

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

Petition: 20-001-03-1-5-00020
Petitioner: Michael Barden
Respondent: Baugo Township Assessor (Elkhart County)
Parcel: 20-05-23-277-013.000-001
Assessment Year: 2003

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 Petitioner initiated an assessment appeal with the Elkhart County Property Tax Assessment Board of Appeals (“PTABOA”) on October 27, 2004.
2. The Petitioner received notice of the decision of the PTABOA on January 31, 2005.
3. The Petitioner filed an appeal to the Board by filing a Form 131 petition with the county assessor on February 14, 2005. The Petitioner elected to have this case heard according to small claims procedures.
4. The Board issued a notice of hearing to the parties dated November 21, 2005.
5. The Board held an administrative hearing on January 11, 2006, before Administrative Law Judge Debra Eads.
6. Persons present and sworn as witnesses at the hearing:
Michael Barden, Owner,
Elaine Holmes-Cobane, Baugo Township Deputy Assessor,
Jack Simper, Baugo Township Assessor,

Facts

7. The property is a single-family residence.
8. The Administrative Law Judge (“ALJ”) did not conduct an inspection of the property.

9. Assessed value as determined by the Elkhart County PTABOA:
Land \$14,200 Improvements \$69,200 Total \$83,400.
10. Assessed value requested by Petitioner on the Form 131 petition:
Land \$14,200 Improvements \$52,050 Total \$66,250.

Issues

11. Summary of Petitioner's contentions in support of alleged error in assessment:
- a) The subject dwelling is a "split single wide manufactured home" that meets the HUD manufactured home requirements. The subject dwelling is not a modular home.
Barden testimony
 - b) In 1998, the subject dwelling sold new for \$42,900 including delivery, set up, appliances, warranty, and an 8 x 10 shed. The Petitioner purchased the subject dwelling in 2002 for \$20,000 after it had been repossessed. The subject dwelling had no appliances or warranty. The interior was not in good shape. The Petitioner paid \$4,630 to have the home torn down and moved to the Petitioner's property. The air conditioning was faulty and not hooked up after the move. *Barden testimony; Pet'r Exs. 0, 4A.*
 - c) The Petitioner purchased the subject land for \$20,000 in 2002. The actual cost for the well and septic added to the subject land was \$5,000. The subject land would have been worth more in 2002 than in 1999. *Barden testimony.*
 - d) The Petitioner's actual cost for the basement was \$11,787 in 2002. *Barden testimony; Pet'r Ex. 3.*
 - e) After the Petitioner moved the home to his property, he added a 10' x 31' addition. The addition was just a shell on March 1, 2003. The addition was just a shell until April and May 2003, when the interior was finished. The Petitioner presented the electrical inspection dated April 4, 2003. The Petitioner completed the exterior of the addition in June 2003. *Barden testimony; Pet'r Ex. 6.*
 - f) The PTABOA made corrections regarding the sheds, air conditioning, and fireplace. Currently there is an unfinished interior adjustment of \$4,900. The Petitioner contends the unfinished addition still needs corrections for the lack of heating and electrical, which would make the correct total adjustment \$6,900. *Barden testimony; Pet'r Exs. 6, 20.*
 - g) The condition rating of the subject dwelling should be fair not average. The Petitioner read the characteristics for fair condition rating. The Petitioner stated that having the unfinished addition for ten months is deferred maintenance. The Petitioner further stated there is only one other manufactured home in the

neighborhood. On three sides of the neighborhood there are newer subdivisions with more expensive and nicer homes. *Barden testimony; Pet'r Ex. 11.*

