

REPRESENTATIVE FOR PETITIONERS:  
Greg A. Bouwer, Koransky & Bouwer, P.C.

REPRESENTATIVE FOR RESPONDENT:  
Amber Nerlau St. Amour, Attorney with DLGF

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**BEFORE THE  
INDIANA BOARD OF TAX REVIEW**

|                                    |   |                                 |
|------------------------------------|---|---------------------------------|
| Michael L. & Maureen Ghormley,     | ) | On Appeal of Determination      |
| Petitioners                        | ) | of the Department of Local      |
|                                    | ) | Government Finance              |
| v.                                 | ) |                                 |
|                                    | ) | Petition: 45-032-02-1-5-00256   |
| DEPARTMENT OF LOCAL                | ) |                                 |
| GOVERNMENT FINANCE,                | ) |                                 |
| Respondent.                        | ) | Lake County, Indiana            |
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| John & Janice Epple,               | ) | On Appeal of Determination      |
| Petitioners                        | ) | of the Department of Local      |
|                                    | ) | Government Finance              |
| v.                                 | ) |                                 |
|                                    | ) | Petitions: 45-032-02-1-5-00143; |
| DEPARTMENT OF LOCAL                | ) | 45-032-02-1-5-00147; and        |
| GOVERNMENT FINANCE,                | ) | 45-032-02-1-5-00156             |
| Respondent.                        | ) | Lake County, Indiana            |
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| First Bank of Whiting Trust #1857, | ) | On Appeal of Determination      |
| Petitioner                         | ) | of the Department of Local      |
|                                    | ) | Government Finance              |
| v.                                 | ) |                                 |
|                                    | ) | Petitions: 45-032-02-1-5-00130; |
| DEPARTMENT OF LOCAL                | ) | 45-032-02-1-5-00132;            |
| GOVERNMENT FINANCE,                | ) | 45-032-02-1-5-00134;            |
| Respondent.                        | ) | 45-032-02-1-5-00135;            |
|                                    | ) | 45-032-02-1-5-00138;            |
|                                    | ) | 45-032-02-1-5-00139;            |
|                                    | ) | 45-032-02-1-5-00140;            |
|                                    | ) | 45-032-02-1-5-00141;            |
|                                    | ) | 45-032-02-1-5-00144;            |
|                                    | ) | 45-032-02-1-5-00148;            |
|                                    | ) | 45-032-02-1-5-00149;            |
|                                    | ) | 45-032-02-1-5-00150;            |
|                                    | ) | 45-032-02-1-5-00151;            |
|                                    | ) | 45-032-02-1-5-00152;            |
|                                    | ) | 45-032-02-1-5-00153;            |
|                                    | ) | 45-032-02-1-5-00155;            |

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) 45-032-02-1-5-00158;  
) 45-032-02-1-5-00159;  
) 45-032-02-1-5-00160;  
) 45-032-02-1-5-00162;  
) 45-032-02-1-5-00167;  
) 45-032-02-1-5-00168;  
) 45-032-02-1-5-00169;  
) 45-032-02-1-5-00171;  
) 45-032-02-1-5-00172;  
) 45-032-02-1-5-00174;  
) 45-032-02-1-5-00176;  
) 45-032-02-1-5-00177;  
) 45-032-02-1-5-00178;  
) 45-032-02-1-5-00179;  
) 45-032-02-1-5-00180;  
) 45-032-02-1-5-00182;  
) 45-032-02-1-5-00186;  
) 45-032-02-1-5-00192;  
) 45-032-02-1-5-00195;  
) 45-032-02-1-5-00196;  
) 45-032-02-1-5-00199;  
) 45-032-02-1-5-00200;  
) 45-032-02-1-5-00201;  
) 45-032-02-1-5-00202;  
) 45-032-02-1-5-00203;  
) 45-032-02-1-5-00204;  
) 45-032-02-1-5-00205;  
) 45-032-02-1-5-00206;  
) 45-032-02-1-5-00207;  
) 45-032-02-1-5-00208;  
) 45-032-02-1-5-00212;  
) 45-032-02-1-5-00216;  
) 45-032-02-1-5-00217;  
) 45-032-02-1-5-00219;  
) 45-032-02-1-5-00220;  
) 45-032-02-1-5-00225;  
) 45-032-02-1-5-00226;  
) 45-032-02-1-5-00227;  
) 45-032-02-1-5-00230;  
) 45-032-02-1-5-00231;  
) 45-032-02-1-5-00234;  
) 45-032-02-1-5-00235;  
) 45-032-02-1-5-00236;  
) 45-032-02-1-5-00241;  
) 45-032-02-1-5-00244;

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|                              | ) | 45-032-02-1-5-00245;          |
|                              | ) | 45-032-02-1-5-00248;          |
|                              | ) | 45-032-02-1-5-00249;          |
|                              | ) | 45-032-02-1-5-00258;          |
|                              | ) | 45-032-02-1-5-00259;          |
|                              | ) | 45-032-02-1-5-00274;          |
|                              | ) | 45-032-02-1-5-00275;          |
|                              | ) | 45-032-02-1-5-00277;          |
|                              | ) | 45-032-02-1-5-00278;          |
|                              | ) | 45-032-02-1-5-00279;          |
|                              | ) | 45-032-02-1-5-00281;          |
|                              | ) | 45-032-02-1-5-00282;          |
|                              | ) | 45-032-02-1-5-00283;          |
|                              | ) | 45-032-02-1-5-00284;          |
|                              | ) | 45-032-02-1-5-00287;          |
|                              | ) | 45-032-02-1-5-00288;          |
|                              | ) | 45-032-02-1-5-00292;          |
|                              | ) | 45-032-02-1-5-00293; and      |
|                              | ) | 45-032-02-1-5-00296;          |
|                              | ) | Lake County, Indiana          |
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| Nine and Solbvodanka Bjedov, | ) | On Appeal of Determination    |
| Petitioner                   | ) | of the Department of Local    |
|                              | ) | Government Finance            |
| v.                           | ) |                               |
|                              | ) | Petition: 45-032-02-1-5-00154 |
| DEPARTMENT OF LOCAL          | ) |                               |
| GOVERNMENT FINANCE,          | ) |                               |
| Respondent.                  | ) | Lake County, Indiana          |
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| Dragan & Branka Gardijan,    | ) | On Appeal of Determination    |
| Petitioner                   | ) | of the Department of Local    |
|                              | ) | Government Finance            |
| v.                           | ) |                               |
|                              | ) | Petition: 45-032-02-1-5-00211 |
| DEPARTMENT OF LOCAL          | ) |                               |
| GOVERNMENT FINANCE,          | ) |                               |
| Respondent.                  | ) | Lake County, Indiana          |
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| Mark & Monica Onohan,        | ) | On Appeal of Determination    |
| Petitioner                   | ) | of the Department of Local    |
|                              | ) | Government Finance            |
| v.                           | ) |                               |
|                              | ) | Petition: 45-032-02-1-5-00136 |
| DEPARTMENT OF LOCAL          | ) |                               |
| GOVERNMENT FINANCE,          | ) |                               |
| Respondent.                  | ) | Lake County, Indiana          |
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| Andre R & Nadine J. Pelagalli, | ) | On Appeal of Determination      |
| Petitioner                     | ) | of the Department of Local      |
|                                | ) | Government Finance              |
| v.                             | ) |                                 |
|                                | ) |                                 |
| DEPARTMENT OF LOCAL            | ) | Petitions: 45-032-02-1-5-00133; |
| GOVERNMENT FINANCE,            | ) | 45-032-02-1-5-00142;            |
| Respondent.                    | ) | 45-032-02-1-5-00157;            |
|                                | ) | 45-032-02-1-5-00166;            |
|                                | ) | 45-032-02-1-5-00170; and        |
|                                | ) | 45-032-02-1-5-00198             |
|                                | ) | Lake County, Indiana            |

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| Deborah L. Hefner,  | ) | On Appeal of Determination    |
| Petitioner          | ) | of the Department of Local    |
|                     | ) | Government Finance            |
| v.                  | ) |                               |
|                     | ) |                               |
| DEPARTMENT OF LOCAL | ) | Petition: 45-032-02-1-5-00145 |
| GOVERNMENT FINANCE, | ) |                               |
| Respondent.         | ) |                               |
|                     | ) | Lake County, Indiana          |

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| Ella M. Stephen,    | ) | On Appeal of Determination    |
| Petitioner          | ) | of the Department of Local    |
|                     | ) | Government Finance            |
| v.                  | ) |                               |
|                     | ) |                               |
| DEPARTMENT OF LOCAL | ) | Petition: 45-032-02-1-5-00131 |
| GOVERNMENT FINANCE, | ) |                               |
| Respondent.         | ) |                               |
|                     | ) | Lake County, Indiana          |

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| Rosemary A. Mlinarich, | ) | On Appeal of Determination    |
| Petitioner             | ) | of the Department of Local    |
|                        | ) | Government Finance            |
| v.                     | ) |                               |
|                        | ) |                               |
| DEPARTMENT OF LOCAL    | ) | Petition: 45-032-02-1-5-00191 |
| GOVERNMENT FINANCE,    | ) |                               |
| Respondent.            | ) |                               |
|                        | ) | Lake County, Indiana          |

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| Emmett A. Williams, | ) | On Appeal of Determination    |
| Petitioner          | ) | of the Department of Local    |
|                     | ) | Government Finance            |
| v.                  | ) |                               |
|                     | ) |                               |
| DEPARTMENT OF LOCAL | ) | Petition: 45-032-02-1-5-00255 |
| GOVERNMENT FINANCE, | ) |                               |
| Respondent.         | ) |                               |
|                     | ) | Lake County, Indiana          |

