

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

**Petition #:** 35-014-02-1-4-00084  
**Petitioner:** Ralph L. Johnson  
**Respondent:** Huntington Township Assessor (Huntington County)  
**Parcel #:** 0140300200  
**Assessment Year:** 2002

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

**Procedural History**

1. The Petitioner initiated an assessment appeal with the Huntington County Property Tax Assessment Board of Appeals (the PTABOA) by written document dated December 8, 2003.
2. The PTABOA's Notification of Final Assessment Determination was mailed to the Petitioner on September 13, 2004.
3. The Petitioner filed an appeal to the Board by filing a Form 131 with the county assessor on October 13, 2004. Petitioner elected to have this case heard in small claims.
4. The Board issued a notice of hearing to the parties dated June 30, 2005.
5. The Board held an administrative hearing on August 24, 2005, before the duly appointed Administrative Law Judge (the ALJ) Jennifer Bippus.
6. Persons present and sworn in at hearing:
  - a) For Petitioner: Ralph L. Johnson, Taxpayer  
M. Byron Price, CPA, Witness
  - b) For Respondent: Joan Stoffel, Huntington Township Assessor  
Julie Newsome, Deputy Huntington Township Assessor

## Facts

7. The property is classified as a commercial office building as is shown on the property record card (PRC) for parcel #0140300200.
8. The ALJ did not conduct an inspection of the property.
9. The Huntington County PTABOA determined the assessed values of the subject property to be \$48,600 for the land and \$69,500 for the improvements for a total assessed value of \$118,100.
10. The Petitioner requested an assessed value of \$10,000 for the land and \$51,250 for the improvements for a total assessed value of \$61,250.
11. The subject property is made up of two separate parcels. On Tax ID No. 210-1, there is a warehouse and .457 acres of land assessed. On Tax ID No. 210-2, there is an office building, paving and 1.69 acres of land assessed. *Board Exhibit A*. In the case at bar, the Petitioner is only appealing the assessment for Tax ID No. 210-2 – the office building, paving and 1.69 acres of land.

## Issues

12. Summary of Petitioners' contentions in support of alleged error in assessment:
  - a) The Petitioner testified that the subject parcel (#0140300200) under review is made up of two "parcels." According to the Petitioner, "Parcel 1" is a warehouse and land and "Parcel 2" is an office building, paving and land. *Price testimony*. The Petitioner further testified that the current assessment for Parcel 1, the warehouse and land, is \$59,700. The current assessment for Parcel 2, the office building, paving and land, is \$118,100. *Id.*; *Board Exhibit A*. According to the Petitioner, the assessment on Parcel 1 is close to its market value, but Parcel 2 is overvalued. *Id.*
  - b) In support of his contention that Parcel 2 is assessed too high, the Petitioner submitted an appraisal dated April 18, 2003. *Petitioner Exhibit 5*. Petitioner's appraisal determined the market value for the *entire* parcel (office building, warehouse, paving and 2.132 acres) at \$121,250. *Id.*
  - c) According to the Petitioner, the property was sold to the Petitioner's daughter-in-law on June 30, 2003. *Price testimony*; *Petitioner Exhibit 7*. According to the Sales Contract, the value of the warehouse on Parcel 1 was \$50,000 and the value of the office building on Parcel 2 was \$51,250. *Id.* The value of the land was identified as \$20,000. *Petitioner Exhibit 7*. According to the Petitioner, Parcel 1 and Parcel 2 should each be valued at \$10,000. *Price testimony*.

- d) The Petitioner argued that Parcel 2 should be valued at \$61,550. According to the Petitioner, Parcel 2 (Tax ID No. 210-2) is currently valued at \$118,100. Using the appraisal and subtracting Parcel 1's assessed value (\$59,700) from the total appraised value of \$121,250, leaves a total of \$61,550. The Petitioner contends that this is a more reasonable value for the parcel in question. *Price testimony.*

13. Summary of Respondents' contentions in support of the assessment:

- a) The Respondent argued that the appraisal was done by a licensed broker, not an appraiser. According to the Respondent, there is a difference between a licensed broker and a licensed appraiser. *Stoffel testimony.*
- b) Further, the Respondent alleged, the appeal is for 2002, and the sale of the property took place in 2003 and was made to a family member. *Stoffel testimony.* The appraisal is also dated 2003. *Id.*
- c) Finally, the Respondent contended that the property was properly assessed. According to the Respondent, the land values are based on sales. *Stoffel testimony.* One acre for a commercial property starts at \$41,223 according to the Land Valuation Form. *Id.* The secondary acreage is valued at \$8,000 per acre. *Id.*

**Record**

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

- a) The Petition.
- b) The CD recording of the hearing labeled BTR 6079.
- c) Exhibits:

Petitioner Exhibit 1: Form 131 Petition  
Petitioner Exhibit 2: Form 130 Petition  
Petitioner Exhibit 3: Form 115  
Petitioner Exhibit 4: Summary of Relative Factors  
Petitioner Exhibit 5: Appraisal dated April 18, 2003  
Petitioner Exhibit 6: Copy of County Valuation Records  
Petitioner Exhibit 7: Copy of Contract for Sale

Respondent Exhibit 1: Notification Letter on Petition Small Claims  
Respondent Exhibit 2: Form 130 with PRC  
Respondent Exhibit 3: PTABOA Hearing Notice  
Respondent Exhibit 4: Form 115  
Respondent Exhibit 5: Form 131

Respondent Exhibit 6: Sales Disclosures

Board Exhibit A: Form 131 Petition

Board Exhibit B: Notice of Hearing on Petition

Board Exhibit C: Sign-in Sheet

- 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 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 Township Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); see also, *Clark v. State Board of Tax Commissioners*, 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 Township Assessor*, 802 N.E.2d 276 (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 did not provide sufficient evidence to support his contentions. This conclusion was arrived at because:

- a) The Petitioner submitted an appraisal for the subject property dated April 18, 2003. The appraisal determined the market value for the *entire* parcel (#0140300200) at \$121,250. *Petitioner Exhibit 5*. As previously stated Parcel #0140300200 consists of two separate Tax ID Numbers: 210-1 and 210-2. Tax ID 210-1 is a warehouse on .457 acres of land. Tax ID 210-2 is an office building and paving on 1.69 acres of land. *Respondent Exhibit 2*. The Petitioner further refers to the subject parcel as two separate “parcels.” *Price testimony*. From this appraisal, the Petitioner purportedly determined the value of the two “parcels” that make up the entire property. *Price testimony; Petitioner Exhibit 4*.
- b) Real property in Indiana is assessed on the basis of its “true tax value.” *See* I.C. § 6-1.1-31-6(c). “True tax value” is defined as “[t]he 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.” 2002 REAL PROPERTY ASSESSMENT MANUAL 2 (incorporated by reference at 50 IAC 2.3-1-2) (hereinafter MANUAL). The market value-in-use of a property may be calculated through the use of several approaches, all of which have been used in the appraisal profession. *Id.* at 3; *Long v. Wayne Township Assessor*, 821 N.E.2d 466, 469 (Ind. Tax Ct. 2005). Regardless of the approach used to prove the market value-in-use of a property, however, Indiana’s assessment regulations provide that for the 2002 general reassessment, a property’s assessment must reflect its value as of January 1, 1999. *Long*, at 471; MANUAL at 4. Consequently, a party relying on an appraisal to establish the market value-in-use of a property must provide some explanation as to how the appraised value demonstrates or is relevant to the property’s value as of January 1, 1999. *Id.*

- c) Here, the Petitioner failed to relate the appraisal value dated April 18, 2003, to the January 1, 1999, valuation date. Further, the appraisal values the entire property as a single entity. Although the Petitioner purported to determine the breakdown of the value of each parcel, there was no evidence to support this “breakdown.” Statements that are unsupported by probative evidence are conclusory and of no value to the Board in making its determination. *Whitley Products, Inc. v. State Bd. of Tax Comm’rs*, 704 N.E.2d 1113 (Ind. Tax 1998); and *Herb v. State Bd. of Tax Comm’rs*, 656 N.E.2d 1230 (Ind. Tax 1998). Thus, even if the appraisal value was related back to the January 1, 1999, valuation date, the appraisal value would not be probative of the value of either parcel individually.
- d) The Petitioner also submitted a sales contract as evidence of the subject property’s value. While the sale of a property is often the best evidence of the property’s value, this value too must be relevant to the January 1, 1999, valuation date. Here the sale was for both parcels and occurred on June 30, 2003. No evidence was presented to support the “breakdown” of the sales value between parcels. Nor was any evidence presented that related the 2003 sales value to the January 1, 1999, valuation date. Finally, the sale was from father to daughter-in-law. The Board, similarly, holds that the sale of these parcels is not probative of the subject property’s value. *See Whitley Products, Inc.*, 704 N.E.2d at 1118.
- e) Where the Petitioner has not supported his claim with probative evidence, the Respondent’s duty to support the assessment with substantial evidence is not triggered. *Lacy Diversified Indus. v. Dep’t of Local Gov’t Fin.*, 799 N.E.2d 1215, 1221-1222 (Ind. Tax Ct. 2003).

### **Conclusion**

17. The Petitioner failed to make a prima facie case. The Board finds in favor of the Respondent.

## 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.

ISSUED: \_\_\_\_\_

\_\_\_\_\_  
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 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/trialproc/index.html>. The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code>.**