- h) The grade factor should be E+2 rather than D, as assigned by the township. The Petitioner presented a copy of the grade specifications table and a listing of some of the characteristics of the subject dwelling. The Petitioner stated that based on the Guidelines the subject dwelling should be an E grade. The Petitioner testified that because the subject dwelling is a manufactured home, the roof, the electrical, and the floor would not meet the code requirements for a stick built home. The Petitioner testified that the roof, flooring, interior doors, and cheap windows are E grade items. *Barden testimony; Pet'r Exs. 9A – 9E.*
- i) The Petitioner calculated the “actual value” of the subject property would be \$60,986 in 1999. He started with the original sale price of \$42,900 for the subject dwelling from 1998. He deducted \$2,500 for air conditioning and a year’s depreciation at 3%. He added the cost of the basement less 5% depreciation, the value of the unfinished addition from the "assessor’s book" (the GUIDELINES), and the assessed value of the land to arrive at a value of \$70,586. The Petitioner applied the LCM (location cost multiplier) and NBHD (neighborhood) factor to arrive at a value of \$60,986. The Petitioner contends this amount is what the subject property would actually sell for. *Barden testimony; Pet'r Ex. 3.*
- j) The Petitioner also calculated the value of the subject dwelling using the “mobile home formula.” The Petitioner used economy grade and average condition when valuing the subject dwelling. The Petitioner added the basement, unfinished addition, shed, and assessed value of the subject land to arrive at a value of \$69,136. *Barden testimony; Pet'r Exs. 22, 23A - 23C, 24A - 24C.*
- k) There is one split single manufactured home in the township and it is similar to the subject dwelling. The property is located at 56763 Bellflower. The Petitioner testified that the Bellflower property is almost the same as the subject dwelling. The Bellflower property is 2 years older, just 100 square feet smaller, has a crawl space, pole barn, and air conditioning. The subject dwelling has a basement and an unfinished addition. The Petitioner claims the differences cancel each other out. The Bellflower property sold in 2002 for \$78,000 with \$3,000 seller assistance for an actual sale price of \$75,000. When sale price is adjusted by .015 per year to 1999, the resultant value is \$71,250. If adjusted by .02 per year, the resultant value would be \$68,000, which is what the Bellflower property is assessed for in 1999. *Barden testimony; Pet'r Exs. 13, 13A, 13B.*
- l) The Petitioner had the subject property appraised in November 2002. The appraisal values the subject property at \$75,000 as of November 20, 2002. The Petitioner testified that the appraisal values the subject property as if the addition were completely finished. The Petitioner pointed out that the cost approach in the appraisal is based on Marshall Swift and values the subject property at \$71,000. *Barden testimony; Pet'r Exs. 27A – 27G.*

- m) The Respondent's comparison of the subject dwelling and three other manufactured homes in Baugo Township does not give sufficient consideration to the fact the addition was unfinished. Furthermore, there are errors in the adjustments for garages on the comparables. The Petitioner testified that he pulled building permits and drove by the properties. The garage adjustments need to be corrected. Doing so would bring those values down. *Barden testimony.*
- n) The county estimated the cost of \$60,000 for the subject property on the building permit, not the Petitioner. *Barden testimony.*

12. Summary of Respondent's contentions in support of the assessment:

- a) Following the Petitioner's appearance before the PTABOA, the Respondent made corrections to the value assigned to the dwelling addition. The adjustment for unfinished interior includes the lack of central heating. The Respondent has been unable to determine if the adjustment for unfinished interior would include the lack of electricity. If an additional adjustment is needed, it would be an additional \$1,000 that would be adjusted by the grade and neighborhood factor. *Holmes-Cobane testimony.*
- b) The Respondent supports the grade factor assigned to the subject dwelling because of the 80% neighborhood factor assigned to the subject area. Some other manufactured homes in the township have a D-1 grade factor, because there is a higher neighborhood factor where those manufactured homes are located, and therefore, a need exists to more significantly reduce the value of the subject property prior to the application of the neighborhood factor. *Holmes-Cobane testimony.*
- c) The Respondent does not dispute the \$42,900 original sale price of the subject manufactured home. *Holmes-Cobane testimony.*
- d) The Petitioner paid \$20,000 for the land in 2002. The addition of a well and septic system would add approximately \$5,000 to the value of the land. *Holmes-Cobane testimony; Resp't Ex. 4.*
- e) The original cost of the manufactured home (with 3% depreciation), plus the cost of the basement (also with 3% depreciation), the unfinished addition, the sheds, and the land result in a total value is \$85,053. *Holmes-Cobane testimony; Resp't Ex. 10.*
- f) The building permit indicates the estimated cost of the subject dwelling (the manufactured home and basement) was \$60,000. Adding the cost of the land (\$20,000), plus the well and septic (\$5,000), produces a total of \$85,000. That value is in line with the assessment. *Holmes-Cobane testimony; Resp't Exs. 3, 4.*

