

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

**Petition #:** 47-011-04-1-5-00005  
**Petitioner:** Sarah Lee  
**Respondent:** Shawswick Township Assessor (Lawrence County)  
**Parcel #:** 1100197800  
**Assessment Year:** 2004

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

**Procedural History**

1. The Petitioner initiated an assessment appeal with the Lawrence County Property Tax Assessment Board of Appeals (PTABOA) on June 20, 2005.
2. The PTABOA mailed notice of its decision on November 28, 2005.
3. The Petitioner filed a Form 131 Petition to the Indiana Board of Tax Review for Review of Assessment (Form 131 petition) on December 27, 2005. The Petitioner elected to have this case heard in small claims.
4. The Board issued a notice of hearing to the parties dated October 25, 2006.
5. The Board held an administrative hearing on January 31, 2007, before its duly appointed Administrative Law Judge, Jennifer Bippus.
6. Persons present and sworn in at hearing:
  - a) For Petitioner: Sarah Lee, Taxpayer
  - b) For Respondent: Tammie Jean, Shawswick Township Assessor  
April Stapp Collins, Lawrence County Assessor  
Kirk Reller, Technical Advisor to the Shawswick Township Assessor

## Facts

7. The property is a single-family residential property, located at 401 Ravine Drive, Bedford, Indiana.
8. The Administrative Law Judge did not inspect the property.
9. The PTABOA determined the assessed value of the subject property to be:  
Land \$41,100            Improvements \$280,200            Total \$321,300.
10. The Petitioner requested the following assessed values on her Form 131 petition:  
Land \$20,000            Improvements \$200,000            Total \$220,000.

## Objection

11. The Petitioner objected to the admission of Respondent's Exhibits 1-42 on grounds that she did not receive copies of those exhibits at least five days in advance of the hearing. *Lee testimony.* Because the Petitioner did not request copies of those exhibits, the Board overrules the Petitioner's objection.
12. The parties elected to contest this case under the procedures governing small claims. *See* Ind. Admin. Code tit. 52, r. 3. Those procedures are intended to make the administration of small claims "more efficient, informal, simple, and expeditious than those administered under 52 IAC 2." 52 IAC 3-1-1(b).
13. The Board's small claims rules provide that "the parties shall *make available* to all other parties copies of any documentary evidence and the names and addresses of all witnesses intended to be presented at the hearing at least five (5) days before the day of a small claims hearing." 52 IAC 3-1-5(f) (emphasis added). By contrast, the rules applicable to non-small-claims proceedings state that a party to the appeal "shall provide" to the other parties: (1) copies of documentary evidence at least five business days before the hearing; and (2) a list of witnesses and exhibits at least fifteen business days before the hearing. 52 IAC 2-7-1(b).
14. The Board interprets the phrase "shall make available" contained in 52 IAC 3-1-5(f) to mean that a party must provide the specified items to other parties upon request. The Board does not interpret that phrase to obligate a party to provide copies of documentary evidence to the other parties independent of a request by one or more of those parties. This interpretation gives meaning to the difference between the language used in 52 IAC 3-1-5(f) and 52 IAC 2-7-1(b) and best reflects the principles underlying the more informal small claims procedures.
15. Here, the Petitioner contends that she requested copies of the Respondent's evidence through her father, who delivered copies of her exhibits the Respondent. But Tammie Jean, the Shawswick Township Assessor, testified that Petitioner's father said "no" when she asked him if he wanted copies of the Respondent's exhibits. *Jean testimony.* The

Petitioner's father did not appear at the hearing to contradict Ms. Jean's testimony. The Petitioner testified that her father was hard-of-hearing and ill, and that he may have misunderstood Ms. Jean's question. While that may be true, neither the Petitioner nor her father notified the Respondent that it needed to provide the Petitioner with copies of its documentary evidence. The Board therefore overrules the Petitioner's objection and admits Respondent's Exhibits 1 – 42.

