

18. Respondent's Exhibit 2 is a copy of the Board's determination in *Piles v. Vanburen Twp. Assessor,* Pet. No. 07-003-02-1-5-00174 (Ind. Bd. of Tax Review, March 22, 2007). That determination addresses issues similar to those raised in the Petitioners' appeals. *See Resp't Ex. 2*. While the Board is not bound by its prior determinations, parties may reference those determinations in making their arguments.

Exhibit Labeling

19. Ms. Watson also objected to the admission of all of the Respondent's exhibits because the Respondent did not label them in the manner prescribed by the Board's hearing instructions. According to Ms. Watson, the Respondent should not have used "sticky notes" to label its exhibits, but rather should have marked each exhibit on its lower right-hand corner. Also, the Respondent did not prepare a cover sheet as instructed. Ms. Watson claimed that the Respondent's labeling method confused her. *Watson objection.*

20. The Board's pre-hearing instructions for labeling exhibits promote the orderly and efficient administration of justice. And, in a given case, the Board might exclude a party's evidence if the party repeatedly and deliberately ignores the Board's instructions. This, however, is not such a case. To the extent the Respondent's system of labeling its exhibits confused Ms. Watson, her remedy was simply to request that ALJ instruct the Respondent to properly label its exhibits before offering them into evidence. The Board therefore overrules Ms. Watson's objection.

Analysis

21. The most applicable governing cases are:

    a) A petitioner seeking review of an assessing official's determination 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).

    b) In making its case, the petitioner 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").

    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)*; see also Meridian Towers*, 805 N.E.2d at 479.

22. The Petitioners did not provide sufficient evidence to support their contentions. The Board reaches this conclusion for the following reasons:

PTABOA Determinations

    a) Before addressing the merits of Ms. Watson's claim that the subject property is incorrectly assessed, the Board must address the threshold issue of what the property is currently assessed for. Ms. Watson contended that the PTABOA did not correct the subject property's assessment to conform to its Form 115 determinations.

    b) According to Ms. Watson, the Respondent changed the subject property's pricing from residential to farmland and back to residential. *Watson testimony; Pet'rs Exs. 1, 7.* Ms. Watson focused on handwritten notes from Donna Lutes, then the Brown County Assessor, on each Form 115 determination. The notes vary slightly from one determination to the next, but Ms. Watson pointed to three in particular. On the determination for Key No. 002-63000-00, Ms. Lutes wrote, "[c]omputer says Nettie Walls T.T. priced this land on 3/30/06—values are posted as PTABOA chg'd them but no notices were printed." *Board Ex. A.* Similarly, on the determination for Key No. 002-63000-01, Ms. Lutes wrote, "values in computer were changed by T.T. Nettie Walls 3-30-2006 but the posting says P.T.A.B.O.A. but since T.T. changed values and since I am sure the Watsons will file w/ the state I am not going to change the values again." And on the determination for Key No. 002-63000-02, Ms. Lutes wrote "[v]alues in computer were chg'd by T.T. Nettie Walls 3/30/06 but the posting says PTABOA— these values are wrong per PTABOA but since TT chg'd them again & since I am sure the Watsons will file w/ the state I am not changing them again." *Id.*

c) Ms. Lutes's notes, while confusing, do not demonstrate that the subject properties' pricing was changed to agricultural and then back again. And whether the Respondent did so is irrelevant to the Petitioners' appeals. The question before the Board is whether the assessment as determined by the PTABOA is incorrect, and if so, what the correct assessment should be.

d) The Petitioners, however, are entitled to have their property record cards reflect the determination of the highest body to address the Petitioners' claims. Because the Board determines that the Petitioners failed to establish that the PTABOA's assessment is erroneous (*see infra*), the Petitioners' property record cards should reflect the PTABOA's determination. While the March 1, 2003, values on the property record cards submitted by Ms. Watson match the values set forth on the PTABOA's Form 115 determinations,[3] the March 1, 2002, values do not. *See Board Ex. A; Pet'rs Exs. 1, 7.* The Board therefore orders the Respondent to comply with the PTABOA's determinations for the March 1, 2002, assessment date.

Assessed Value

e) The Board now turns to Ms. Watson's allegation that the PTABOA incorrectly determined the subject property's assessment. As an initial matter, the Board notes Ms. Watson did not present any market-based evidence to demonstrate that the subject property is assessed above its true tax value. Instead Ms. Watson contended that the bulk of the property should be assessed as agricultural woodland with an 80% negative-influence factor.

f) The Indiana General Assembly has directed the Department of Local Government Finance ("DLGF") to establish rules for determining the true tax value of agricultural land. Ind. Code § 6-1.1-4-13(b). The DLGF, in turn, established a base rate of $1050 to be used in assessing agricultural land across the State. REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 – VERSION A, ch. 2 at 98-99 (incorporated by reference at 50 IAC 2.3-1-2). The DLGF's Guidelines direct assessors to adjust the agricultural base rate using productivity factors developed from USDA-published soil maps. *Id.* at 105-06. The Guidelines also require assessors to further classify agricultural land into various types, some of which call for applying influence factors in pre-determined amounts. *Id.* at 102-05.[4] One such type is "woodland (land type