- g) A comparison of the subject property with three other manufactured homes in Baugo Township supports the value assigned to the subject property. *Holmes-Cobane testimony; Resp't Ex. 5.*
- h) The Respondent contends the \$3,000 adjustment in the appraisal for a crawl space instead of a basement is too low because having a basement would add more value. Nevertheless, the Respondent used that \$3,000 on her comparison. The Respondent also contends the \$2,000 adjustment in the appraisal for land size is also too low. Again, the Respondent used that \$2,000 in her comparison. The subject dwelling was built in 1998, the comparables are older, but no adjustment was made for age. The comparison values range from \$82,000 to \$89,000. *Holmes-Cobane testimony; Resp't Exs. 5, 7.*
- i) The Respondent pointed out some differences between the Bellflower property and the subject property. The Bellflower property has 1,028 square feet, a crawl space, a lot size of .355 acres, a 24' x 24' garage, and a .77 neighborhood factor. The subject property has 1,550 square feet, a basement, a lot size of .910 acres, 2 woodsheds, and a .80 neighborhood factor. *Holmes-Cobane testimony.*

Record

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

- a) The Petition,
- b) The tape recording of the hearing labeled BTR # 6198,
- c) Exhibits:

- Petitioner Exhibit 1: Petitioner's Property Record Card (PRC),
- Petitioner Exhibit 2: Petitioner subdivision layout,
- Petitioner Exhibit 3: Petitioner's calculation of actual value in 1999,
- Petitioner Exhibit 4A: Letter from Stephanie Reed,
- Petitioner Exhibit 5: Stick built formula by Petitioner,
- Petitioner Exhibit 6: Wiring Permit,
- Petitioner Exhibit 7: None,
- Petitioner Exhibit 8A-B: Guideline Appendix A, pages 4 and 9,
- Petitioner Exhibit 9A-D: Grade Appendix A, pages 10-14,
- Petitioner Exhibit 9E: Petitioner's Summary My Home Grade,
- Petitioner Exhibit 10A-C: Grade materials from Indiana Administrative Code,
- Petitioner Exhibit 11: Depreciation Appendix B, page 7,
- Petitioner Exhibit 12: Depreciation Appendix B, page 13,
- Petitioner Exhibit 13A-B: Property record card, sales disclosure, listing information for 56763 Bellflower,
- Petitioner Exhibit 14A: None,

Petitioner Exhibit 14B: PRC for Pauls Village View Lot 28 (a photograph covers part of PRC data),
Petitioner Exhibit 15A-C: Petitioner's home pictures,
Petitioner Exhibit 16A-C: Pictures of other homes in same subdivision,
Petitioner Exhibit 17A-C: Photos and sales disclosures for homes in subdivision across the street from subject property,
Petitioner Exhibit 18A-B: Depreciation Appendix B, pages 17 and 21,
Petitioner Exhibit 19A-B: Residential Cost schedule, Appendix C, pages 2 and 3,
Petitioner Exhibit 20: Appendix C, Schedule C,
Petitioner Exhibit 21: Appendix C, Schedule E.2 (continued),
Petitioner Exhibit 22: Petitioner's mobile home formula,
Petitioner Exhibit 23A-C: Chapter 4 (Mobile and Manufactured Homes), pages 3, 14 and 20,
Petitioner Exhibit 24A-C: Manufactured home grades, Appendix A, pages 47-49,
Petitioner Exhibit 25: Depreciation for Post HUD Code Models, Appendix B, table B-6,
Petitioner Exhibit 26: Mobile Home cost schedule from Appendix C,
Petitioner Exhibit 27A-G: Appraisal of the subject property,
Petitioner Exhibit 28A-C: PRCs for appraisal comparables,
Petitioner Exhibit 29: Assessors office comments on the appraisal,
Petitioner Exhibit 30A-B: Assessors office letter and a PRC with photograph over part of data on the PRC,
Petitioner Exhibit 31A-D: Assessors office comparable manufactured homes,
Petitioner Exhibit 32: Assessors Office rebuttal to Petitioner's comparison method,
Petitioner Exhibit 33A-C: Petitioner's letter to Tax Board,
Petitioner Exhibit 34A-B: Petitioner's rebuttal to assessor's comments,
Petitioner Exhibit 35: Request for additional evidence,
Petitioner Exhibit 36: Form 115, PTABOA determination,
Petitioner Exhibit 37: Administrative Subpoena,
Petitioner Exhibit 38A-H: Pictures illustrating home grades,