### **Parties' Contentions**

16. Summary of the Petitioner's contentions:

- a) The Petitioner bought the subject property in 1996 for \$175,000. *Lee testimony; Pet'r Ex. 19.* The property had been on the market for two years prior to the Petitioner buying it. *Id.* The Petitioner contends that, although the property may have appreciated in value after she bought it, the property did not appreciate enough to justify its current assessment. *Lee testimony.*
- b) The Petitioner does not believe that the subject property would sell for its current assessed value. *Lee testimony.* The only way to find out what the subject property would sell for would be to put the property on the market. But the Petitioner does not want to do that to her children. *Id.*
- c) The Petitioner submitted multiple-listing-service (MLS) data for eleven properties. *Pet'r Exs. 1-4, 11-17.* The Petitioner noted the days on the market, the asking price, and the taxes for three of those properties that had not sold. *Lee testimony; Pet'r Exs. 1-3.* The asking prices for the three unsold properties ranged from \$239,000 to \$359,000. *Id.* The taxes on the three properties ranged from \$3,630 to \$4,188. *Id.* The remaining eight properties, some of which are in the same neighborhood as the subject property, sold for prices ranging from \$199,000 to \$485,000. *Lee testimony; Pet'r Exs. 4, 11-17.* The taxes on those properties ranged from \$1,677 to \$3,917. *Id.*
- d) The Petitioner also contends that the subject property's assessment is inequitable. According to the Petitioner, newer homes with sales values similar to the subject property's assessment pay significantly lower taxes than she pays. *Lee testimony.* Properties in the same subdivision as the subject property with larger homes, limestone exteriors, and in-ground pools, pay approximately the same amount of taxes that the Petitioner pays. *Id.*
- e) In support of her inequity claim, the Petitioner submitted a memorandum prepared by Darrell Ellis, who the Petitioner identified as an appraiser. *Pet'r Ex. 5A.* In that memorandum, Mr. Ellis indicates that the subject property "is assessed higher than the market would support" and concludes with "there is no market data that would support a conclusion of value that showed your home equal to or greater than the home at 306 Hill Drive, 111 Brookside Drive, or 101 Brookside Drive."

*Id.* In 2005, those three properties were assessed for \$336,300, \$376,500, and \$254,100, respectively. *See Pet'r Exs. 6, 8-9.*

- f) The Petitioner also submitted property record cards and tax data for five properties, including the three properties identified in Mr. Ellis' memorandum, to demonstrate the inequity of her assessment. *Pet'r Exs. 6-10.* The size of the homes on those properties range from 3,244 square feet to 5,235 square feet. *Pet'r Exs. 6-10.* The taxes range from \$4,838 to \$7,468. *Id.* All of those properties have in-ground pools and one of the homes has a limestone exterior. *Lee testimony.*
- g) The Petitioner next contends that the Respondent assessed the subject property using incorrect data. The property record card indicates that the subject home has four fireplaces. But the home has only two fireplaces with one flue. *Id.* The fireplaces are back-to-back, so they are functionally one fireplace. *Id.* Similarly, the Petitioner contends that the Respondent assessed the subject property for too many plumbing fixtures. The main-level bathroom does not have a sink; the sink is in the mud room. *Id.*
- h) The Respondent also used incorrect measurements to assess the subject home. *Lee testimony.* The Respondent measured the home's second floor as if it completely covered the first floor. *Id.* But the great room on the first floor has a cathedral ceiling, with no floor area above it. *Id.* Mr. Ellis measured the subject home as having a total of 4,680 square feet. *Lee testimony; Pet'r Ex. 5.* The Petitioner assumes that Mr. Ellis measured from the inside on the second floor, and possibly from both the inside and outside on the first floor. *Lee testimony.* In his memorandum, Mr. Ellis states that he measured the subject home according to the Uniform Standard of Professional Appraisal Practice (USPAP). *Lee testimony; Pet'r Ex. 5A.*
- i) The subject property's assessment fails to consider that the Brook Knoll subdivision, where the property is located, is in decline. *Lee argument.* There are no street lights, sidewalks, or city sewers, and airplanes fly overhead. *Lee testimony.* New subdivisions within the market area have lowered the demand for homes in Brook Knoll. *Id.*