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| Jodell Buckman,              | ) | On Appeal of Determination      |
| Petitioner                   | ) | of the Department of Local      |
|                              | ) | Government Finance              |
| v.                           | ) |                                 |
|                              | ) | Petition: 45-032-02-1-5-00257   |
| DEPARTMENT OF LOCAL          | ) |                                 |
| GOVERNMENT FINANCE,          | ) |                                 |
| Respondent.                  | ) | Lake County, Indiana            |
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| Bella Real Estate LLC,       | ) | On Appeal of Determination      |
| Petitioner                   | ) | of the Department of Local      |
|                              | ) | Government Finance              |
| v.                           | ) |                                 |
|                              | ) | Petitions: 45-032-02-1-5-00250; |
| DEPARTMENT OF LOCAL          | ) | 45-032-02-1-5-00251;            |
| GOVERNMENT FINANCE,          | ) | 45-032-02-1-5-00252;            |
| Respondent.                  | ) | 45-032-02-1-5-00253;            |
|                              | ) | 45-032-02-1-5-00254; and        |
|                              | ) | 45-032-02-1-5-00260             |
|                              | ) | Lake County, Indiana            |
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| Peoples Bank SB Trust #5002, | ) | On Appeal of Determination      |
| Petitioner                   | ) | of the Department of Local      |
|                              | ) | Government Finance              |
| v.                           | ) |                                 |
|                              | ) | Petition: 45-032-02-1-5-00246   |
| DEPARTMENT OF LOCAL          | ) |                                 |
| GOVERNMENT FINANCE,          | ) |                                 |
| Respondent.                  | ) | Lake County, Indiana            |
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| David K. Stephenson,         | ) | On Appeal of Determination      |
| Petitioner                   | ) | of the Department of Local      |
|                              | ) | Government Finance              |
| v.                           | ) |                                 |
|                              | ) | Petitions: 45-032-02-1-5-00242  |
| DEPARTMENT OF LOCAL          | ) | 45-032-02-1-5-00285; and        |
| GOVERNMENT FINANCE,          | ) | 45-032-02-1-5-00290             |
| Respondent.                  | ) | Lake County, Indiana            |
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| Milorad Peles,      | ) | On Appeal of Determination      |
| Petitioner          | ) | of the Department of Local      |
|                     | ) | Government Finance              |
| v.                  | ) |                                 |
|                     | ) |                                 |
| DEPARTMENT OF LOCAL | ) | Petitions: 45-032-02-1-5-00193; |
| GOVERNMENT FINANCE, | ) | 45-032-02-1-5-00197;            |
| Respondent.         | ) | 45-032-02-1-5-00214;            |
|                     | ) | 45-032-02-1-5-00218;            |
|                     | ) | 45-032-02-1-5-00221; and        |
|                     | ) | 45-032-02-1-5-00232             |
|                     | ) | Lake County, Indiana            |
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| James A. Hosfeld,   | ) | On Appeal of Determination      |
| Petitioner          | ) | of the Department of Local      |
|                     | ) | Government Finance              |
| v.                  | ) |                                 |
|                     | ) |                                 |
| DEPARTMENT OF LOCAL | ) | Petition: 45-032-02-1-5-00233   |
| GOVERNMENT FINANCE, | ) |                                 |
| Respondent.         | ) |                                 |
|                     | ) | Lake County, Indiana            |
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| Peoples Bank SB Tr, | ) | On Appeal of Determination      |
| Petitioner          | ) | of the Department of Local      |
|                     | ) | Government Finance              |
| v.                  | ) |                                 |
|                     | ) |                                 |
| DEPARTMENT OF LOCAL | ) | Petition: 45-032-02-1-5-00163   |
| GOVERNMENT FINANCE, | ) |                                 |
| Respondent.         | ) |                                 |
|                     | ) | Lake County, Indiana            |
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| Lois P. Law,        | ) | On Appeal of Determination      |
| Petitioner          | ) | of the Department of Local      |
|                     | ) | Government Finance              |
| v.                  | ) |                                 |
|                     | ) |                                 |
| DEPARTMENT OF LOCAL | ) | Petitions: 45-032-02-1-5-00173; |
| GOVERNMENT FINANCE, | ) | 45-032-02-1-5-00175             |
| Respondent.         | ) |                                 |
|                     | ) | Lake County, Indiana            |
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| Darci Bladin,       | ) | On Appeal of Determination      |
| Petitioner          | ) | of the Department of Local      |
|                     | ) | Government Finance              |
| v.                  | ) |                                 |
|                     | ) |                                 |
| DEPARTMENT OF LOCAL | ) | Petition: 45-032-02-1-5-00180   |
| GOVERNMENT FINANCE, | ) |                                 |
| Respondent.         | ) |                                 |
|                     | ) | Lake County, Indiana            |
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| Brian M. Jeppeson,           | ) | On Appeal of Determination      |
| Petitioner                   | ) | of the Department of Local      |
|                              | ) | Government Finance              |
| v.                           | ) |                                 |
|                              | ) | Petition: 45-032-02-1-5-00164   |
| DEPARTMENT OF LOCAL          | ) |                                 |
| GOVERNMENT FINANCE,          | ) |                                 |
| Respondent.                  | ) | Lake County, Indiana            |
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| Fungin O. Kim,               | ) | On Appeal of Determination      |
| Petitioner                   | ) | of the Department of Local      |
|                              | ) | Government Finance              |
| v.                           | ) |                                 |
|                              | ) | Petitions: 45-032-02-1-5-00137; |
| DEPARTMENT OF LOCAL          | ) | 45-032-02-1-5-00146;            |
| GOVERNMENT FINANCE,          | ) | 45-032-02-1-5-00161;            |
| Respondent.                  | ) | 45-032-02-1-5-00165;            |
|                              | ) | 45-032-02-1-5-00181;            |
|                              | ) | 45-032-02-1-5-00185;            |
|                              | ) | 45-032-02-1-5-00187;            |
|                              | ) | 45-032-02-1-5-00188;            |
|                              | ) | 45-032-02-1-5-00189;            |
|                              | ) | 45-032-02-1-5-00194;            |
|                              | ) | 45-032-02-1-5-00209;            |
|                              | ) | 45-032-02-1-5-00210;            |
|                              | ) | 45-032-02-1-5-00215;            |
|                              | ) | 45-032-02-1-5-00291             |
|                              | ) | Lake County, Indiana            |
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| EKA Realty Company,          | ) | On Appeal of Determination      |
| Petitioner                   | ) | of the Department of Local      |
|                              | ) | Government Finance              |
| v.                           | ) |                                 |
|                              | ) | Petitions: 45-032-02-1-5-00184; |
| DEPARTMENT OF LOCAL          | ) | 45-032-02-1-5-00280             |
| GOVERNMENT FINANCE,          | ) |                                 |
| Respondent.                  | ) | Lake County, Indiana            |
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| Russell & Claudia J. Miller, | ) | On Appeal of Determination      |
| Petitioner                   | ) | of the Department of Local      |
|                              | ) | Government Finance              |
| v.                           | ) |                                 |
|                              | ) | Petition: 45-032-02-1-5-00247   |
| DEPARTMENT OF LOCAL          | ) |                                 |
| GOVERNMENT FINANCE,          | ) |                                 |
| Respondent.                  | ) | Lake County, Indiana            |
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| Richard A. Ruzbasan,         | ) | On Appeal of Determination    |
| Petitioner                   | ) | of the Department of Local    |
|                              | ) | Government Finance            |
| v.                           | ) |                               |
|                              | ) | Petition: 45-032-02-1-5-00243 |
| DEPARTMENT OF LOCAL          | ) |                               |
| GOVERNMENT FINANCE,          | ) |                               |
| Respondent.                  | ) | Lake County, Indiana          |
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| Radovan & Ika Beric,         | ) | On Appeal of Determination    |
| Petitioners                  | ) | of the Department of Local    |
|                              | ) | Government Finance            |
| v.                           | ) |                               |
|                              | ) | Petition: 45-032-02-1-5-00190 |
| DEPARTMENT OF LOCAL          | ) |                               |
| GOVERNMENT FINANCE,          | ) |                               |
| Respondent.                  | ) | Lake County, Indiana          |
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| Michael A. Krapac,           | ) | On Appeal of Determination    |
| Petitioner                   | ) | of the Department of Local    |
|                              | ) | Government Finance            |
| v.                           | ) |                               |
|                              | ) | Petition: 45-032-02-1-5-00205 |
| DEPARTMENT OF LOCAL          | ) |                               |
| GOVERNMENT FINANCE,          | ) |                               |
| Respondent.                  | ) | Lake County, Indiana          |
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| Robert J. & Sandra L. Styka, | ) | On Appeal of Determination    |
| Petitioner                   | ) | of the Department of Local    |
|                              | ) | Government Finance            |
| v.                           | ) |                               |
|                              | ) | Petition: 45-032-02-1-5-00213 |
| DEPARTMENT OF LOCAL          | ) |                               |
| GOVERNMENT FINANCE,          | ) |                               |
| Respondent.                  | ) | Lake County, Indiana          |
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| Paul G. Nelson,              | ) | On Appeal of Determination    |
| Petitioner                   | ) | of the Department of Local    |
|                              | ) | Government Finance            |
| v.                           | ) |                               |
|                              | ) | Petition: 45-032-02-1-5-00222 |
| DEPARTMENT OF LOCAL          | ) |                               |
| GOVERNMENT FINANCE,          | ) |                               |
| Respondent.                  | ) | Lake County, Indiana          |
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| Mary Austgen Trust,            | ) | On Appeal of Determination     |
| Petitioner                     | ) | of the Department of Local     |
|                                | ) | Government Finance             |
| v.                             | ) |                                |
|                                | ) | Petitions:45-032-02-1-5-00223; |
| DEPARTMENT OF LOCAL            | ) | 45-032-02-1-5-00224            |
| GOVERNMENT FINANCE,            | ) |                                |
| Respondent.                    | ) | Lake County, Indiana           |
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| Peoples Federal S&L Assoc,     | ) | On Appeal of Determination     |
| Petitioner                     | ) | of the Department of Local     |
|                                | ) | Government Finance             |
| v.                             | ) |                                |
|                                | ) | Petition: 45-032-02-1-5-00237  |
| DEPARTMENT OF LOCAL            | ) |                                |
| GOVERNMENT FINANCE,            | ) |                                |
| Respondent.                    | ) | Lake County, Indiana           |
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| Robert E. & Barbara D. Wetzel, | ) | On Appeal of Determination     |
| Petitioners                    | ) | of the Department of Local     |
|                                | ) | Government Finance             |
| v.                             | ) |                                |
|                                | ) | Petition: 45-032-02-1-5-00229  |
| DEPARTMENT OF LOCAL            | ) |                                |
| GOVERNMENT FINANCE,            | ) |                                |
| Respondent.                    | ) | Lake County, Indiana           |
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| Robert & Cheryl A. Hart,       | ) | On Appeal of Determination     |
| Petitioners                    | ) | of the Department of Local     |
|                                | ) | Government Finance             |
| v.                             | ) |                                |
|                                | ) | Petition: 45-032-02-1-5-00238  |
| DEPARTMENT OF LOCAL            | ) |                                |
| GOVERNMENT FINANCE,            | ) |                                |
| Respondent.                    | ) | Lake County, Indiana           |
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| Anthony C. Lapasso,            | ) | On Appeal of Determination     |
| Petitioner                     | ) | of the Department of Local     |
|                                | ) | Government Finance             |
| v.                             | ) |                                |
|                                | ) | Petition: 45-032-02-1-5-00297  |
| DEPARTMENT OF LOCAL            | ) |                                |
| GOVERNMENT FINANCE,            | ) |                                |
| Respondent.                    | ) | Lake County, Indiana           |
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| Paul D. & Dawn S. Russert,               | ) | On Appeal of Determination    |
| Petitioner                               | ) | of the Department of Local    |
|  | ) | Government Finance            |
| v.                                       | ) |                               |
|  | ) | Petition: 45-032-02-1-5-00295 |
| DEPARTMENT OF LOCAL                      | ) |                               |
| GOVERNMENT FINANCE,                      | ) |                               |
| Respondent.                              | ) | Lake County, Indiana          |
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| Apolinario & Enid Moreno,                | ) | On Appeal of Determination    |
| Petitioner                               | ) | of the Department of Local    |
|  | ) | Government Finance            |
| v.                                       | ) |                               |
|  | ) | Petition: 45-032-02-1-5-00294 |
| DEPARTMENT OF LOCAL                      | ) |                               |
| GOVERNMENT FINANCE,                      | ) |                               |
| Respondent.                              | ) | Lake County, Indiana          |
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| John T. Schmidt,                         | ) | On Appeal of Determination    |
| Petitioner                               | ) | of the Department of Local    |
|  | ) | Government Finance            |
| v.                                       | ) |                               |
|  | ) | Petition: 45-032-02-1-5-00289 |
| DEPARTMENT OF LOCAL                      | ) |                               |
| GOVERNMENT FINANCE,                      | ) |                               |
| Respondent.                              | ) | Lake County, Indiana          |
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| Lisa R. Franklin,                        | ) | On Appeal of Determination    |
| Petitioner                               | ) | of the Department of Local    |
|  | ) | Government Finance            |
| v.                                       | ) |                               |
|  | ) | Petition: 45-032-02-1-5-00286 |
| DEPARTMENT OF LOCAL                      | ) |                               |
| GOVERNMENT FINANCE,                      | ) |                               |
| Respondent.                              | ) | Lake County, Indiana          |
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| Cedar Point Condominiums Bldg.A,Unit 23, | ) | On Appeal of Determination    |
| Petitioner                               | ) | of the Department of Local    |
|  | ) | Government Finance            |
| v.                                       | ) |                               |
|  | ) | Petition: 45-032-02-1-5-00275 |
| DEPARTMENT OF LOCAL                      | ) |                               |
| GOVERNMENT FINANCE,                      | ) |                               |
| Respondent.                              | ) | Lake County, Indiana          |
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| Ray Szarmach,       | ) | On Appeal of Determination      |
| Petitioner          | ) | of the Department of Local      |
|                     | ) | Government Finance              |
| v.                  | ) |                                 |
|                     | ) | Petitions: 45-032-02-1-5-00261; |
| DEPARTMENT OF LOCAL | ) | 45-032-02-1-5-00262;            |
| GOVERNMENT FINANCE, | ) | 45-032-02-1-5-00263;            |
| Respondent.         | ) | 45-032-02-1-5-00264;            |
|                     | ) | 45-032-02-1-5-00265;            |
|                     | ) | 45-032-02-1-5-00266;            |
|                     | ) | 45-032-02-1-5-00267;            |
|                     | ) | 45-032-02-1-5-00268;            |
|                     | ) | 45-032-02-1-5-00269;            |
|                     | ) | 45-032-02-1-5-00270;            |
|                     | ) | 45-032-02-1-5-00271;            |
|                     | ) | 45-032-02-1-5-00272; and        |
|                     | ) | 45-032-02-1-5-00273             |
|                     | ) | Lake County, Indiana            |
| <hr/>               |   |                                 |
| Eric Falkinburg,    | ) | On Appeal of Determination      |
| Petitioner          | ) | of the Department of Local      |
|                     | ) | Government Finance              |
| v.                  | ) |                                 |
|                     | ) | Petition: 45-032-02-1-5-00261   |
| DEPARTMENT OF LOCAL | ) |                                 |
| GOVERNMENT FINANCE, | ) |                                 |
| Respondent.         | ) | Lake County, Indiana            |
| <hr/>               |   |                                 |