Respondent Exhibit 1: Form 131 Petition,
Respondent Exhibit 2: Petitioner's PRC,
Respondent Exhibit 3: Building permit,
Respondent Exhibit 4: Sales disclosure for vacant lot,
Respondent Exhibit 5: Subject property compared to three other properties with sales disclosures and photographs,
Respondent Exhibit 6: Proposed changes to assessment,
Respondent Exhibit 7: Appraisal of subject property submitted by the Petitioner,
Respondent Exhibit 8: Summary of findings of the Baugo Township Assessor,
Respondent Exhibit 9: Form 115, PTABOA determination,
Respondent Exhibit 10: Respondent's cost calculation,
Respondent Exhibit 11: Comments on 56763 Bellflower property,

Board Exhibit A: Form 131 Petition,
Board Exhibit B: Notice of Hearing,
Board Exhibit C: Hearing sign-in sheet,
Board Exhibit D: Administrative Subpoena,

- d) These Findings and Conclusions.
14. The Petitioner requested an administrative subpoena for the original bill of sale for the subject dwelling and the salesperson to appear at the hearing. The Petitioner had the subpoena served, but he was not able to get the original bill of sale, nor did the salesperson appear at the hearing. The Petitioner offered a letter from the salesperson stating the home was built in 1998 and at that time sold for \$42,900. *Pet'r Ex. 4A*. The Respondent did not dispute that fact.

Analysis

15. The most applicable governing cases are:
- a) A Petitioner 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).
 - 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) (“[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 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 Petitioner provided sufficient evidence to support a reduction in assessment. 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. See REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 — VERSION A (hereafter Guidelines). 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 value of the property as of January 1, 1999. MANUAL at 4. Should a party present any evidence of value relating to a different time, the evidence must provide some explanation about 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 addition on the subject property was just a shell on the assessment date. The Respondent made an adjustment for unfinished interior in the addition, but the Petitioner contends additional adjustments should have been made for the lack of heat and electricity. The Guidelines contain adjustments for interior features. GUIDELINES, ch. 3. Those adjustments clearly state that the deduction for interior finish includes an adjustment for heating. Therefore, no separate deduction for heating is required. GUIDELINES, ch. 3 at 46. There is no such language regarding lack of electricity. The Petitioner has shown that an additional adjustment should be made for the lack of electricity in the addition. The adjustment would be an extra \$1,000 on the unfinished interior adjustment for a total deduction of \$5,900.¹ GUIDELINES, Schedule C, App. C at 6.
 - d) The Petitioner contends the condition rating of the subject dwelling should be fair. The Petitioner read the definition for fair condition and stated that having an unfinished addition for ten months would be deferred maintenance. The Petitioner presented a copy of the characteristics of the condition ratings with the characteristics for fair condition highlighted. *Pet'r Ex. 11*. The only other evidence presented by the Petitioner on this point was conclusory testimony that the dwelling was in fair condition. Such statements, unsupported by factual evidence, are not sufficient to establish an error in assessment. *Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).
 - e) The Petitioner contends the grade of the subject dwelling should be E+2 rather than D. To establish a prima facie case on grade, Petitioners must submit probative evidence that the assigned grade was incorrect and probative evidence establishing the correct grade. *Sollers Pointe Co. v. Dep't of Local Gov't Fin.*, 790 N.E.2d 185, 191 (Ind. Tax Ct. 2003). The Petitioner did not present probative evidence that the