17. Summary of the Respondent's contentions:

- a) The Respondent submitted property record cards for fourteen properties that the Respondent contends are comparable to the subject property. *Resp't Exs. 1, 2, 4, 6, 8, 10-18.* The Respondent also presented listing information regarding four of those properties. *Resp't Exs. 3, 5, 7, 9.*
- b) The Respondent prepared a chart listing the fourteen properties it contends are comparable to the subject property as well as the sixteen properties that the Petitioner identified. *Resp't Ex. 39.* The Respondent compared the homes' sizes,

ages, and assessed values-per-square-foot. *Id.* Of the Respondent's fourteen comparables, only one had a lower value-per-square-foot than the subject home. *Collins testimony; Resp't Ex. 40.* Similarly, only one home identified by the Petitioner had a lower assessed value-per-square-foot than the subject home. *Id.*

- c) Although Mr. Ellis gave an opinion concerning the Petitioner's tax burden, he neither explained the basis for his opinion nor identified his credentials. *Collins testimony.* The Respondent is curious as to why Mr. Ellis would go to the trouble of measuring the subject home without offering a valuation opinion. *Reller testimony.* The Respondent previously asked the Petitioner to provide an appraisal, but the Petitioner has not done so. In fact, the Petitioner has not provided any evidence of the subject property's value. *Collins testimony.*
- d) Although the Petitioner performed a lot of research, she did not explain how her exhibits relate to the subject property. *Reller argument.* The Petitioner compared her taxes to the taxes of several properties located in different taxing units than the taxing unit in which the subject property is located. *Collins testimony.* But tax rates vary between taxing districts. *Reller testimony; Resp't Ex. 41.* For example, the tax rate within the city of Bedford is 50% higher than are the tax rates in Shawswick and Marshall Townships. *Reller testimony; Resp't Ex. 41.* Consequently, the taxes on properties with identical assessments and exemptions will vary depending on the properties' locations. *Reller testimony.* The Respondent assigns the correct market-based value to each property it assesses; it does not determine the amount of taxes due for those properties. *Collins testimony.*
- e) Although the Petitioner contends that Brook Knoll is declining, one of her MLS sheets describes the subdivision as "prestigious." *Collins testimony.* Similarly, Petitioner's Exhibit 14 shows that the property at 1 Helton Road sold for \$340,000 but is assessed for only \$193,600. *Collins testimony; Resp't Ex. 40.* That property includes twelve acres of agricultural land and the Department of Local Government Finance sets the rates for agricultural land. *Id.* The Respondent used the same base rate to value the subject lot as it used to value the other platted lots in the Brook Knoll subdivision. *Collins testimony; Resp't Ex. 40.*
- f) The Respondent re-measured the subject home on January 29, 2007, with the Petitioner's father present. *Collins testimony.* The Petitioner testified that the bathroom on the main floor did not have a sink; however, it does have a toilet and shower making it a two-fixture bathroom. *Id.* And the Respondent discovered that, although it had assessed the basement as being unfinished, a portion of the basement actually was finished. *Id.* The Respondent also discovered errors regarding the amount of finished living area, the number of plumbing fixtures and the number of fireplaces. The Respondent prepared a corrected property record card reflecting changes it made as a result of its inspection. *Id.; Resp't Ex. 42.*

The corrected property record card actually reflects an increase in value. *See Resp't Ex. 42.*

### **Record**

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

- a) The Form 131 petition,
- b) The digital recording of the hearing,
- c) Exhibits:

Petitioner Exhibit 1: MLS listing for 421 Ravine Drive.  
Petitioner Exhibit 2: MLS listing for 336 Hill Drive.  
Petitioner Exhibit 3: MLS listing 511 Knoll Drive.  
Petitioner Exhibit 4: MLS listing 108 Brookside Drive.  
Petitioner Exhibit 5: Sketch and Photo of 401 Ravine Drive (subject property).  
Petitioner Exhibit 5A: Memo from Darrell Ellis regarding the sketch.  
Petitioner Exhibit 6: Property record card (PRC) and tax data for 306 Hill Drive.  
Petitioner Exhibit 7: Tax data and PRC for 325 Hill Drive.  
Petitioner Exhibit 8: Tax data and PRC for 111 Brookside Drive.  
Petitioner Exhibit 9: Tax data and PRC for 101 Brookside Drive.  
Petitioner Exhibit 10: Tax data and PRC for 409 Ravine Drive.  
Petitioner Exhibit 11: MLS listing for 302 Sunset Lane.  
Petitioner Exhibit 12: MLS listing for 2624 North Hill Drive.  
Petitioner Exhibit 13: MLS listing for 252 The Woods.  
Petitioner Exhibit 14: MLS listing for 1 Helton Road.  
Petitioner Exhibit 15: MLS listing for 131 The Woods.  
Petitioner Exhibit 16: MLS listing for 118 The Woods.  
Petitioner Exhibit 17: MLS listing for 333 Sunset Lane.  
Petitioner Exhibit 18: A statement of the Petitioner's position.  
Petitioner Exhibit 19: Settlement Statement showing the 1996 purchase of the subject property.

Respondent Exhibit 1: Property record card (PRC) for parcel 05 002096 00; 252 The Woods.  
Respondent Exhibit 2: PRC for parcel 05 002140 00; 401 Summer Lake Drive.  
Respondent Exhibit 3: Real Estate listing for 401 Summer Lake Drive.  
Respondent Exhibit 4: PRC for parcel 11 004638 00; 336 Hill Drive.  
Respondent Exhibit 5: Real Estate listing for 336 Hill Drive.  
Respondent Exhibit 6: PRC for 05 001596 02; 311 Pinewood Drive.  
Respondent Exhibit 7: Real Estate listing for 311 Pinewood Drive.  
Respondent Exhibit 8: PRC for 11 002029 04; 374 Shawnee Woods Drive.  
Respondent Exhibit 9: Real Estate listing for 374 Shawnee Woods Drive.

- Respondent Exhibit 10: PRC for parcel 08 001152 00; 222 Corrie Court.
- Respondent Exhibit 11: PRC for parcel 09 000296 00; 627 Twin Ponds Road.
- Respondent Exhibit 12: PRC for parcel 09 000320 00; RR 1.
- Respondent Exhibit 13: PRC for parcel 11 000842 00; 111 Brookside Drive.
- Respondent Exhibit 14: PRC for parcel 11 002863 00; 325 Hill Drive.
- Respondent Exhibit 15: PRC for parcel 11 005559 00; 14 Hillcrest Circle.
- Respondent Exhibit 16: PRC for parcel 05 000064 00; 157 The Woods.
- Respondent Exhibit 17: PRC for parcel 04 000347 00; 865 Burton Cemetery Road.
- Respondent Exhibit 18: PRC for parcel 07 000973 00; Bartlettsville Road.
- Respondent Exhibit 19: Copy of Form 130.
- Respondent Exhibit 20: Copy of Form 115.
- Respondent Exhibit 21: Copy of Form 131.
- Respondent Exhibit 22: PRC for parcel 11 001978 00; 401 Ravine Drive (the subject property).
- Respondent Exhibit 23: PRC for parcel 11 003752 00; 421 Ravine Drive; Pet'r Ex. 1.
- Respondent Exhibit 24: PRC for parcel 11 004638 00; 336 Hill Drive; Pet'r Ex. 2.
- Respondent Exhibit 25: PRC for parcel 11 002659 00; 511 Knoll Drive; Pet'r Ex. 3.
- Respondent Exhibit 26: PRC for parcel 11 002636 00; 108 Brookside Drive; Pet'r Ex. 4.
- Respondent Exhibit 27: PRC for parcel 11 001306 00; Brookside & Hill Drive; Pet'r Ex. 6.
- Respondent Exhibit 28: PRC for 11 002863 00; 325 Hill Drive; Pet'r Ex. 7.
- Respondent Exhibit 29: PRC for 11 000843 00; 111 Brookside Drive; Pet'r Ex. 8.
- Respondent Exhibit 30: PRC for 11 005679 00; 101 Brookside Drive; Pet'r Ex. 9.
- Respondent Exhibit 31: PRC for 11 007260 00; 409 Ravine Drive; Pet'r Ex. 10.
- Respondent Exhibit 32: PRC for 08 000468 11; 302 Sunset Lane; Pet'r Ex. 11.
- Respondent Exhibit 33: PRC for 11 002029 13; 2624 North Hill Drive; Pet'r Ex. 12.
- Respondent Exhibit 34: PRC for 05 002096 00; 252 The Woods; Pet'r Ex. 13.
- Respondent Exhibit 35: PRC for 05 001562 05; 1 North Helton Road; Pet'r Ex. 14.
- Respondent Exhibit 36: PRC for 05 000058 00; 131 The Woods Oak Circle; Pet'r Ex. 15.
- Respondent Exhibit 37: PRC for 05 002081 00; 118 The Woods; Pet'r Ex. 16.
- Respondent Exhibit 38: PRC for 08 003378 00; Steeple Chase 11; Pet'r Ex. 17.
- Respondent Exhibit 39: Comparison of all exhibits, including the average square foot price.
- Respondent Exhibit 40: Respondent's rebuttal.
- Respondent Exhibit 41: Tax rates for Lawrence County for 2004 pay 2005.
- Respondent Exhibit 42: Corrected PRC for the subject property.