**June \_\_\_\_, 2006**

**FINAL DETERMINATION**

The Indiana Board of Tax Review (the Board) having reviewed the facts and evidence, and having considered the issues, now finds and concludes the following:

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

**ISSUES**

1. The issues presented for consideration by the Board were:

*ISSUE 1– Whether the assessment of the condominium complex is in excess of its market value based on the Petitioners’ Appraisal.*

ISSUE 2 – *Whether the condominium complex is assessed equal and justly with neighboring apartment complexes.*

ISSUE 3 - *Whether the current assessment reflects the market value of the units based on the principles of bulk sales and market absorption.*

### **PROCEDURAL HISTORY**

2. An informal hearing as described in Ind. Code § 6-1.1-4-33 was held between the Petitioners and the Respondent. The Department of Local Government Finance (the DLGF) determined the Petitioners' property tax assessments and notified the Petitioners on March 26, 2004.
3. Pursuant to Ind. Code § 6-1.1-4-34, Greg A. Bouwer, on behalf of Cedar Point Condominiums (Cedar Point), filed Form 139L Petitions for Review of Department of Local Government Finance Action for Lake County Residents on April 23, 2004, petitioning the Board to conduct an administrative review of the above petitions.<sup>1</sup>

### **HEARING FACTS AND OTHER MATTERS OF RECORD**

4. Pursuant to Ind. Code § 6-1.1-4-34(g), the duly designated Administrative Law Judge (the ALJ), Carol Comer, held a hearing on November 30, 2005, in Indianapolis, Indiana.
5. The following persons were sworn and presented testimony at the hearing:

For the Petitioners:

James Lee – Real Estate Appraiser

George Novogroder – Manager of Cedar Point and owner of units at Cedar Point

Ray Szarmach – President of condominium association and owner of units at Cedar Point

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<sup>1</sup> Natalie Alford, who is the owner of Parcel No. 009-20-13-0347-0115, Petition No. 45-032-02-1-5-00183, withdrew her appeal.

For the Respondent:

Jim Hemming – Assessor/auditor for DLGF

C. Kurt Barrow – Policy advisor to the Commissioner of DLGF

6. The Petitioners presented the following exhibits:<sup>2</sup>

Petitioners Exhibit 1-168 – Form 139L Petitions (with attached Form 11 and Power of Attorney),

Petitioners Exhibit 170 – Assessment for Cypress Pointe Apartments

Petitioners Exhibit 171 – Chart reflecting unit number, percentage of interest, assessment based on Lee appraisal, Form 11 number, and the percentage difference,

Petitioners Exhibit 172 – Insurance document stating the property is currently insured for \$5,780,000,

Petitioners Exhibit 173 – Minutes from the December 4, 2003, Cedar Point Condominium Association meeting,

Petitioners Exhibit 175 – Notice of Final Assessments,

Petitioners Exhibit 176 – Qualifications of Appraiser, James E. Lee, MAI SRA,

Petitioners Exhibit 177 – Excerpts from the 2002 Indiana Real Property Assessment Manual,

Petitioners Exhibit 178 – Appraisal by Lee & Associates dated July 21, 2004,

Petitioners Exhibit 180 – Document stating percentage ownership for each condominium unit in the overall project,

Petitioners Exhibit 182 – Assessment for Westwood Apartment Complex,

Petitioners Exhibit 183 – Power of Attorney forms for Cedar Point Condominium Association,

Petitioners Exhibit 184 – Affidavit of George Novogroder

Petitioners Exhibit 185 – Photographs of Cedar Point Condominiums, Cypress Pointe Apartments, and Westwood Apartment Complex,

Petitioners' Post-Hearing Brief and Proposed Findings of Fact.

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<sup>2</sup> Petitioners' Exhibits 174, 179 and 181 and Respondent's Exhibit 8 were not admitted into evidence.

7. The Respondent presented the following exhibits:
  - Respondent Exhibit 1 – Subject properties’ property record cards identifying the percentage of interest of each parcel (0001-0168) and the master card for the complex,
  - Respondent Exhibit 2 – Subject properties’ photographs,
  - Respondent Exhibit 3 – Neighborhood Land Value Summary Sheet,
  - Respondent Exhibit 4 – Calculated assessments by percentage of ownership,
  - Respondent Exhibit 5 – DLGF’s sales assessment ratio of Cedar Point sales,
  - Respondent Exhibit 6 – Analysis of Petitioners’ proposed assessed values compared to sales,
  - Respondent Exhibit 7 – excerpts of the 2002 Real Property Assessment Manual
  - Respondent’s Post-Hearing Brief.
  
8. The following additional items are officially recognized as part of the record of proceedings and labeled Board Exhibits:
  - Board Exhibit A – The Form 139L Petitions
  - Board Exhibit B – Notices of Hearing dated November 1, 2005.
  
9. The subject property is a 168-unit condominium complex comprised of seven buildings with 24 units in each building. The complex is located in St. John Township.
  
10. The ALJ did not conduct an on-site inspection of the subject property.
  
11. For 2002, the DLGF determined the assessed value of the condominium property to be \$8,736,300. The individual condominium units are assessed as follows:

| <b>TAX PARCEL NO.</b> | <b>PETITION NO.</b> | <b>FORM 11- ASSESSED<br/>VALUE</b> |
|-----------------------|---------------------|------------------------------------|
| 009-20-13-0347-0001   | 45-032-02-1-5-00297 | 52,100.00                          |
| 009-20-13-0347-0002   | 45-032-02-1-5-00296 | 60,000.00                          |
| 009-20-13-0347-0003   | 45-032-02-1-5-00295 | 46,800.00                          |
| 009-20-13-0347-0004   | 45-032-02-1-5-00294 | 40,300.00                          |
| 009-20-13-0347-0005   | 45-032-02-1-5-00293 | 57,100.00                          |

|                     |                     |           |
|---------------------|---------------------|-----------|
| 009-20-13-0347-0006 | 45-032-02-1-5-00292 | 63,500.00 |
| 009-20-13-0347-0007 | 45-032-02-1-5-00291 | 49,300.00 |
| 009-20-13-0347-0008 | 45-032-02-1-5-00290 | 45,100.00 |
| 009-20-13-0347-0009 | 45-032-02-1-5-00289 | 55,700.00 |
| 009-20-13-0347-0010 | 45-032-02-1-5-00288 | 62,400.00 |
| 009-20-13-0347-0011 | 45-032-02-1-5-00287 | 48,000.00 |
| 009-20-13-0347-0012 | 45-032-02-1-5-00286 | 43,900.00 |
| 009-20-13-0347-0013 | 45-032-02-1-5-00285 | 40,300.00 |
| 009-20-13-0347-0014 | 45-032-02-1-5-00284 | 46,300.00 |
| 009-20-13-0347-0015 | 45-032-02-1-5-00283 | 59,400.00 |
| 009-20-13-0347-0016 | 45-032-02-1-5-00282 | 52,100.00 |
| 009-20-13-0347-0017 | 45-032-02-1-5-00281 | 45,100.00 |
| 009-20-13-0347-0018 | 45-032-02-1-5-00280 | 48,700.00 |
| 009-20-13-0347-0019 | 45-032-02-1-5-00279 | 62,900.00 |
| 009-20-13-0347-0020 | 45-032-02-1-5-00278 | 57,100.00 |
| 009-20-13-0347-0021 | 45-032-02-1-5-00277 | 43,900.00 |
| 009-20-13-0347-0022 | 45-032-02-1-5-00276 | 47,400.00 |
| 009-20-13-0347-0023 | 45-032-02-1-5-00275 | 61,800.00 |
| 009-20-13-0347-0024 | 45-032-02-1-5-00274 | 55,700.00 |
| 009-20-13-0347-0025 | 45-032-02-1-5-00273 | 52,100.00 |
| 009-20-13-0347-0026 | 45-032-02-1-5-00272 | 60,600.00 |
| 009-20-13-0347-0027 | 45-032-02-1-5-00271 | 47,400.00 |
| 009-20-13-0347-0028 | 45-032-02-1-5-00270 | 40,300.00 |
| 009-20-13-0347-0029 | 45-032-02-1-5-00269 | 57,100.00 |
| 009-20-13-0347-0030 | 45-032-02-1-5-00268 | 64,200.00 |
| 009-20-13-0347-0031 | 45-032-02-1-5-00267 | 49,800.00 |
| 009-20-13-0347-0032 | 45-032-02-1-5-00266 | 45,100.00 |
| 009-20-13-0347-0033 | 45-032-02-1-5-00265 | 55,700.00 |
| 009-20-13-0347-0034 | 45-032-02-1-5-00264 | 62,900.00 |
| 009-20-13-0347-0035 | 45-032-02-1-5-00263 | 48,700.00 |
| 009-20-13-0347-0036 | 45-032-02-1-5-00262 | 43,900.00 |
| 009-20-13-0347-0037 | 45-032-02-1-5-00261 | 40,300.00 |
| 009-20-13-0347-0038 | 45-032-02-1-5-00260 | 55,500.00 |
| 009-20-13-0347-0039 | 45-032-02-1-5-00259 | 60,000.00 |
| 009-20-13-0347-0040 | 45-032-02-1-5-00258 | 52,100.00 |
| 009-20-13-0347-0041 | 45-032-02-1-5-00257 | 45,100.00 |
| 009-20-13-0347-0042 | 45-032-02-1-5-00256 | 49,300.00 |
| 009-20-13-0347-0043 | 45-032-02-1-5-00255 | 63,500.00 |
| 009-20-13-0347-0044 | 45-032-02-1-5-00254 | 57,100.00 |
| 009-20-13-0347-0045 | 45-032-02-1-5-00253 | 43,900.00 |
| 009-20-13-0347-0046 | 45-032-02-1-5-00252 | 48,000.00 |
| 009-20-13-0347-0047 | 45-032-02-1-5-00251 | 62,400.00 |
| 009-20-13-0347-0048 | 45-032-02-1-5-00250 | 55,700.00 |
| 009-20-13-0347-0049 | 45-032-02-1-5-00249 | 52,100.00 |
| 009-20-13-0347-0050 | 45-032-02-1-5-00248 | 59,400.00 |
| 009-20-13-0347-0051 | 45-032-02-1-5-00247 | 46,300.00 |

