

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

**Petition #:** 48-003-04-1-5-00192  
**Petitioner:** John Goulding  
**Respondent:** Anderson Township Assessor (Madison County)  
**Parcel #:** 18114313  
**Assessment Year:** 2004

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

**Procedural History**

1. The Petitioner initiated an assessment appeal with the Madison County Property Tax Assessment Board of Appeals (“PTABOA”) by written document.
2. The Petitioner received notice of the decision of the PTABOA on July 12, 2005.
3. The Petitioner filed an appeal to the Board by filing a Form 131 Petition to the Indiana Board of Tax Review for Review of Assessment (“Form 131 petition”) with the Madison County Assessor on July 22, 2005. The Petitioner elected to have this case heard in small claims.
4. The Board issued a notice of hearing to the parties dated March 17, 2006.
5. The Board held an administrative hearing on April 27, 2006, before its duly appointed Administrative Law Judge, Alyson Kunack.
6. Persons present and sworn in at hearing:
  - a) For Petitioner: John Goulding, Owner
  - b) For Respondent: Patricia Davis, Deputy Assessor, Anderson Township  
Dennis Plackard, Deputy Assessor, Anderson Township  
Lloyd Brumback, Deputy Assessor, Madison County

## Facts

7. The subject property is located at 1619 Main Street, Anderson. The property is classified as a residential duplex, as is shown on the property record card for parcel #18114313. It is currently a rental property.
8. The Administrative Law Judge (“ALJ”) did not conduct an inspection of the property.
9. Assessed Value of subject property as determined by the PTABOA:  
Land \$8,100                      Improvements \$38,300                      Total \$46,400.
10. Assessed Value requested by Petitioner on Form 131 petition:  
The Petitioner did not complete this section of the petition.

## Issue

11. Summary of the Petitioner’s contentions in support of the alleged error in assessment:
  - a) The Petitioner originally paid taxes of \$836.62 every six months for the subject property. Following the hearing below, the PTABOA lowered the taxes to \$552.26 every six months. *Goulding testimony; Pet’r Ex. 1.*
  - b) The owner of the property located next door to the subject property at 1615 Main Street pays only \$505.00 in taxes every six months. The property at 1615 Main Street is a rental property just like the subject property. *Goulding testimony; Pet’r Ex. 3.*
12. Summary of Respondent’s contentions in support of the assessment:
  - a) The PTABOA gave the Petitioner a 20% market adjustment as a result of the PTABOA hearing. *Brumback testimony.*
  - b) The tax duplicate shows that the property at 1615 Main Street receives a \$3,000 mortgage deduction. The subject property does not receive any deductions or exemptions. The mortgage deduction makes a difference. *Davis testimony; Pet’r Ex. 1, 3.*
  - c) The property at 1615 Main Street is valued as a commercial property, whereas the subject property is a residential property. The property at 1615 Main Street has two floors with 1,680 square feet per floor and a total of seven units. The subject property is a single story building with 1,609 square feet and two units. *Plackard testimony; Pet’r Exs. 2, 4.*
  - d) Commercial properties generally receive higher depreciation than do residential properties. *Brumback testimony.* As a commercial property, the building located

at 1615 Main Street receives 80% depreciation. The subject property, by contrast, receives 65% depreciation. A building must have four units for the property to be assessed as commercial. *Plackard testimony; Pet'r Exs. 2, 4.*

- e) The subject property is assessed for \$46,400. The Petitioner purchased the subject property for \$46,000 in 2003. The assessment is right on the market price. *Plackard testimony.*
- f) There are few residential properties in the subject area. The Respondent found a comparable property located at 1634 Main Street. The dwelling on that property is 1 ½ stories and contains 1,260 square feet. The property at 1634 Main Street is assessed for \$49,100. *Plackard testimony; Resp't Ex. 1.*

### **Record**

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

- a) The Petition.
- b) The recording of the hearing.
- c) Exhibits:
  - Petitioner Exhibit 1: Subject Property Tax Statement for 2004 pay 2005
  - Petitioner Exhibit 2: Subject property record card ("PRC")
  - Petitioner Exhibit 3: Real Property Tax Duplicate for 1615 Main Street
  - Petitioner Exhibit 4: PRC for 1615 Main Street
  
  - Respondent Exhibit 1: PRC for 1634 Main Street
  
  - Board Exhibit A: Form 131 petition
  - Board Exhibit B: Notice of Hearing
  - Board Exhibit C: Hearing Sign-In Sheet
- d) These Findings and Conclusions.

### **Analysis**

14. The most applicable governing cases are:

- a) A petitioner seeking review of a determination of 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.
15. The Petitioner did not provide sufficient evidence to support his contentions. This conclusion was arrived at because:
- a) The Petitioner contends the subject property is similar to the property located next door at 1615 Main Street, but that he pays more in taxes than the owner of that property pays. The Petitioner presented property record cards and tax statements for the subject property and the property at 1615 Main Street. *Goulding testimony; Pet’r Exs. 1 - 4.*
  - b) In Indiana, real property is assessed based upon its “true tax value.” 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 at 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. Assessing officials primarily use the cost approach, as set forth in the Real Property Assessment Guidelines for 2002 – Version A (“Guidelines”), to assess real property.
  - c) 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*, 824 N.E.2d 899 (Ind. Tax 2006). A taxpayer, however, may offer evidence to rebut that presumption, as long as such evidence is consistent with the Manual’s definition of true tax value. MANUAL at 5. Thus, appraisals prepared in accordance with the Manual’s definition of true tax value may be used to rebut the presumption that an assessment is correct. *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 [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.

- d) The Petitioner did not present any market evidence to rebut the presumption that the current assessment is correct. At most, the Petitioner presented evidence to show that the subject property is assessed for less than a property situated next door. This does nothing to prove the market value of the subject property. Even if the Petitioner were offering such evidence to show a lack of uniformity and equality in assessment, he would have had to demonstrate that the properties are comparable to each other. The Petitioner, however, did not provide any meaningful comparison of the physical characteristics of the two properties or explain how any relevant differences in those characteristics affect the respective values of the properties. *See Long, v. Wayne Twp. Assessor*, 821 N.E.2d 466, 470 (Ind. Tax Ct. 2005) (holding that taxpayers failed to establish a prima facie case based on a sales comparison analysis where taxpayers did not explain how purportedly comparable properties were similar to the subject property or how any differences affected the relative market values of the properties).
- e) Furthermore, the Petitioner focused primarily on the amount of taxes paid with regard to each property, rather than on the assessed values of those properties. The fact that the property taxes for the subject property and the neighboring property are not the same does not necessarily support a finding that subject property's assessment is incorrect. Numerous factors unrelated to a property's true tax value may affect the property's taxes, including the number and amount of deductions or exemptions applied to the property. As the Respondent pointed out, the property at 1615 Main Street has a mortgage deduction and the subject property has no deductions or exemptions. *Davis testimony; Pet'r Exs. 1, 3.*
- f) Based on the foregoing, the Petitioner failed to establish a prima facie case of error in assessment.

### **Conclusion**

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

## Final Determination

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

ISSUED: **July 24, 2006**

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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>>.