[3] It appears that those numerical values may conflict with the PTABOA's description of how it was changing the Petitioners' assessments. In each Form 115 determination, the PTABOA indicated that all five parcels should be combined, that 21.6 acres should be assessed as cropland, that the number of homesites should be reduced from four to three, and that all the remaining acreage should be assessed at $1,050 per acre with no negative influence factors. *Board Ex. A.* But the property record cards, which match the PTABOA's numerical determinations, show 18 acres on Key No. 002-63000-00 assessed as excess residential acreage at $3,500 per acre and a total of four one-acre homesites. *Id.* To the extent that this creates any ambiguity, however, it does so only by reference to the property record cards submitted by Ms. Watson. The Board will not look to extrinsic evidence to construe a PTABOA's determination, unless an ambiguity appears on the face of that determination.

[4] Ms. Watson cited to 50 IAC 2.2-5 to support her claims about how agricultural land should be assessed. *Watson testimony; Pet'rs Ex. 1.* The Department of Local Government Finance, however, repealed that rule effective March 21, 2002. The rules governing real-property assessment for the 2002 general reassessment are set forth at 50

6)," which the Guidelines describe as "land supporting trees capable of producing timber or other wood products" that has "50% or more canopy cover or is a permanently planted reforested area." *Id.* at 104. The Guidelines direct assessors to apply an 80% influence-factor deduction to agricultural woodland. *Id.*

g) But only land actually "devoted to agricultural use," may be assessed as agricultural land. Ind. Code § 6-1.1-4-13(a). The word "devote" means "to give or apply (one's time, attention, or self) completely." WEBSTER'S II NEW RIVERSIDE DICTIONARY 192 (revised edition). Thus, a taxpayer seeking to have its land assessed as agricultural cannot prevail merely by showing that agriculture is simply one activity for which it uses the land. That being said, truly incidental non-agricultural uses do not disqualify land from being assessed as agricultural.

h) Here, Ms. Watson presented little evidence that the Petitioners devoted the subject property to agricultural use beyond her blanket assertion that the Petitioners sold timber. Ms. Watson did not identify any actual timber sales. At best, she testified that three companies had visited the subject property within the three years before the Board's hearing and had advised the Petitioners that their trees were not yet ready to be harvested. Ms. Watson's testimony tends to show that, as of 2004, the Petitioners used the subject land, in part, to raise and sell timber. But is does not show that the Petitioners used the subject land for selling timber as of March 1, 2002, much less that selling timber was its primary use as of that date. Ms. Watson also presented a 1975 invoice for what appears to be 100 Scotch-Pine seeds and a "wildlife packet," totaling $12.88. *Pet'rs Ex. 6*. That invoice does nothing to show that the Petitioners were raising and selling timber in 1975, much less in 2002.

i) Ms. Watson also contended that the Respondent had classified the subject property as agricultural woodland in earlier assessments. Each assessment and each tax year, however, stands alone. *Fleet Supply, Inc. v. State Bd. of Tax Comm'rs,* 747 N.E.2d 645, 650 (Ind. Tax Ct. 2001). Thus, evidence of a property's assessment in one tax year is not necessarily probative of it true tax value in a different year. *See id.* ("[E]vidence as to the Main Building's assessment in 1992 is not probative as to its assessed value three years later."). That is particularly true where, as here, the change in assessment stems from a property being revalued under the 2002 general reassessment. Before that reassessment, true tax value was determined solely by applying the State Board of Tax Commissioners' regulations. *Dep't of Local Gov't Fin. v. Commonwealth Edison Co.*, 820 N.E.2d 1222, 1224 (Ind. 2005). For the 2002 general reassessment, however, true tax value is defined 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." MANUAL at 2; *see also*, *Commonwealth Edison*, 820 N.E.2d at 1224.

j) Ms. Watson next contended that the subject property contains wildlife habitat and cropland. On the March 1, 2002, assessment date, the Indiana Code provided that

land classified as wildlife habitat by the Indiana Department of Natural Resources (DNR) was to be assessed at $1 per acre. Ind. Code § 6-1.1-6.5-8(2002)[5]; *see also* REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 – VERSION A, ch. 2 at 102-03 (providing that land classified as wildlife habitat with the DNR is entitled to a 100% influence factor deduction). To qualify, however, three things had to occur: the property owner was required to apply for wildlife-habitat classification, the DNR had to approve that application, and the owner had to record the DNR's approval. I.C. § 6-1.1-6.5-5 through 7. And the owner was required to follow minimum standards of good wildlife management prescribed by the DNR. I.C. § 6-1.1-6.5-10. If the owner withdrew the land from classification or failed to follow the DNR's wildlife-management standards, it was required to pay a withdrawal fee. I.C. § 6-1.1-6.5-18.