|                     |                     |           |
|---------------------|---------------------|-----------|
| 009-20-13-0347-0052 | 45-032-02-1-5-00246 | 40,300.00 |
| 009-20-13-0347-0053 | 45-032-02-1-5-00245 | 57,100.00 |
| 009-20-13-0347-0054 | 45-032-02-1-5-00244 | 62,900.00 |
| 009-20-13-0347-0055 | 45-032-02-1-5-00243 | 48,700.00 |
| 009-20-13-0347-0056 | 45-032-02-1-5-00242 | 45,100.00 |
| 009-20-13-0347-0057 | 45-032-02-1-5-00241 | 55,700.00 |
| 009-20-13-0347-0058 | 45-032-02-1-5-00240 | 61,800.00 |
| 009-20-13-0347-0059 | 45-032-02-1-5-00239 | 47,400.00 |
| 009-20-13-0347-0060 | 45-032-02-1-5-00238 | 43,900.00 |
| 009-20-13-0347-0061 | 45-032-02-1-5-00237 | 40,300.00 |
| 009-20-13-0347-0062 | 45-032-02-1-5-00236 | 46,800.00 |
| 009-20-13-0347-0063 | 45-032-02-1-5-00235 | 60,000.00 |
| 009-20-13-0347-0064 | 45-032-02-1-5-00234 | 52,100.00 |
| 009-20-13-0347-0065 | 45-032-02-1-5-00233 | 45,100.00 |
| 009-20-13-0347-0066 | 45-032-02-1-5-00232 | 49,300.00 |
| 009-20-13-0347-0067 | 45-032-02-1-5-00231 | 63,500.00 |
| 009-20-13-0347-0068 | 45-032-02-1-5-00230 | 57,100.00 |
| 009-20-13-0347-0069 | 45-032-02-1-5-00229 | 43,900.00 |
| 009-20-13-0347-0070 | 45-032-02-1-5-00228 | 48,000.00 |
| 009-20-13-0347-0071 | 45-032-02-1-5-00227 | 62,400.00 |
| 009-20-13-0347-0072 | 45-032-02-1-5-00226 | 55,700.00 |
| 009-20-13-0347-0073 | 45-032-02-1-5-00225 | 52,100.00 |
| 009-20-13-0347-0074 | 45-032-02-1-5-00224 | 60,600.00 |
| 009-20-13-0347-0075 | 45-032-02-1-5-00223 | 47,400.00 |
| 009-20-13-0347-0076 | 45-032-02-1-5-00222 | 40,300.00 |
| 009-20-13-0347-0077 | 45-032-02-1-5-00221 | 57,100.00 |
| 009-20-13-0347-0078 | 45-032-02-1-5-00220 | 64,200.00 |
| 009-20-13-0347-0079 | 45-032-02-1-5-00219 | 49,800.00 |
| 009-20-13-0347-0080 | 45-032-02-1-5-00218 | 45,100.00 |
| 009-20-13-0347-0081 | 45-032-02-1-5-00217 | 55,700.00 |
| 009-20-13-0347-0082 | 45-032-02-1-5-00216 | 62,900.00 |
| 009-20-13-0347-0083 | 45-032-02-1-5-00215 | 48,700.00 |
| 009-20-13-0347-0084 | 45-032-02-1-5-00214 | 43,900.00 |
| 009-20-13-0347-0085 | 45-032-02-1-5-00213 | 40,300.00 |
| 009-20-13-0347-0086 | 45-032-02-1-5-00212 | 46,800.00 |
| 009-20-13-0347-0087 | 45-032-02-1-5-00211 | 60,000.00 |
| 009-20-13-0347-0088 | 45-032-02-1-5-00210 | 52,100.00 |
| 009-20-13-0347-0089 | 45-032-02-1-5-00209 | 45,100.00 |
| 009-20-13-0347-0090 | 45-032-02-1-5-00208 | 49,300.00 |
| 009-20-13-0347-0091 | 45-032-02-1-5-00207 | 63,500.00 |
| 009-20-13-0347-0092 | 45-032-02-1-5-00206 | 57,100.00 |
| 009-20-13-0347-0093 | 45-032-02-1-5-00205 | 43,900.00 |
| 009-20-13-0347-0094 | 45-032-02-1-5-00204 | 48,000.00 |
| 009-20-13-0347-0095 | 45-032-02-1-5-00203 | 62,400.00 |
| 009-20-13-0347-0096 | 45-032-02-1-5-00202 | 55,700.00 |
| 009-20-13-0347-0097 | 45-032-02-1-5-00201 | 52,100.00 |



|                     |                     |           |
|---------------------|---------------------|-----------|
| 009-20-13-0347-0098 | 45-032-02-1-5-00200 | 60,000.00 |
| 009-20-13-0347-0099 | 45-032-02-1-5-00199 | 46,800.00 |
| 009-20-13-0347-0100 | 45-032-02-1-5-00198 | 40,300.00 |
| 009-20-13-0347-0101 | 45-032-02-1-5-00197 | 57,100.00 |
| 009-20-13-0347-0102 | 45-032-02-1-5-00196 | 63,500.00 |
| 009-20-13-0347-0103 | 45-032-02-1-5-00195 | 49,300.00 |
| 009-20-13-0347-0104 | 45-032-02-1-5-00194 | 45,100.00 |
| 009-20-13-0347-0105 | 45-032-02-1-5-00193 | 55,700.00 |
| 009-20-13-0347-0106 | 45-032-02-1-5-00192 | 62,400.00 |
| 009-20-13-0347-0107 | 45-032-02-1-5-00191 | 48,000.00 |
| 009-20-13-0347-0108 | 45-032-02-1-5-00190 | 43,900.00 |
| 009-20-13-0347-0109 | 45-032-02-1-5-00189 | 40,300.00 |
| 009-20-13-0347-0110 | 45-032-02-1-5-00188 | 46,800.00 |
| 009-20-13-0347-0111 | 45-032-02-1-5-00187 | 60,000.00 |
| 009-20-13-0347-0112 | 45-032-02-1-5-00186 | 52,100.00 |
| 009-20-13-0347-0113 | 45-032-02-1-5-00185 | 45,100.00 |
| 009-20-13-0347-0114 | 45-032-02-1-5-00184 | 49,300.00 |
| 009-20-13-0347-0115 | 45-032-02-1-5-00183 | 63,500.00 |
| 009-20-13-0347-0116 | 45-032-02-1-5-00182 | 57,100.00 |
| 009-20-13-0347-0117 | 45-032-02-1-5-00181 | 43,900.00 |
| 009-20-13-0347-0118 | 45-032-02-1-5-00180 | 48,000.00 |
| 009-20-13-0347-0119 | 45-032-02-1-5-00179 | 62,400.00 |
| 009-20-13-0347-0120 | 45-032-02-1-5-00178 | 55,700.00 |
| 009-20-13-0347-0121 | 45-032-02-1-5-00177 | 52,100.00 |
| 009-20-13-0347-0122 | 45-032-02-1-5-00176 | 60,000.00 |
| 009-20-13-0347-0123 | 45-032-02-1-5-00175 | 46,800.00 |
| 009-20-13-0347-0124 | 45-032-02-1-5-00174 | 40,300.00 |
| 009-20-13-0347-0125 | 45-032-02-1-5-00173 | 57,100.00 |
| 009-20-13-0347-0126 | 45-032-02-1-5-00172 | 63,500.00 |
| 009-20-13-0347-0127 | 45-032-02-1-5-00171 | 49,300.00 |
| 009-20-13-0347-0128 | 45-032-02-1-5-00170 | 45,100.00 |
| 009-20-13-0347-0129 | 45-032-02-1-5-00169 | 55,700.00 |
| 009-20-13-0347-0130 | 45-032-02-1-5-00168 | 62,400.00 |
| 009-20-13-0347-0131 | 45-032-02-1-5-00167 | 48,000.00 |
| 009-20-13-0347-0132 | 45-032-02-1-5-00166 | 43,900.00 |
| 009-20-13-0347-0133 | 45-032-02-1-5-00165 | 40,300.00 |
| 009-20-13-0347-0134 | 45-032-02-1-5-00164 | 46,800.00 |
| 009-20-13-0347-0135 | 45-032-02-1-5-00163 | 60,000.00 |
| 009-20-13-0347-0136 | 45-032-02-1-5-00162 | 52,100.00 |
| 009-20-13-0347-0137 | 45-032-02-1-5-00161 | 45,100.00 |
| 009-20-13-0347-0138 | 45-032-02-1-5-00160 | 49,300.00 |
| 009-20-13-0347-0139 | 45-032-02-1-5-00159 | 63,500.00 |
| 009-20-13-0347-0140 | 45-032-02-1-5-00158 | 57,100.00 |
| 009-20-13-0347-0141 | 45-032-02-1-5-00157 | 43,900.00 |
| 009-20-13-0347-0142 | 45-032-02-1-5-00156 | 48,000.00 |
| 009-20-13-0347-0143 | 45-032-02-1-5-00155 | 62,400.00 |

|                     |                     |           |
|---------------------|---------------------|-----------|
| 009-20-13-0347-0144 | 45-032-02-1-5-00154 | 55,700.00 |
| 009-20-13-0347-0145 | 45-032-02-1-5-00153 | 52,100.00 |
| 009-20-13-0347-0146 | 45-032-02-1-5-00152 | 59,400.00 |
| 009-20-13-0347-0147 | 45-032-02-1-5-00151 | 46,300.00 |
| 009-20-13-0347-0148 | 45-032-02-1-5-00150 | 40,300.00 |
| 009-20-13-0347-0149 | 45-032-02-1-5-00149 | 57,100.00 |
| 009-20-13-0347-0150 | 45-032-02-1-5-00148 | 62,900.00 |
| 009-20-13-0347-0151 | 45-032-02-1-5-00147 | 48,700.00 |
| 009-20-13-0347-0152 | 45-032-02-1-5-00146 | 45,100.00 |
| 009-20-13-0347-0153 | 45-032-02-1-5-00145 | 55,500.00 |
| 009-20-13-0347-0154 | 45-032-02-1-5-00144 | 61,800.00 |
| 009-20-13-0347-0155 | 45-032-02-1-5-00143 | 47,400.00 |
| 009-20-13-0347-0156 | 45-032-02-1-5-00142 | 43,900.00 |
| 009-20-13-0347-0157 | 45-032-02-1-5-00141 | 41,000.00 |
| 009-20-13-0347-0158 | 45-032-02-1-5-00140 | 46,300.00 |
| 009-20-13-0347-0159 | 45-032-02-1-5-00139 | 59,400.00 |
| 009-20-13-0347-0160 | 45-032-02-1-5-00138 | 53,400.00 |
| 009-20-13-0347-0161 | 45-032-02-1-5-00137 | 45,700.00 |
| 009-20-13-0347-0162 | 45-032-02-1-5-00136 | 48,700.00 |
| 009-20-13-0347-0163 | 45-032-02-1-5-00135 | 62,900.00 |
| 009-20-13-0347-0164 | 45-032-02-1-5-00134 | 57,700.00 |
| 009-20-13-0347-0165 | 45-032-02-1-5-00133 | 44,400.00 |
| 009-20-13-0347-0166 | 45-032-02-1-5-00132 | 47,400.00 |
| 009-20-13-0347-0167 | 45-032-02-1-5-00131 | 61,800.00 |
| 009-20-13-0347-0168 | 45-032-02-1-5-00130 | 56,500.00 |

