

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

**Petition #:** 35-014-03-1-5-00030  
**Petitioners:** Richard & Dolly Minton  
**Respondent:** Huntington Township Assessor (Huntington County)  
**Parcel #:** 014-04311-00  
**Assessment Year:** 2003

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 Petitioners initiated an assessment appeal with the Huntington County Property Tax Assessment Board of Appeals (PTABOA) by written document dated July 12, 2004.
2. The PTABOA mailed notice of its decision on June 3, 2005.
3. The Petitioners initiated an appeal to the Board by filing a Form 131 petition with the Huntington County Assessor on June 7, 2005. Petitioners elected to have this case heard in small claims.
4. The Board issued a notice of hearing to the parties dated May 3, 2006.
5. The Board held an administrative hearing on June 20, 2006, before the duly appointed Administrative Law Judge Jennifer Bippus.
6. Richard Minton, taxpayer, and Julie Newsome, Huntington Township Deputy Assessor, appeared at the hearing and were sworn as witnesses.

**Facts**

7. The property is classified as a residential property, located at 1412 Engle Street, Huntington, as shown on the property record card for parcel 014-04311-00.
8. The Administrative Law Judge (ALJ) did not conduct an inspection of the property.
9. The PTABOA determined that the assessed value of the subject property is \$4,900 for the land and \$83,000 for the improvements for a total assessed value of \$87,900.

10. At hearing, the Petitioners requested a value of \$60,000-\$65,000.

### **Issue**

11. Summary of Petitioners' contentions in support of alleged error in assessment:

- a) The subject property is overvalued in its assessment. *Minton argument*. In support of their position, the Petitioners submitted property record cards for five (5) other properties: 1181 Joe Street; 1265 Gardendale Avenue; 1345 Engle Street; 1156 Engle Street; and 1213 London Street. *Id.*; *Pet'r Exs. 2A-2E*. Based on the assessments of those properties, the Petitioners contend that the subject property should be assessed for \$60,000-\$65,000. *Id.*; *Pet'r Exs. 2A-2E*.
- b) Although the London Street property is assessed for an amount much lower than its sale price, taxes are based on a property's assessed value, or what the property is worth, not just on what someone will pay for it. *Minton argument*.
- c) The subject property's assessment reflects the presence of an enclosed porch, but there is only lattice at the ends of the porch. *Minton testimony*. Mr. Minton also testified to his belief that "they got me building a garage when all I did was add to it." *Id.*

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

- a) The sale prices of comparable properties located at 1232 Dearborn Street, 1259 Dearborn Street, and 1352 Engle Street support the subject property's assessment. *Newsome argument*; *Resp't Exs. 6A-6C*. Those properties are all from the same neighborhood as the subject property. *Newsome testimony*.
- b) One of the purportedly comparable properties identified by the Petitioners - 1213 Landon Street - sold for \$73,900 in 2003. *Newsome testimony*. Another property identified by the Petitioners - 1156 Engle Street - contains a duplex, while the subject property contains a single-family residence. *Id.*

### **Record**

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

- a) The Petition,
- b) The digital recording of the hearing labeled IBTR-6188,
- c) Exhibits:

Petitioner Exhibit 1: Property record card of subject property,  
Petitioner Exhibits 2A-2E: Property record cards for comparable properties,

Respondent Exhibit 1: Copy of Form 131,  
Respondent Exhibit 2: Copy of property record card for subject property,  
Respondent Exhibit 3: Copy of Form 115,  
Respondent Exhibit 4: Copy of Form 130,  
Respondent Exhibit 5: Pre-hearing Notification,  
Respondent Exhibit 6A-6C: Township comparables with sales disclosures,  
Respondent Exhibit 7: Notice of Appearance for Deputy Assessor,

Board Exhibit A: Form 131 petition,  
Board Exhibit B: Notice of hearing,  
Board Exhibit C: Hearing sign-in sheet,

d) These Findings and Conclusions.

### Analysis

14. The most applicable governing cases are:
- a) A petitioner seeking review of a determination of the county property tax assessment board of appeals 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 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.
15. The Petitioners did not provide sufficient evidence to support a change in the assessment. This Board reaches this conclusion because:
- a) Although they do not explicitly frame their argument in those terms, the Petitioners contend that the Respondent did not assess the subject property in a uniform and equal manner as compared to other properties in the same geographic area. In making such a contention, the Petitioners rely on a methodology akin to the sales comparison approach to value used by appraisers in estimating the market value of

properties. In either case, the taxpayer must establish that the properties upon which it bases its claim are comparable to the subject property. *Home Federal Savings Bank v. Madison Twp. Assessor*, 817 N.E.2d 332 (Ind. Tax. Ct. 2004)(uniformity and equality); *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 470-71 (Ind. Tax Ct. 2005) (sales comparison approach). Conclusory statements that a property is “similar” or “comparable” to another property, however, do not constitute probative evidence of the comparability of the two properties. *Long*, 821 N.E.2d at 470. Instead, the taxpayer 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 taxpayer must explain how any differences between the properties affect their relative values. *Id.*

- b) The Petitioners did not explain how the neighboring properties compare to the subject property. Instead, the Petitioners simply offered property record cards for all of the properties in question. In doing so, the Petitioners failed to meet their burden of proof. *See Long*, 821 N.E.2d at 471 ([I]t was not the Indiana Board’s responsibility to review all the documentation submitted by the [taxpayers] to determine whether those properties were indeed comparable – that duty rested with the [taxpayers].”).
- c) The Petitioners also raise two claims not reflected on their Form 131 petition: that the subject property is assessed as having an enclosed porch whereas the porch merely has lattices at its ends, and that the subject garage is improperly assessed. Those issues, however, appear to be outside of the scope of the Petitioners’ Form 131 petition, which refers only to the Petitioners’ contention that the subject property is assessed for more than other properties. *See Board Ex. A*. Moreover, the Petitioners failed to present sufficient evidence for the Board to evaluate their claims. For example, without seeing photographs of the “lattices,” the Board cannot determine whether the Respondent committed an objective error in assessing the subject property for features that it does not actually have, or whether the Respondent simply exercised its judgment in determining that the porch more closely resembles an enclosed porch than some other type of exterior feature.
- d) Based on the foregoing, the Petitioners failed to establish a prima facie case of error in the subject property’s assessment.

### **Conclusion**

- 16. The Petitioner failed to provide sufficient evidence to establish 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 assessments for the subject parcels should not be changed.

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

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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>.**