Board Exhibit A: Form 131 Petition with attachments.

Board Exhibit B: Notice of Hearing.  
Board Exhibit C: Hearing Sign-In Sheet.

- d) These Findings and Conclusions.

### Analysis

19. The most applicable governing cases are:
- a) A petitioner seeking review of a determination of an assessing official has the burden to establish a prima facie case proving that the current assessment is incorrect, and specifically what the correct assessment would be. *See Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also, Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998).
  - b) In making its case, the taxpayer must explain how each piece of evidence is relevant to the requested assessment. *See Indianapolis Racquet Club, Inc. v. Washington Twp. Assessor*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004) (“[I]t is the taxpayer's duty to walk the Indiana Board . . . through every element of the analysis”).
  - c) Once the petitioner establishes a prima facie case, the burden shifts to the assessing official to rebut the petitioner's evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). The assessing official must offer evidence that impeaches or rebuts the Petitioner's evidence. *Id.*; *Meridian Towers*, 805 N.E.2d at 479.
20. The Petitioner did not provide sufficient evidence to support her contentions. The Board reaches this conclusion for the following reasons:
- a) The 2002 Real Property Assessment Manual (Manual) defines the “true tax value” of real property as “the market value-in-use of a property for its current use, as reflected by the utility received by the owner or a similar user, from the property.” 2002 REAL PROPERTY ASSESSMENT MANUAL 2 (incorporated by reference at 50 IAC 2.3-1-2). As set forth in the Manual, the appraisal profession traditionally has used three methods to determine a property's market value: the cost approach, the sales comparison approach, and the income approach. *Id.* at 3, 13-15. In Indiana, assessing officials generally assess real property using a mass-appraisal version of the cost approach, as set forth in the Real Property Assessment Guidelines for 2002 – Version A (Guidelines).
  - b) A property's market value-in-use, as ascertained through application of the Guidelines' cost approach, is presumed to be accurate. *See* MANUAL at 5; *Kooshtard Property VI, LLC v. White River Twp. Assessor*, 836 N.E.2d 501, 505 (Ind. Tax Ct. 2005) *reh'g den. sub nom. P/A Builders & Developers, LLC*, 842

N.E.2d 899 (Ind. Tax 2006). But a taxpayer may offer evidence to rebut that presumption, provided such evidence is consistent with the Manual's definition of true tax value. MANUAL at 5. An appraisal prepared in accordance with the Manual's definition of true tax value generally will suffice. *Id.*; *Kooshtard Property VI*, 836 N.E.2d at 505, 506 n.1 (“[T]he Court believes (and has for quite some time) that the most effective method to rebut the presumption that an assessment is correct is through the presentation of a market value-in-use appraisal, completed in conformance with the Uniform Standards of Professional Appraisal Practice (USPAP).”). A taxpayer may also rely upon sales information regarding the subject or comparable properties and any other information compiled in accordance with generally accepted appraisal principles. MANUAL at 5.