12. For 2002, the Petitioners contend the assessed value of the property should be \$5,910,000, assessed as follows:

| <b>TAX PARCEL NO.</b> | <b>PETITION NO.</b> | <b>REQUESTED VALUE</b> |
|-----------------------|---------------------|------------------------|
| 009-20-13-0347-0001   | 45-032-02-1-5-00297 | 35,324.07              |
| 009-20-13-0347-0002   | 45-032-02-1-5-00296 | 40,554.42              |
| 009-20-13-0347-0003   | 45-032-02-1-5-00295 | 31,707.15              |
| 009-20-13-0347-0004   | 45-032-02-1-5-00294 | 27,280.56              |
| 009-20-13-0347-0005   | 45-032-02-1-5-00293 | 38,539.11              |
| 009-20-13-0347-0006   | 45-032-02-1-5-00292 | 42,965.70              |
| 009-20-13-0347-0007   | 45-032-02-1-5-00291 | 33,314.67              |
| 009-20-13-0347-0008   | 45-032-02-1-5-00290 | 30,501.51              |
| 009-20-13-0347-0009   | 45-032-02-1-5-00289 | 37,735.35              |
| 009-20-13-0347-0010   | 45-032-02-1-5-00288 | 42,161.94              |
| 009-20-13-0347-0011   | 45-032-02-1-5-00287 | 32,510.91              |
| 009-20-13-0347-0012   | 45-032-02-1-5-00286 | 29,691.84              |
| 009-20-13-0347-0013   | 45-032-02-1-5-00285 | 27,280.56              |
| 009-20-13-0347-0014   | 45-032-02-1-5-00284 | 31,305.27              |
| 009-20-13-0347-0015   | 45-032-02-1-5-00283 | 40,146.63              |
| 009-20-13-0347-0016   | 45-032-02-1-5-00282 | 35,324.07              |

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| 009-20-13-0347-0017 | 45-032-02-1-5-00281 | 30,501.51 |
| 009-20-13-0347-0018 | 45-032-02-1-5-00280 | 32,912.79 |
| 009-20-13-0347-0019 | 45-032-02-1-5-00279 | 42,563.82 |
| 009-20-13-0347-0020 | 45-032-02-1-5-00278 | 38,539.11 |
| 009-20-13-0347-0021 | 45-032-02-1-5-00277 | 29,691.84 |
| 009-20-13-0347-0022 | 45-032-02-1-5-00276 | 32,109.03 |
| 009-20-13-0347-0023 | 45-032-02-1-5-00275 | 41,760.06 |
| 009-20-13-0347-0024 | 45-032-02-1-5-00274 | 37,735.35 |
| 009-20-13-0347-0025 | 45-032-02-1-5-00273 | 35,324.07 |
| 009-20-13-0347-0026 | 45-032-02-1-5-00272 | 40,956.30 |
| 009-20-13-0347-0027 | 45-032-02-1-5-00271 | 32,109.03 |
| 009-20-13-0347-0028 | 45-032-02-1-5-00270 | 27,280.56 |
| 009-20-13-0347-0029 | 45-032-02-1-5-00269 | 38,539.11 |
| 009-20-13-0347-0030 | 45-032-02-1-5-00268 | 43,367.58 |
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| 009-20-13-0347-0032 | 45-032-02-1-5-00266 | 30,501.51 |
| 009-20-13-0347-0033 | 45-032-02-1-5-00265 | 37,735.35 |
| 009-20-13-0347-0034 | 45-032-02-1-5-00264 | 42,563.82 |
| 009-20-13-0347-0035 | 45-032-02-1-5-00263 | 32,912.79 |
| 009-20-13-0347-0036 | 45-032-02-1-5-00262 | 29,691.84 |
| 009-20-13-0347-0037 | 45-032-02-1-5-00261 | 27,280.56 |
| 009-20-13-0347-0038 | 45-032-02-1-5-00260 | 31,707.15 |
| 009-20-13-0347-0039 | 45-032-02-1-5-00259 | 40,554.42 |
| 009-20-13-0347-0040 | 45-032-02-1-5-00258 | 35,324.07 |
| 009-20-13-0347-0041 | 45-032-02-1-5-00257 | 30,501.51 |
| 009-20-13-0347-0042 | 45-032-02-1-5-00256 | 33,314.67 |
| 009-20-13-0347-0043 | 45-032-02-1-5-00255 | 42,965.70 |
| 009-20-13-0347-0044 | 45-032-02-1-5-00254 | 38,539.11 |
| 009-20-13-0347-0045 | 45-032-02-1-5-00253 | 29,691.84 |
| 009-20-13-0347-0046 | 45-032-02-1-5-00252 | 32,510.91 |
| 009-20-13-0347-0047 | 45-032-02-1-5-00251 | 42,161.94 |
| 009-20-13-0347-0048 | 45-032-02-1-5-00250 | 37,735.35 |
| 009-20-13-0347-0049 | 45-032-02-1-5-00249 | 35,324.07 |
| 009-20-13-0347-0050 | 45-032-02-1-5-00248 | 40,146.63 |
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| 009-20-13-0347-0053 | 45-032-02-1-5-00245 | 38,539.11 |
| 009-20-13-0347-0054 | 45-032-02-1-5-00244 | 42,563.82 |
| 009-20-13-0347-0055 | 45-032-02-1-5-00243 | 32,912.79 |
| 009-20-13-0347-0056 | 45-032-02-1-5-00242 | 30,501.51 |
| 009-20-13-0347-0057 | 45-032-02-1-5-00241 | 37,735.35 |
| 009-20-13-0347-0058 | 45-032-02-1-5-00240 | 41,760.06 |
| 009-20-13-0347-0059 | 45-032-02-1-5-00239 | 32,109.03 |
| 009-20-13-0347-0060 | 45-032-02-1-5-00238 | 29,691.84 |
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| 009-20-13-0347-0062 | 45-032-02-1-5-00236 | 31,707.15 |

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| 009-20-13-0347-0063 | 45-032-02-1-5-00235 | 40,554.42 |
| 009-20-13-0347-0064 | 45-032-02-1-5-00234 | 35,324.07 |
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| 009-20-13-0347-0066 | 45-032-02-1-5-00232 | 33,314.67 |
| 009-20-13-0347-0067 | 45-032-02-1-5-00231 | 42,965.70 |
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| 009-20-13-0347-0070 | 45-032-02-1-5-00228 | 32,510.91 |
| 009-20-13-0347-0071 | 45-032-02-1-5-00227 | 42,161.94 |
| 009-20-13-0347-0072 | 45-032-02-1-5-00226 | 37,735.35 |
| 009-20-13-0347-0073 | 45-032-02-1-5-00225 | 35,324.07 |
| 009-20-13-0347-0074 | 45-032-02-1-5-00224 | 40,956.30 |
| 009-20-13-0347-0075 | 45-032-02-1-5-00223 | 32,109.03 |
| 009-20-13-0347-0076 | 45-032-02-1-5-00222 | 27,280.56 |
| 009-20-13-0347-0077 | 45-032-02-1-5-00221 | 38,539.11 |
| 009-20-13-0347-0078 | 45-032-02-1-5-00220 | 43,367.58 |
| 009-20-13-0347-0079 | 45-032-02-1-5-00219 | 33,716.55 |
| 009-20-13-0347-0080 | 45-032-02-1-5-00218 | 30,501.51 |
| 009-20-13-0347-0081 | 45-032-02-1-5-00217 | 37,735.35 |
| 009-20-13-0347-0082 | 45-032-02-1-5-00216 | 42,563.82 |
| 009-20-13-0347-0083 | 45-032-02-1-5-00215 | 32,912.79 |
| 009-20-13-0347-0084 | 45-032-02-1-5-00214 | 29,691.84 |
| 009-20-13-0347-0085 | 45-032-02-1-5-00213 | 27,280.56 |
| 009-20-13-0347-0086 | 45-032-02-1-5-00212 | 31,707.15 |
| 009-20-13-0347-0087 | 45-032-02-1-5-00211 | 40,554.42 |
| 009-20-13-0347-0088 | 45-032-02-1-5-00210 | 35,324.07 |
| 009-20-13-0347-0089 | 45-032-02-1-5-00209 | 30,501.51 |
| 009-20-13-0347-0090 | 45-032-02-1-5-00208 | 33,314.67 |
| 009-20-13-0347-0091 | 45-032-02-1-5-00207 | 42,965.70 |
| 009-20-13-0347-0092 | 45-032-02-1-5-00206 | 38,539.11 |
| 009-20-13-0347-0093 | 45-032-02-1-5-00205 | 29,691.84 |
| 009-20-13-0347-0094 | 45-032-02-1-5-00204 | 32,510.91 |
| 009-20-13-0347-0095 | 45-032-02-1-5-00203 | 42,161.94 |
| 009-20-13-0347-0096 | 45-032-02-1-5-00202 | 37,735.35 |
| 009-20-13-0347-0097 | 45-032-02-1-5-00201 | 35,324.07 |
| 009-20-13-0347-0098 | 45-032-02-1-5-00200 | 40,554.42 |
| 009-20-13-0347-0099 | 45-032-02-1-5-00199 | 31,707.15 |
| 009-20-13-0347-0100 | 45-032-02-1-5-00198 | 27,280.56 |
| 009-20-13-0347-0101 | 45-032-02-1-5-00197 | 38,539.11 |
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| 009-20-13-0347-0104 | 45-032-02-1-5-00194 | 30,501.51 |
| 009-20-13-0347-0105 | 45-032-02-1-5-00193 | 37,735.35 |
| 009-20-13-0347-0106 | 45-032-02-1-5-00192 | 42,161.94 |
| 009-20-13-0347-0107 | 45-032-02-1-5-00191 | 32,510.91 |
| 009-20-13-0347-0108 | 45-032-02-1-5-00190 | 29,691.84 |