¹ For reasons explained later in this decision, however, this adjustment is a moot point when the assessment is based on the appraisal that was submitted by both parties.

current grade is wrong or what the correct grade should be. Many of the features on Petitioner's list fall within the description of both the D and E grade. The Petitioner did not explain or analyze the features of the subject dwelling. He merely presented the list, but failed to establish how it was probative. The Petitioner did not establish a prima facie case based on that conclusory evidence. *See Whitley Products*, 704 N.E.2d at 1119.

- f) The Petitioner presented three alternative methods of computing his assessment. The Petitioner computed his assessment using "actual cost," a "mobile home formula," and a "stick built formula." *Pet'r Exs. 3, 5, 22*. There are flaws with each of these proposed methods.
- g) The Petitioner's actual cost method uses the original cost of the subject dwelling, then adds his cost for the basement and subtracts for lack of air conditioning. The Petitioner adjusts for depreciation, but does not explain or substantiate the depreciation percentages used. The Petitioner adds a value for the unfinished addition based on the Guidelines, not his actual cost. The Petitioner includes the land at its assessed value, not actual cost of the land, well and septic system. Finally, the Petitioner applied the location cost multiplier and the neighborhood factor to the total (including the land value). While the Petitioner calls this an "actual cost" method, it is really a hodgepodge approach to value. The Petitioner failed to establish that it is probative evidence of value according to any generally accepted method.
- h) The Petitioner claimed his mobile home formula was closer to the original sale price of the subject dwelling. In this computation, the Petitioner assumes the subject dwelling would be an economy grade mobile home. The Petitioner presented copies of the grade descriptions for mobile and manufactured homes, but provided no probative evidence or explanation about how the subject dwelling fits that description. The Petitioner used a D-1 grade for the basement and addition, again without any probative evidence or explanation. The Petitioner failed to establish that the calculation under his mobile home formula has probative value.
- i) The Petitioner's stick built formula values the subject dwelling using a grade of E+2 and fair condition. As stated above, the Petitioner failed to provide probative evidence to support his contentions on grade and condition. Therefore, the Petitioner failed to establish that the calculation has probative value.
- j) The Petitioner provided a property record card, sales disclosure form, and listing information for a purportedly comparable property located at 56763 Bellflower. The Petitioner essentially relies on a comparison approach to establish the market value-in-use of his property. *See MANUAL* at 2 (stating that the sales comparison approach "estimates the total value of the property directly by comparing it to similar, or comparable, properties that have sold in the market.") *See Long*, 821 N.E.2d at 469.
- k) In order to use such an approach, the proponent must establish the comparability of the properties being examined. Conclusory statements that a property is "similar" or

“comparable” to another property do not constitute probative evidence of the comparability of the two properties. *Long*, 821 N.E.2d at 470. The proponent must identify the characteristics of the subject property and explain how those characteristics compare to the characteristics of the purportedly comparable properties. *Id.* at 471. Similarly, the proponent must explain how any differences between the properties affect their relative market values-in-use. *Id.*