- c) The Manual further provides that for the 2002 general reassessment, a property's assessment must reflect its value as of January 1, 1999. MANUAL at 4. The same is true for succeeding assessment years between 2002 and 2005. *See* MANUAL at 2 (stating that the Manual contains the rules for assessing real property for the March 1, 2002 through March 1, 2005, assessment dates); *see also* Ind. Code § 6-1.1-4-4.5 (requiring the Department of Local Government Finance to adopt rules for annually adjusting assessments to account for changes to value in years since general reassessment, with such adjustments to begin in 2006). Consequently, in order to present evidence probative of a property's true tax value for the 2002 through 2005 assessment years, a party must explain how its evidence relates to the property's market value-in-use as of January 1, 1999. *See Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005) (holding that an appraisal indicating a property's value for December 10, 2003, lacked probative value in an appeal from a 2002 assessment).
- d) The Petitioner first relies on one of the types of evidence specifically recognized by the Manual as being relevant to establish true tax value – the subject property's sale price. In that vein, the Petitioner submitted a copy of a settlement statement showing she and her husband purchased the subject property in 1996 for \$175,000. *See testimony; Pet'r Ex. 19*. But the Petitioner did not explain how that 1996 sale price relates to the property's market value-in-use as of the relevant valuation date of January 1, 1999. The subject property's 1996 sale price therefore lacks probative value.
- e) The Petitioner next points to MLS data for eleven purportedly comparable properties. *Pet'r Exs. 1-4, 11-17*. The sale and asking prices for the properties range from \$199,000 to \$495,000. *Id.* The Petitioner did not explain exactly how the MLS data supports her case, but it appears that she is relying, in part, on the sales comparison approach to value.
- f) The sales comparison approach “is based on the assumption that potential buyers will pay no more for a subject property than it would cost them to purchase an equally desirable substitute improved property already existing in the market

place.” MANUAL at 13. The appraiser identifies sales of comparable improved properties and “adjusts the selling prices to reflect the subject property’s total value.” *Id.* The adjustments represent a quantification of characteristics that cause prices to vary. *Id.* The appraiser “considers and compares all possible differences between the comparable properties and the subject property that could affect value,” using objectively verifiable evidence to determine which items have an influence on value in the market place. *Id.* The appraiser quantifies those contributory values and uses them to adjust the comparable properties’ sale prices. *Id.* at 13-14.

- g) Thus, in order to use the sales comparison approach as evidence in a property assessment appeal, the proponent must establish the comparability of the properties being examined. Conclusory statements that a property is “similar” or “comparable” to another property do not constitute probative evidence that the properties are comparable. *Long* 821 N.E.2d at 470. Instead, the proponent must identify the subject property’s relevant characteristics and explain how those characteristics compare to the characteristics of the purportedly comparable properties. *Id.* at 471. Similarly, the proponent must explain how any differences between the properties affect their relative market values-in-use. *Long*, 821 N.E.2d at 470-71.
- h) Here, the Petitioner did little more than present MLS listing information, noting each property’s asking or sale price, taxes, and home size. The Petitioner did not meaningfully compare the subject property’s relevant characteristics to those of the eleven purportedly comparable properties. While the Petitioner’s MLS listings contain some information from which such a comparison could be made, a party must do more than simply present raw data. Instead, she must explain the relevance of that information to her contentions. *See Indianapolis Racquet Club*, 802 N.E.2d at 1022 (“[I]t is the taxpayer’s duty to walk the Indiana Board ... through every element of the analysis”). And even if the Petitioner’s evidence showed that the properties were generally comparable to the subject property, she did not adjust the ‘comparable’ properties sale or listing prices to reflect any relevant differences.
- i) The Petitioner also testified to her belief that she could not sell the subject property for its assessed value. Too the Petitioner submitted a memorandum from Darrell Ellis, who she described as an appraiser, in which Mr. Ellis indicates: that the subject home “is assessed higher than the market would support;” that “[t]he market would indicate [the subject] home is not equal to or superior to homes with a lesser or equal tax burden;” and that “there is no market data that would support a conclusion of value that showed [the subject] home equal to or greater than the home at 306 Hill Drive, 111 Brookside Drive, or 101 Brookside Drive.” *Id.* Both the Petitioner’s and Mr. Ellis’ opinions, however, are entirely conclusory. Such opinions, unsupported by factual evidence, are insufficient to establish an error in assessment. *Whitley Products, Inc. v. State Bd. of Tax Comm’rs*, 704 N.E.2d 1113, 1120 (Ind. Tax Ct. 1998).