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| 009-20-13-0347-0109 | 45-032-02-1-5-00189 | 27,280.56 |
| 009-20-13-0347-0110 | 45-032-02-1-5-00188 | 31,707.15 |
| 009-20-13-0347-0111 | 45-032-02-1-5-00187 | 40,554.42 |
| 009-20-13-0347-0112 | 45-032-02-1-5-00186 | 35,324.07 |
| 009-20-13-0347-0113 | 45-032-02-1-5-00185 | 30,501.51 |
| 009-20-13-0347-0114 | 45-032-02-1-5-00184 | 33,314.67 |
| 009-20-13-0347-0115 | 45-032-02-1-5-00183 | 42,965.70 |
| 009-20-13-0347-0116 | 45-032-02-1-5-00182 | 38,539.11 |
| 009-20-13-0347-0117 | 45-032-02-1-5-00181 | 29,691.84 |
| 009-20-13-0347-0118 | 45-032-02-1-5-00180 | 32,510.91 |
| 009-20-13-0347-0119 | 45-032-02-1-5-00179 | 42,161.94 |
| 009-20-13-0347-0120 | 45-032-02-1-5-00178 | 37,735.35 |
| 009-20-13-0347-0121 | 45-032-02-1-5-00177 | 35,324.07 |
| 009-20-13-0347-0122 | 45-032-02-1-5-00176 | 40,554.42 |
| 009-20-13-0347-0123 | 45-032-02-1-5-00175 | 31,707.15 |
| 009-20-13-0347-0124 | 45-032-02-1-5-00174 | 27,280.56 |
| 009-20-13-0347-0125 | 45-032-02-1-5-00173 | 38,539.11 |
| 009-20-13-0347-0126 | 45-032-02-1-5-00172 | 42,965.70 |
| 009-20-13-0347-0127 | 45-032-02-1-5-00171 | 33,314.67 |
| 009-20-13-0347-0128 | 45-032-02-1-5-00170 | 30,501.51 |
| 009-20-13-0347-0129 | 45-032-02-1-5-00169 | 37,735.35 |
| 009-20-13-0347-0130 | 45-032-02-1-5-00168 | 42,161.94 |
| 009-20-13-0347-0131 | 45-032-02-1-5-00167 | 32,510.91 |
| 009-20-13-0347-0132 | 45-032-02-1-5-00166 | 29,691.84 |
| 009-20-13-0347-0133 | 45-032-02-1-5-00165 | 27,280.56 |
| 009-20-13-0347-0134 | 45-032-02-1-5-00164 | 31,707.15 |
| 009-20-13-0347-0135 | 45-032-02-1-5-00163 | 40,554.42 |
| 009-20-13-0347-0136 | 45-032-02-1-5-00162 | 35,324.07 |
| 009-20-13-0347-0137 | 45-032-02-1-5-00161 | 30,501.51 |
| 009-20-13-0347-0138 | 45-032-02-1-5-00160 | 33,314.67 |
| 009-20-13-0347-0139 | 45-032-02-1-5-00159 | 42,965.70 |
| 009-20-13-0347-0140 | 45-032-02-1-5-00158 | 38,539.11 |
| 009-20-13-0347-0141 | 45-032-02-1-5-00157 | 29,691.84 |
| 009-20-13-0347-0142 | 45-032-02-1-5-00156 | 32,510.91 |
| 009-20-13-0347-0143 | 45-032-02-1-5-00155 | 42,161.94 |
| 009-20-13-0347-0144 | 45-032-02-1-5-00154 | 37,735.35 |
| 009-20-13-0347-0145 | 45-032-02-1-5-00153 | 35,324.07 |
| 009-20-13-0347-0146 | 45-032-02-1-5-00152 | 40,146.63 |
| 009-20-13-0347-0147 | 45-032-02-1-5-00151 | 31,305.27 |
| 009-20-13-0347-0148 | 45-032-02-1-5-00150 | 27,280.56 |
| 009-20-13-0347-0149 | 45-032-02-1-5-00149 | 38,539.11 |
| 009-20-13-0347-0150 | 45-032-02-1-5-00148 | 42,563.82 |
| 009-20-13-0347-0151 | 45-032-02-1-5-00147 | 32,912.79 |
| 009-20-13-0347-0152 | 45-032-02-1-5-00146 | 30,501.51 |
| 009-20-13-0347-0153 | 45-032-02-1-5-00145 | 37,735.35 |
| 009-20-13-0347-0154 | 45-032-02-1-5-00144 | 41,760.06 |

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| 009-20-13-0347-0155 | 45-032-02-1-5-00143 | 32,109.03 |
| 009-20-13-0347-0156 | 45-032-02-1-5-00142 | 29,691.84 |
| 009-20-13-0347-0157 | 45-032-02-1-5-00141 | 27,682.44 |
| 009-20-13-0347-0158 | 45-032-02-1-5-00140 | 31,305.27 |
| 009-20-13-0347-0159 | 45-032-02-1-5-00139 | 40,146.63 |
| 009-20-13-0347-0160 | 45-032-02-1-5-00138 | 36,133.74 |
| 009-20-13-0347-0161 | 45-032-02-1-5-00137 | 30,903.39 |
| 009-20-13-0347-0162 | 45-032-02-1-5-00136 | 32,912.79 |
| 009-20-13-0347-0163 | 45-032-02-1-5-00135 | 42,563.82 |
| 009-20-13-0347-0164 | 45-032-02-1-5-00134 | 38,946.40 |
| 009-20-13-0347-0165 | 45-032-02-1-5-00133 | 30,093.72 |
| 009-20-13-0347-0166 | 45-032-02-1-5-00132 | 32,109.03 |
| 009-20-13-0347-0167 | 45-032-02-1-5-00131 | 41,760.06 |
| 009-20-13-0347-0168 | 45-032-02-1-5-00130 | 38,137.23 |

13. At the hearing, the parties waived closing statements and opted to submit post-hearing briefs. The post-hearing briefs were due forty-five days from the date of hearing. The parties submitted their briefs in a timely manner.

*Motions to Dismiss*

14. The Respondent filed a motion to dismiss four petitions, 45-032-02-1-5-00145 (Deborah Hefner), 45-032-02-1-5-00190 (Radivan and Ika Beric), 45-032-02-1-5-00229 (Robert and Barbara Wetzel) and 45-032-02-1-5-00261 (Eric Falkinburg) (together the Non-signing Petitioners), because the Petitions did not have power of attorney forms attached to the Petitions signed by the Non-signing Petitioners. Instead, George Novogroder signed on their behalf.<sup>3</sup> The Respondent argued that the condominium association has no authority to represent individual taxpayers because the taxes are assessed to the owner and paid by the owner; therefore, the owner must be the party to assert the right of appeal. The Petitioners' counsel responded that the Cedar Point Condominium Association was authorized to appeal all assessments within the condominium complex.

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<sup>3</sup> Further, Respondent's counsel made a motion to dismiss an additional fifty-five appeals because the powers of attorney were not properly acknowledged by a notary as required by the form and the administrative rules of the Board. The Petitioners were allowed ten days to cure the defect. On December 7, 2005, the Petitioners resubmitted the forms with the notary seals indicated on each power of attorney form except one. The Petitioners noted that a seal was not attached to the power of attorney for Lisa Renee Franklin Morgan (petition 45-032-02-1-5-00286). Further, the Petitioners were unable to locate Ms. Morgan because she had moved. Thus, although not addressed by the Respondent's Motion to Dismiss, Ms. Morgan is also a Non-signing Petitioner.

15. In Indiana, “[a]ll agreements, decisions, and determinations lawfully made by an association of co-owners in accordance with the voting percentages established in: (1) this article; (2) the declaration; or (3) the bylaws; are binding on all condominium unit owners.” Ind. Code §32-25-2-16 defines a “majority” or “majority of co-owners” as “the co-owners with at least fifty-one percent (51%) of the votes, in accordance with the percentages assigned in the declaration to the condominium units for voting purposes.” Here, the condominium association authorized “George Novogroder and/or Ray Szarmach to represent all of the owners at the [assessment appeal] hearing.” *Petitioners Exhibit 173*. Further, the evidence shows that members of the condominium association owning more than 51% of the condominiums voted to authorize the appeal. Thus, the Board holds that George Novogroder was authorized to sign on behalf of the Non-signing Petitioners and the Petitions for those Non-signing Petitioners were properly before the Board.<sup>4</sup>

#### **JURISDICTIONAL FRAMEWORK**

16. The Indiana Board is charged with conducting an impartial review of all appeals concerning: (1) the assessed valuation of tangible property; (2) property tax deductions; and (3) 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. *See* Ind. Code § 6-1.5-4-1(b); Ind. Code § 6-1.1-15-4.

#### **ADMINISTRATIVE REVIEW AND THE PETITIONERS’ BURDEN**

17. 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.*

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<sup>4</sup> The Respondent further argued that the condominium association did not authorize the retention of an attorney. The Board, however, finds that George Novogroder had authority to sign the Petitions for the Non-signing Petitioners and appear on behalf of the Non-signing Petitioners. Further, the Petitioners were properly represented by an attorney in accordance with the Board’s rules. *See 52 I.A.C. 1 et seq.* Whether the condominium association approved the expense of hiring an attorney is not an issue for this Board.

*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).

18. 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. Wash. 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”).
19. 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.

#### ANALYSIS

*Whether the assessment of the condominium complex is in excess of its market value based on the Petitioners’ appraisal.*

20. The Petitioners contend that the value of the subject properties should be \$5,910,000 as determined by James Lee, a member of the Greater Northwest Indiana Association of Realtors, and the Indiana National Association of Realtors. *Petitioners Exhibit 176*. The Petitioners contend that the complex is operated more like an apartment project than a condominium complex because most of the units are owned for investment purposes and are rented to tenants. *Lee testimony; Novogroder testimony*. Thus, the Petitioners argue, the subject properties should be valued by the income approach to valuation. *Id*.
21. The Respondent contends that the subject properties are valued correctly at \$8,736,300. *Petitioners Exhibits 1-168; Respondent Exhibit 4*. The Respondent contends that the property must be valued as a condominium complex because each of the 168 units has individual, fee simple, and transferable ownership interests and each is a separate and distinct legal interest. *Hemming testimony; Barrow testimony; St. Amour argument*.



22. The Petitioners presented the following testimony and other evidence in regard to this issue:
- A. The Petitioners' witness, James Lee, appraised Cedar Point with an overall property value of \$5,910,000. *Lee testimony; Petitioners Exhibit 178 at 30.* Mr. Lee testified that he applied each unit's percentage of ownership in the entire complex to the total appraised value and he determined the market value of each unit to be from \$27,281 to \$42,966. *Id.* According to Mr. Lee, the effective date of the appraisal is April 1, 1999. *Id.*
- B. Mr. Lee testified that there are three recognized approaches for valuing property, the sales comparison approach, cost approach and the income approach to value. *Lee testimony.* According to Mr. Lee, he was instructed by the Petitioners to use only the income approach to valuation because the Petitioners believe that the complex is operated more like an apartment project than a condominium project. *Id.* The Petitioners argue that the income approach is the most appropriate means of valuing the property because the complex is an investment condominium project with the majority of the units being rented. *Id.* Thus, Mr. Lee testified, he based the appraisal on a leased fee estate. *Id.*
- C. Mr. Lee testified that his analysis was not based on market rents or typical expenses, but was based on the rental income and expense information provided by Mr. Novogroder. *Lee testimony.* Further, Mr. Lee testified that he did not independently review any income or expense information. *Id.* On cross examination, Mr. Lee admitted that he did not do a fee simple analysis, which would have included market rents rather than site-specific rental and revenue rates. *Id.* Further Mr. Lee testified that if all 168 units were separate and individual, fee simple would be the more accurate way to establish the value of the property because there would be no income. *Id.*