- l) The Petitioner provided a comparison of some features of the subject property with those of the purportedly comparable property at 56763 Bellflower. The Petitioner pointed out differences such as age, square footage, air conditioning, basement versus crawl space, and pole barn versus sheds. The Petitioner must then explain how the differences affect the relative market values-in-use. *Long*, 821 N.E.2d at 470. In this case, the Petitioner simply concludes “the differences cancel each other out.” Such unsubstantiated, conclusory statements do not constitute probative evidence. *Whitley Products*, 704 N.E.2d at 1119. Therefore, the Petitioner failed to establish that the comparison has probative value.
- m) The Petitioner presented seven pages from an appraisal of the subject property. *Pet’r Exs. 27A – 27G*. The Respondent presented a complete copy of this same appraisal. *Resp’t Ex. 7*. The appraisal estimates the market value of the subject property was \$75,000 as of November 20, 2002.
- n) A taxpayer is permitted to rebut the presumption that an assessment is correct with several types of evidence. Such evidence includes information regarding the sale of the subject property and appraisals prepared in accordance with the Manual’s definition of true tax value and the Uniform Standards of Professional Appraisal Practice (“USPAP”). *MANUAL* at 5; *Kooshtard Property VI, LLC v. White River Twp. Assessor*, 836 N.E.2d 501, 506 n.1 (“[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 [USPAP].”). The appraisal estimating the value at \$75,000 is in a category of evidence that is recognized as probative. In this case, however, the appraisal has some problems.
- o) The appraisal does not address the subject property as it existed on the assessment date. The Petitioner testified that the appraisal considers the property as if the addition had been finished before March 1, 2003, but actually, the addition was not finished until June 2003. The dimensions and finished living area listed in the appraisal support the testimony that it included the addition. The Petitioner introduced substantial evidence that the addition was only a shell on the assessment date and that many specific elements of construction were not there. Nevertheless, the Petitioner failed to introduce substantial, probative evidence regarding what the absence of items such as the exterior windows and siding, or interior heat and wiring did to the market value-in-use of the property. *Barden testimony*. Consequently, even though it is probably true that the value would be something slightly less than \$75,000 with an unfinished addition, the evidence in this case does not support any

conclusion regarding what that amount might be. It is clear that the appraisal proves the value would be nothing more than \$75,000.

- p) The appraisal estimates the market value as of November 20, 2002, a date more than three years after the valuation date of January 1, 1999. *See* MANUAL, 4 (“In assessment, we are estimating how this negotiation [regarding the hypothetical sale of properties being assessed] will be resolved as of January 1, 1999.”); *see also*, Long, 821 N.E.2d at 471 (holding that an appraisal value as of December 10, 2003, lacked probative value for a 2002 appeal unless there was some way to relate its value to the correct valuation date, January 1, 1999).
- q) The Petitioner did not expressly relate the appraisal to value as of January 1, 1999. The Respondent, however, introduced evidence that from 1999 through 2002 market values were increasing by approximately 1.5% each year. *Resp't Ex. 5*. Following the example and methodology offered by the Respondent, the time-adjusted value established by the appraisal would be \$70,600. The calculations are as follows:
 $3.92 \times 1.5\% = 5.88\%$ time adjustment
 $\$75,000 \times 5.88\% = \$4,410$ time adjustment
 $\$75,000 - \$4,410 = \$70,590$ time adjusted value (round to \$70,600)
- r) Based on the foregoing, the evidence established a prima facie case that the current assessment is too high and that the market value-in-use is best established by the appraisal with a time adjustment back to value as of January 1, 1999. Furthermore, the appraisal is an alternative approach to value that is separate from the cost basis for determining value that is expressed in the Guidelines. Consequently, the issues the Petitioner raised under the Guidelines are rendered moot by the appraisal.
- s) The burden shifted to the Respondent to impeach or rebut the Petitioner’s evidence. *See Meridian Towers*, 805 N.E.2d at 479.
- t) The Respondent contends that it assessed the subject property in accordance with the Guidelines. The Guidelines, however, are only a starting point in determining the market value-in-use of a property. The appraisal rebutted the presumption that Respondent’s assessment under the Guidelines is an accurate representation of the subject property’s market value-in-use.
- u) The Respondent failed to offer probative evidence to rebut or impeach the appraisal.
- v) The Respondent presented a sales comparison of the subject property and three other properties in support of the assessment. The Petitioner noted this comparison incorrectly values the subject property with the addition as being complete. This fault reduces the credibility of the Respondent's comparables. Even more significantly, however, the Respondent failed to prove the kind of detailed facts and analysis to establish comparability. *See Long*, 821 N.E.2d at 470-471. Therefore, the Respondent failed to establish that its comparables have probative value. *Id.*

Conclusion

17. The weight of the evidence established that the current assessment is incorrect and that the subject property should be assessed not more than of \$70,600.

Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should be changed.

ISSUED: April 13, 2006

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>. The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>.