- j) The Petitioner made various claims that Brook Knoll's age and condition affect the market values of properties located in that subdivision. The Petitioner, however, did not present any evidence to quantify how the lack of street lights, sidewalks, city sewers, or the presence of airplane traffic affect the subject property's market value-in-use.
- k) Nonetheless, the Petitioner contends that she is contesting the "equity" of her assessment rather than simply claiming that her property is assessed above its market value. In that vein, the Petitioner submitted property record cards and tax data for five purportedly comparable properties. *Pet'r Exs. 6-10*. The Petitioner noted the size of the homes on those five properties and that the properties have pools. But the Petitioner did little else to identify the properties' other relevant characteristics. And the Petitioner did not present evidence to show the properties' market values-in-use. The Petitioner therefore has not shown a lack of uniformity and equality in assessment. *See Westfield Golf Practice Center, LLC v. Washington Twp. Assessor*, 859 N.E.2d 396, 399 (Ind. Tax Ct. 2007) (rejecting taxpayer's claim that its property was not assessed uniformly and equally, where the taxpayer focused on the disparity in the base rate used to assess its golf driving range as compared to the rates used to assess other driving ranges but did not present any evidence concerning the market values-in-use of the properties).
- l) The Petitioner did even less to show any inequality between the subject property's assessment and the assessments of the eleven properties for which she provided MLS data. In fact, the Petitioner did not provide any assessment information for those eleven properties but relied instead on the tax liabilities associated with those properties. *See Pet'r Exs. 1-4, 11-17*. A property owner's tax liability, however, is a function of several factors, many of which are unrelated to the property's assessed value. For example, the number and types of credits, deductions and exemptions that the property receives may significantly affect its owner's tax liability. Similarly, the tax rate applied to the property's assessment also affects tax liability, and, as the Respondent indicated, tax rates vary between taxing units. Thus, fact that the Petitioner's tax liability may be more than the liabilities associated with the eleven properties for which the Petitioner provided MLS data does little or nothing to show a lack of uniformity and equality in assessment.
- m) Finally, the Petitioner contends that the Respondent based its assessment on incorrect data about the number of fireplaces and plumbing fixtures and the amount of finished living area that the subject home contains. *See Lee testimony; Pet'r Exs. 5A, 18*. A mere technical failure to comply with the Guidelines, however, does not prove that an assessment is not a reasonable measure of true tax value. Ind. Admin. Code tit. 50, r. 2.3-1-1(d). In fact, the Indiana Tax Court repeatedly has held that a taxpayer cannot rebut the presumption that an assessment is correct simply by contesting an assessor's methodology. *E.g., O'Donnell v. Dep't of Local Gov't Fin.*, 854 N.E.2d 90 (Ind. Tax Ct. 2006);

*Eckerling v. Wayne Twp. Assessor*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006). Instead, the taxpayer must submit probative, market-based evidence to show that an assessment does not reflect her property's market value-in-use. Even if the Respondent did use incorrect data as the Petitioner alleges, the Respondent's actions amount to nothing more than technical errors in applying the Guidelines. Such errors are insufficient, by themselves, to rebut the presumption that the subject property's assessment is correct.

### **Conclusion**

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

### **Final Determination**

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment for the subject parcel should not be changed.

**ISSUED: April 12, 2007**

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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>>.