- D. Mr. Lee testified that he defined market value as the most prevalent price a property should bring in a competitive and open market under all conditions requisite to a fair sale, assuming both parties were acting prudently and knowledgably and no undue stimuli was present. *Lee testimony.* Mr. Lee testified that sales of units in 1999 through 2002 ranged from \$42,500 to \$57,000. *Id.* Mr. Lee admitted that the sale values were significantly higher than the allocation of the lease fee amount determined by his appraisal. *Id.*
- E. Finally, although approximately \$800,000 was spent for remodeling in 2001 and 2002, Mr. Lee testified that he had no opinion as to the effect of that remodeling on the market value of the property. *Lee testimony.*
- F. George Novogroder testified that he has operated Cedar Point as an apartment complex over the last thirty years. *Novogroder testimony.* According to Mr. Novogroder, the Novogroder Companies, Inc., manages Cedar Point under a contract with the condominium association. *Id.* The company manages the complex, runs the leasing office, maintains and repairs common areas and apartments, and responds to tenants' work orders. *Id.*
- G. According to Mr. Novogroder, in 1999, Novogroder Companies owned 120 units. *Novogroder testimony.* Currently, he testified, Novogroder Companies own 55 units. *Id.* 65 units were sold between 2000 and 2005. *Id.* According to Mr. Novogroder, the sales prices of the 65 units that Novogroder Companies sold were higher than the assessed values of those units. *Id.* Mr. Novogroder testified that the current asking price for the units on sale today is in the \$60,000 range. *Id.*
- H. Mr. Novogroder also testified that in 1999, 10 units were owner occupied. *Id.* Currently, according to the Petitioners' witness, 24 units are owner occupied units. *Id.* Mr. Novogroder testified that there is no leasing activity for the owner occupied

units. *Id.* Finally, according to Mr. Novogroder, Grace Kim purchased 24 or 25 units which she leases out herself.<sup>5</sup> *Id.*

I. Mr. Novogroder testified that the rental income that was provided to Mr. Lee was taken from the units that Novogroder Companies leases and interpolated to 168 units. *Novogroder testimony.* According to Mr. Novogroder, the expenses were the exact association expenses in 1999. *Id.* On cross examination, Mr. Novogroder admitted that the expense ratio of 47% was high, but attributed the higher than average expense level partially to the fact that it is a condominium association. *Id.*

23. The Respondent presented the following testimony and other evidence in regard to this issue:

A. The Respondent contends that the assessment of the property is correct. According to Respondent's witness, Jim Hemming, the property was assessed in accordance with the Real Property Assessment Guidelines. *Hemming testimony.* Further, the Respondent argues, the neighborhood summary sheet shows that appropriate land values were applied to the property. *Id.; Respondent Exhibit 3.*

B. The Respondent also contends that the Petitioners' appraisal does not value the property under Indiana law using true tax value. *Barrow testimony; Petitioners Exhibit 178.* According to Respondent's witness, Charles Kurt Barrow, the Petitioners' definition of value sought is in error, and the appraiser's opinion of value is not correct under Indiana law. *Barrow testimony.*

C. Mr. Barrow testified that, according to the Real Property Assessment Manual, the physical condition of a property as of March 1, 2002, is assessed and valued as of January 1, 1999. *Barrow testimony.* The Respondent argues that the Petitioners

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<sup>5</sup> Petitioners' Proposed Findings of Fact state that Ms. Kim purchased 37 units. Petitioners' Proposed Findings of Fact at 2.

valued the property as of April 1, 1999, and failed to value improvements made to the property in 2001 and 2002. *Id.*

- D. Further, the Respondent argues that the Petitioners' appraiser erred by considering only the leased fee estate. *Barrow testimony*. According to the Respondent, part of the property interest was not valued because there was no study of economic rents or support for the expense ratio in the income approach that was performed. *Id.* The Respondent also alleges it was improper for the Petitioners' appraiser not to independently verify the income and expense data provided by the Petitioners. *Id.* Finally, the Respondent contends that the income and expense information provided by the Petitioners did not account for all of the units because some units are owner occupied and other units are rental units that are not leased by Novogroder Companies. *Id.*
24. Real property in Indiana is assessed on the basis of its "true tax value." *See* Ind. Code § 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 – VERSION A at 12 (2001) (incorporated by reference at 50 IAC 2.3-1-2) (the MANUAL). The market value-in-use of a property may be calculated through the use of several approaches, including the sales comparison approach, the cost approach, or the income approach, 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).
25. Regardless of the approach used to prove the market value in use of a property, 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.*

26. The Petitioners submitted an appraisal by James L. Lee, MAI, of Lee and Associates, Inc. *Petitioners Exhibit 178, Executive Summary*. The appraiser inspected the property on July 1, 2004, and on October 11, 2004. *Id.* The appraiser estimated the value of the leased fee estate in Cedar Point, effective April 1, 1999. *Id.* Mr. Lee testified that he prepared a limited appraisal in accordance with the Uniform Standards of Professional Practice. *Petitioners Exhibit 178 at 24*. Mr. Lee further testified that he valued the subject property as if the property was an apartment complex. *Lee testimony; Petitioners Exhibit 178, Letter of Transmittal*. In addition, Mr. Lee testified that in arriving at the opinion of value he used only the income approach to value and relied on the actual 1999 income and expense information provided by Mr. Novogroder. *Lee testimony; Petitioners 178 at 24, 26-29*. Using the income approach, Mr. Lee arrived at an estimated value of \$5,910,000 for the leased fee estate. *Id.*
27. “The income approach to value is based on the assumption that potential buyers will pay no more for the subject property...than it would cost them to purchase an equally desirable substitute investment that offers the same return and risk as the subject property.” *MANUAL at 14*. The income approach, thus, focuses on the intrinsic value of the property, not upon the Petitioners’ operation of the property because property-specific rents or expenses may reflect elements other than the value of the property “such as quality of management, skill of the work force, competition and the like.” *Thorntown Telephone Company, Inc. v. State Board of Tax Commissioners*, 588 N.E.2d 613, 619 (Ind. Tax Ct. 1992). *See also MANUAL at 5* (“[C]hallenges to assessments [must] be proven with aggregated data, rather than individual evidence of property well. ... [I]t is not permissible to use individual data without first establishing its comparability or lack thereof to aggregated data.”).
28. Here, the Petitioners’ appraisal was based on rental and expense information obtained solely from the Novogroder Companies. The Petitioners presented no evidence to demonstrate whether the income and expenses were typical for comparable properties in the market. This is contrary to the assessment procedures that govern the assessment of property in Indiana. *MANUAL at 5*. Further, any low income or high expense levels may

be attributable to the Novogroder Companies' management of the properties as opposed to their market value. *See Thorntown Telephone Company*, 588 N.E.2d at 619. *See also, Lake County Trust Co. No. 1163 v. State Board of Tax Commissioners.*, 694 N.E.2d 1253, 1257-58 (Ind. Tax Ct. 1998) (economic obsolescence was not warranted where taxpayer executed unfavorable leases resulting in a failure to realize as much net income from the subject property). The Petitioners' appraiser admitted that if he were to appraise the fee simple interest in the property that he would have to use market rents and expenses, but that he was instructed by the Petitioners to value only the leased fee estate. Thus, the appraisal merely values a limited interest in the subject property and does not represent the value-in-use of the property as required by Indiana's assessment MANUAL.

29. Further, the Petitioners' witness testified that the rental information was based only on those units that are leased by Novogroder Companies. Thus, the rental information used in the appraisal is a fiction and does not even accurately represent site-specific rental information because the 37 properties owned by Grace Kim are not leased by the Novogroder Companies. Further, 24 units are owner occupied and, therefore, not rented at all. Thus, even if site-specific rental and expense information could prove market value in use for purposes of this appeal, the information provided by Mr. Novogroder fails to represent over a third of the units in the condominium complex.
30. Finally, valuing the property as an apartment complex does not represent the value of the condominiums. Condominiums and apartments are not the same for purposes of assessment. Unlike apartments, condominium units are individually assessed and the owners are individually responsible for payment of the taxes. Ind. Code § 32-25-8-7. Petitioners' own witness admitted that there are differences between the subject condominium project and an apartment complex. Mr. Novogroder testified that the expenses of the complex were high which he attributed to the difference between an apartment and a condominium association.
31. We find that the Petitioners' appraisal, based solely on the income approach to value and using rental and expense information provided by the Novogroder Companies, is

fundamentally flawed and, therefore, lacks probative value as to the market value in use of the subject property. Thus, the Petitioners have failed to raise a prima facie case on the basis of their appraisal.<sup>6</sup>

*Whether the condominium complex is assessed equal and justly with neighboring apartment complexes.*

32. The Petitioners further argue that the subject property is not assessed like other similar properties are assessed. *Novogroder testimony*. In support of this contention, the Petitioners presented the assessments of two apartment complexes in Lake County. *Petitioners' Exhibits 170 and 182*.
33. The Respondent argues that the condominiums are fairly assessed according to the sales prices of several units. *Hemming testimony*. Further, the Respondent argues, the apartment complexes that the Petitioners offer as comparables are not comparable to the condominium property because of the individual ownership of units in a condominium. *Respondent's Post-Hearing Brief at 6-7*.
34. The Petitioners presented the following testimony and other evidence in regard to this issue:
  - A. George Novogroder testified that he has operated Cedar Point as an apartment complex over the last thirty years. *Novogroder testimony*. According to Mr.

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<sup>6</sup> The Respondent raised these issues and additional arguments. According to the Respondent, the Petitioners' appraisal is based on fair market value, not market value in use. Second, the appraisal is based on a leased fee interest, not a fee simple interest and, thus, fails to value all of the interests in the property. Third, the appraisal fails to consider the renovations that were made prior to the March 1, 2002, assessment date; the property should be assessed based on the physical characteristics of the property as of March 1, 2002, using value information from January 1, 1999. Fourth, the appraisal uses a valuation date of April 1, 1999, not the statutory valuation date of January 1, 1999. Fifth, the appraisal is based on only the income approach to value and does not include an analysis based on the cost or sales comparison approaches due to an agreement with the client. Sixth, the appraisal is based on actual income and expense information provided by the client, but the testimony presented indicates that several units are owner-occupied and do not generate income. *Respondent Post-Hearing Brief at 3-5*. Where the Petitioner has not supported his claim with probative evidence, however, 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).

Novogroder, Novogroder Companies manages other apartment complexes, such as Cypress Pointe Apartments and Westwood Apartments, and they are managed in a similar manner. *Id.*

- B. Mr. Novogroder testified that the Westwood Apartment Complex is located directly across the street from Cedar Point. *Novogroder testimony.* According to Mr. Novogroder, Westwood is made up of the same twelve-unit apartment building structure as Cedar Point and essentially has identical units to Cedar Point. *Id.* According to the Petitioners' witness, the assessment for the buildings at the Westwood apartments total \$1,914,300 for 48 apartment units, with an average of \$39,881 per apartment unit. *Id.; Petitioners Exhibits 178 at 30 and 182.*
- C. Similarly, Mr. Novogroder testified, he built the Cypress Point apartment complex a couple miles away from Cedar Point at approximately the same time. *Novogroder testimony.* According to Mr. Novogroder, Cypress Pointe was based on the same construction plans as Cedar Point. *Id.* The Petitioners' witness testified that Cypress Pointe apartment were assessed for \$6,240,600, based on 180 units, for an average of \$34,670 per unit. *Petitioners Exhibits 170, 178 at 30.*
- D. The Petitioners argue that Cedar Point has the same replacement cost as the Westwood and the Cypress Pointe apartment complexes per twelve-unit building. *Novogroder testimony.* Thus, the Petitioners contend, the subject property should be assessed like the Cypress Pointe and Westwood Apartments. *Id.*

35. The Respondent presented the following testimony and other evidence in regard to this issue:

- A. The Respondent argues that the assessment of the property is correct. According to Respondent's witness, Jim Hemming, the property was assessed in accordance with the Real Property Assessment Guidelines. *Hemming testimony.* Mr. Hemming testified that he confirmed the quality and equitability of the assessments against



thirteen sales in the neighborhood. *Hemming testimony*. According to Mr. Hemming, he followed the procedures for a sales assessment ratio study and concluded the assessments were accurate and uniform because the median assessment ratio and the coefficient of dispersion were within the appropriate range. *Hemming testimony; Respondent Exhibits 5 and 7*. Mr. Hemming argued that he used the same procedure with the Petitioners' proposed values and those values are uniform, but inaccurate. *Hemming testimony; Respondent Exhibits 6 and 7*.