k) It should not have been difficult for Ms. Watson to establish that a portion of the subject property was classified as wildlife habitat under Ind. Code § 6-1.1-6.5. She need only have presented a copy of the DNR's recorded approval of the Petitioners' application. Instead, Ms. Watson submitted a copy of a document identified as a "Conservation Plan Schedule of Operations" from the USDA Natural Resources Conservation Service Bloomington Office. *Pet'rs Ex. 5*. That document refers to "Tract 1339" as "Wildlife Habitat" and apparently sets out a plan for 18.6-acres to be used to "maintain a permanent wildlife habitat cover to enhance environmental benefits for the designated area." *Id*. Although Ms. Watson did not explain the document, it arguably shows that an 18.6-acre portion of the subject property was part of a federal wildlife-habitat program. It does not, however, show that the subject property was classified wildlife habitat under Ind. Code § 6-1.1-6.5 or the Guidelines.

l) And, although Ms. Watson argued that a small portion of the subject property should be treated as "cropland," she did little to show any agricultural use of that land. She did offer a "Highly Erodible Land and Wetland Conservation Certification" from the USDA. *Pet'rs Ex. 4 at 2*. But that certification is for crop-year 1987 and it contains very little information. Indeed, there is nothing on the certification relating it to the subject property. *Id.* And the certification does not show that the Petitioners were growing crops on the property referenced therein. Indeed, the certification appears to have been issued in connection with Mr. Watson's application for a USDA loan, and it indicates that Mr. Watson agreed *not* to produce any agricultural commodities during the term of the loan. *Id*.

m) Nonetheless, Ms. Watson did testify that the Petitioners grew hay on the restricted land. Moreover, the Respondent apparently concedes that a 21.6-acre portion of the subject property should be assessed as "cropland." And the PTABOA's order mirrors that concession. Given that the majority of the Petitioners' land is assessed at the agricultural base rate of $1,050, however, Ms. Watson failed to show that the 21.6-acre area is not correctly assessed. While agricultural assessment requires adjusting the base rate for soil-productivity factors, Ms. Watson did not show whether the

[5] The Indiana General Assembly repealed Ind. Code § 6-1.1-6.5 in 2006. P.L.66-2006, SEC.30. Land previously classified as wildlife habitat under Ind. Code § 6-1.1-6.5 is now classified as wildlands under Ind. Code Ind. Code § 6-1.1-6. P.L. 66-2006, SEC. 32.

proper adjustment would have resulted in an increase or decrease to the base rate. Similarly, Ms. Watson did not show that the 21.6 acres were "farmed wetlands" qualifying for a 50% negative-influence factor. *See* GUIDELINES, ch.2 at 104, 115. Although the Highly Erodible Land and Wetland Conservation Certification shows that some unspecified land owned by Leroy Watson was part of a USDA program in 1987, it does not show that any portion of the subject property was part of the USDA's farmed wetlands program on March 1, 2002, as required by the Guidelines. *See id*.

n) It is entirely possible that the subject property is assessed for more than its true tax value, given that it is heavily wooded and may contain wetlands and erodible soil. But the Board once again emphasizes that Ms. Watson did not present any market-based evidence, such as a professional appraisal, to establish the property's value. *See Kooshtard Property VI, LLC v. White River Twp. Assessor*, 836 N.E.2d 501, 505 n. 1 (Ind. Tax Ct. 2005) *reh'g den. sub nom. P/A Builders & Developers, LLC,* 842 N.E.2d 899 (Ind. Tax 2006) ("[T]he Court believes (and has for quite some time) that the most effective method to rebut the presumption that an assessment is correct is through the presentation of a market value-in-use appraisal, completed in conformance with the Uniform Standards of Professional Appraisal Practice."). She instead relied solely upon her claim that the Petitioners' land should be assessed under the Guidelines' rules for assessing agricultural land. Because she did not show that the Petitioners devoted the subject property to agricultural use, her claim fails.

o) Finally, on their Form 131 petitions, the Petitioners contended that the subject improvements were assessed incorrectly. Ms. Watson, however, did not address the subject improvements at the hearing. The Board therefore summarily denies the Petitioners' claims that the subject improvements were incorrectly assessed.

p) Based on the foregoing, the Petitioners failed to make a prima facie case for a change in assessment.

Conclusion

23. The Petitioners failed to make a prima facie case. The Board finds for the Respondent. The assessment shall be as determined by the PTABOA.

Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should not be changed. The Board, however, orders the Respondent to correct the subject property's record cards to reflect the PTABOA's value determinations for the March 1, 2002, assessment date.

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>