- B. The Respondent further argues that a condominium complex and an apartment complex are fundamentally different because the assessment is not that of an entire complex under single ownership, but that of the individual condominium owner's interest in their unit and the shared areas. *Respondent's Post-Hearing Brief at 6*. Also, according to the Respondent, individual owner-occupied condominium units qualify for the Homestead Deduction and Credit whereas leased units do not. *Id.* According to the Petitioners, even if the properties were physically comparable, the market value-in-use of a condominium unit with individual fee simple ownership is not comparable to the market value-in-use of the leased fee interest of an apartment complex. The utility received by the owners is not the same. *Id. at 7*.
36. Indiana Code §6-1.1-2-2 requires uniform and equal assessments. Thus, the Petitioners argue, to the extent that they prove that their property is not assessed uniformly or equal to comparable properties, their assessment should be equalized. However, "taxpayers are required to make a detailed factual showing at the administrative level." *Home Federal Savings Bank v. Madison Twp. Assessor*, 817 N.E.2d 332 (Ind. Tax Ct. 2004). To meet this showing, "the taxpayer must not only present probative evidence in support of its argument, but it must also sufficiently explain that evidence." *Id.*
37. To introduce evidence of comparable properties, a taxpayer must explain *how* the properties are comparable. See *Blackbird Farms Apts. v. Dep't of Local Gov't Fin.*, 765 N.E.2d 711, 715 (Ind. Tax Ct. 2002) (holding that the taxpayer did not present a prima facie case where it provided assessment information for allegedly comparable properties

but failed to explain *how* the properties were comparable). Conclusory statements that a property is “similar” or “comparable” to another property do not constitute probative evidence of the comparability of the two properties. *See Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 470 (Ind. Tax Ct. 2005). Instead, 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. The proponent likewise must explain how any differences between the properties affect their relative market values-in-use. *Id.* *See also, Hoogenboom-Nofziger*, 715 N.E.2d at 1024 (holding that taxpayer failed to make prima facie case when he offered conclusory statements and photographs without further explanation); and *Lacy Diversified Industries, Ltd. v. Dep't of Local Gov't Fin.*, 799 N.E.2d 1215, 1220 (Ind. Tax Ct. 2003) (holding that taxpayer failed to make prima facie case when he offered conclusory statements, property record cards, and photographs without further explanation).

38. Here the Petitioners contend that the subject condominium complex should be assessed equal to two apartment complexes because they were built with the same plans. Cedar Point is made up of 168 individual, fee simple, and transferable ownership interests, which are a separate and distinct legal interest. Ind. Code §32-25-4. *Id.*
39. “‘Condominium’ means real estate lawfully subjected to this article by the recordation of condominium instruments, and with respect to which the undivided interests in the common areas and facilities are vested in the condominium unit owners.” Ind. Code § 32-25-2-7. Ind. Code §32-25-4-1 states that a “condominium unit may be (1) individually conveyed; (2) individually encumbered; and (3) the subject of (A) ownership; (B) possession; (C) sale; and (D) all types of juridic acts *inter vivos* or *causa mortis*, as if the condominium unit were sole and entirely independent of the other condominium units in the building of which the condominium unit forms a part.” Ind. Code §32-25-4-1(b). Further, “Each condominium unit shall be...a separate and distinct

entity for the purpose of taxes, assessments, and other charges.” Ind. Code § 32-25-8-7(b).<sup>7</sup>

40. Petitioners introduced evidence of assessments of two Lake County apartment complexes, Cypress Pointe and Westwood Center. *Petitioners Exhibit 170 and 182.* Although the buildings in Cypress Pointe and Westwood Center may be physically similar to the Cedar Point Complex, these apartment properties are fundamentally different from a condominium complex according to Indiana law. *See* Ind. Code § 32-25 *et seq.* Further, even if an apartment complex and a condominium complex would be considered “comparable,” the Petitioners made no showing here as to how the neighborhoods in which the apartments were constructed are comparable to the subject neighborhood. Nor did the Petitioners show that the land upon which the apartments are built is comparable or that the apartments were maintained in a comparable manner. The only showing that the Petitioners made was that the apartments were constructed from the same 12 unit per building plan. Moreover, as the Respondent notes, condominiums, by their very nature differ from apartments due to the unique shared ownership interest in the condominium complex created by Ind. Code § 32-25.<sup>8</sup> Thus, despite any facial similarities to an apartment complex, the condominium complex is fundamentally different due to its ownership structure.
41. The Petitioners have failed to show that Cypress Pointe and Westwood are “comparable” to Cedar Point. Therefore, the Petitioners have failed to raise a prima facie case that Cedar Pointe should be assessed comparably to Cypress Pointe and Westwood.

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<sup>7</sup> The Petitioners argue that Cedar Point, having multiple owners of its condominium units, is no different than an apartment complex owned by a company with multiple investors. To the extent that Cedar Point has investors, however, those “investors” own a specific identifiable unit or units and a pre-determined percentage of the common areas. Contrary to Cedar Point’s condo owners, investors in company owning apartments merely own a percentage of the company and, therefore, a percentage of the apartment complex. The investor’s percentage of ownership is not separate and distinct and is not tied to any identifiable unit. To illustrate the point more clearly, if a fire occurred in one of the units at Cedar Point, the owner of that particular unit would bear the loss. If a fire occurred in one of the apartments owned by a company, the company bears the loss and, in turn, each of the investors shares in that loss according to their percentage of ownership in the company.

<sup>8</sup> Ind. Code §32-25 *et seq.* is the statute governing the establishment and administration of condominiums.

42. 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).

*Whether the current assessment reflects the market value of the units based on the principles of bulk sales and market absorption.*

43. The Petitioners admit that the sales prices of individual units exceed their appraised value and, in fact, exceed their assessed values. The Petitioners contend, however, that the sales prices do not reflect the value of the properties because Novogroder Companies owned 120 units in 1999 and still owned 65 at the time of the hearing. *Novogroder testimony*. According to the Petitioners, in order to appraise the property correctly, the time value of money must be considered. *Lee testimony*. The Petitioners argue that the market would take years to absorb bulk numbers of units. *Id.* Thus, the present value of future revenue must be considered and the sales values discounted significantly. *Id.*
44. The Respondent contends each condominium unit must be assessed separately, and the complex is valued correctly at \$8,736,300. *Petitioners Exhibits 1-168; Respondent Exhibit 4; Hemming testimony; Barrow testimony*. On cross examination, however, the Respondent admitted that under absorption principles, if it takes ten or more years to sell units, you would have to determine the present value of the sales prices back to a valuation date. *Barrow testimony*.
45. The Petitioners presented the following evidence and testimony in regard to this issue:
- A. James Lee appraised the Cedar Point Complex with an overall property value of \$5,910,000 using the income approach to value. *Petitioners Exhibit 178; Lee testimony*. The Petitioners argue that in order for an accurate sales comparison to be done, the time value of money must be applied to the sales value of individual properties. *Lee testimony*. According to the Petitioners, over 120 units are owned in

- bulk. *Novogroder testimony*. To dispose of them, the Petitioners argue, the units would either have to be sold to another investor who would subsequently rent them out, or a complicated long-term absorption analysis must be calculated on an individual, per unit basis, with discounting back to the present value. *Id.*; *Lee testimony*.
- B. According to Mr. Lee, he prepared an analysis in which the 168 units are absorbed over an estimated absorption period using a 14-period, seven-year cash flow analysis. *Lee testimony*. However the Petitioners chose not to present this analysis for review or consideration.
46. The Respondent presented the following evidence and testimony in regard to this issue:
- A. The Respondent contends that the Petitioners' appraisal of the property is incorrect, and therefore should be disregarded. *Barrow testimony*. In particular, Respondent contends that Petitioners' appraisal does not value the property under Indiana law using true tax value. *Id.* Finally, while the Respondent admits that absorption principles may be at issue, the Respondent argues that the Petitioners failed to present any analysis or evidence of any absorption period or present value analysis. *Id.*
47. The market value-in-use of a property may be calculated through the use of several approaches, including the sales comparison approach, the cost approach, or the income approach, 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). Thus, the Petitioners may present evidence of sales comparables to show the true tax value of the subject properties. Here, while the sales values support the individual assessments, the Petitioners allege that a "market absorption" discount should be applied due to various Petitioners' ownership of units in bulk.
48. Indiana has not addressed this issue and the jurisdictions that have addressed market absorption have issued conflicting decisions regarding whether such an "absorption

discount” should apply in property tax assessments.<sup>9</sup> Even if we were to accept Petitioners’ argument that the time value of money should be considered in valuing the condominium properties, the Petitioners failed to show what that discount should be and how that percentage should apply. Further, the Petitioners presented no testimony to how many properties are necessary to saturate the market. Finally, only a few condominium owners own units in bulk. Thus, even if the Petitioners provided substantial evidence valuing the absorption discount, the Petitioners could not have applied that discount to every unit of the condominium complex as they seek to do here.

49. 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). Thus, even if the Petitioners sufficiently proved that it was an error not to apply an absorption discount in valuing the condominiums, the Petitioners failed to show specifically what that discount should be and how that discount should apply. Therefore, the Petitioners have failed to raise a prima facie case that the assessments of the condominiums at issue in this case were incorrect.

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<sup>9</sup>*See, e.g., Bd. of Equalization of Salt Lake County v. Utah State Tax Comm’n ex rel. Benchmark, Inc.*, 864 P.2d 882,887 (Utah 1993) (“[A]pplying an absorption discount uniformly and equally is a practical impossibility. Uniform application would require the county assessor to determine whether a taxpayer is the owner of one or many lots. If a taxpayer owns two or more lots, the assessor will then be required to determine which of the lots owned were listed for sale on tax day and to predict a period during which the lots in question could reasonably be expected to be sold...Determining value according to this method for even one taxpayer is difficult. Doing it for every owner in the county is an administrative nightmare.”); *Crystal Point Joint Venture v. Arizona Department of Revenue*, 932 P.2d 1367, 1372 (Ariz. Ct. App. 1997) (“[T]he taxpayer, in effect, asks us to recognize that each unit is adversely impacted by the glutting effect of having all of its units on the market at the same time. Our Supreme Court, however, has made it clear that individual circumstances which adversely affect the marketability of real estate cannot be controlling for *ad valorem* property tax purposes.”) (citation omitted). *But see, Tamburelli Properties Assoc. v. Borough of Cresskill*, 705 A.2d 1270 (Sup. Ct. N.J. 1998) (use of absorption discount did not violate constitutional requirement of uniformity of assessment); and *Auker v. Commissioner of Internal Revenue*, T.C. Memo. 1998-185, 75 T.C.M. (CCH) 2321 (U.S. Tax Ct. 1998) (recognizing that relevant evidence of fair market value can include consideration of a market absorption discount because a seller seeking to sell a large block of property “may be forced to sell the block at a price per piece that is less than the quoted price for each piece.”)

## SUMMARY OF FINAL DETERMINATION

50. The Petitioners failed to raise a prima facie case that the subject properties were over-valued. The Board finds in favor of the Respondent on all issues.

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/code>>. 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 days of the date of this notice.**