

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

**Petition #:** 48-026-04-1-5-00006

**Petitioners:** Roger L. & Pamela K. Shoot

**Respondent:** Pipe Creek Township Assessor (Madison County)

**Parcel #:** 121205109139

**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 Petitioners initiated an assessment appeal with the Madison County Property Tax Assessment Board of Appeals (the PTABOA) by written document dated June 27, 2005.
2. The Petitioners received notice of the decision of the PTABOA on August 5, 2005.
3. The Petitioners filed an appeal to the Board by filing a Form 131 with the county assessor on September 2, 2005. The Petitioners elected to have this case heard according to the Board's small claim procedures.
4. The Board issued a notice of hearing to the parties dated April 3, 2007.
5. The Board held an administrative hearing on June 11, 2007, before the duly appointed Administrative Law Judge (the ALJ) Dalene McMillen.<sup>1</sup>
6. The following persons were present and sworn in at hearing:

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<sup>1</sup> The Petitioners appealed 36 properties. The Board heard evidence on 33 of the Petitioners' properties on May 30, 2007. This matter and two others were continued to allow the Respondent time to inspect the properties and review the Petitioners' documentary evidence. The parties agreed to the continuance and to the June 11, 2007, hearing date.

- a. For Petitioner: Roger L. Shoot, Owner
- b. For Respondent: Cheryl Heath, Madison County Assessor  
Jack E. Norris, Madison County Deputy Assessor

### **Facts**

- 7. The subject property is a 1,034 square foot single family residence located at 2001 South P Street, Elwood, in Pipe Creek Township, Madison County.
- 8. The ALJ did not conduct an on-site inspection of the subject property.
- 9. The PTABOA determined the assessed value of the subject property to be \$1,300 for the land and \$44,800 for the improvements, for a total assessed value of \$46,100.
- 10. At the Board hearing, the Petitioners requested an assessment of \$1,300 for the land and \$7,300 for the improvements, for a total assessed value of \$8,600.

### **Issues**

- 11. Summary of Petitioners' contentions in support of alleged error in assessment:
  - a. The Petitioners contend that the assessed value of the subject property exceeds its market value. *Shoot testimony*. In support of this contention, the Petitioners submitted a "Desktop Underwriter Quantitative Analysis Appraisal Report" for the subject property prepared by Wm J. Lukens, a certified appraiser. *Board Exhibit A; Id.* The appraisal estimates the value of the subject property to be \$8,600 as of February 4, 2005. *Id.*
  - b. The Petitioners further argue that the subject property is valued in excess of comparable properties. *Shoot testimony*. In support of this contention, the Petitioners presented a map of the area and MLS sheets for the property located at 2023 I Street which sold on October 17, 2003, for \$10,900, the property located at 318 S. 13<sup>th</sup> Street which sold on May 25, 2005, for \$9,000, and the property located at 810 S. 18<sup>th</sup> Street which sold on January 16, 2004, for \$9,900. *Id.*; *Attachment to Board Exhibit A.*
- 12. Summary of Respondent's contentions in support of the assessment:
  - a. The Respondent contends that, although the subject property is in need of some repairs, the current assessment is fair and equitable. *Heath testimony*.

## Record

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

- a. The Form 131 petition and related attachments.
- b. The digital recording of the hearing.
- c. Exhibits:<sup>2</sup>

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

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 Township 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 Township 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 Petitioners failed to provide sufficient evidence to establish a prima facie case for a reduction in value. The Board reached this decision for the following reasons:

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<sup>2</sup> Although labeled Board Exhibit A, the Petitioners specifically offered the attachments to the Form 131 petition as evidence in their appeal to the Board.

- a. The Petitioners contend that the subject property is over-assessed based on a February 4, 2005, appraisal that estimates the value of the subject property to be \$8,600. *Shoot testimony; Attachment to Board Exhibit A*. Further, the Petitioners contend that the property is over-valued based on comparable sales. *Shoot testimony*. In support of this contention, the Petitioners submitted a street map of the area and three MLS sales from September 2003 to April 2005 for properties that sold for \$9,000 to \$10,900. *Id.*; *Attachment to Board Exhibit A*.
- b. The 2002 Real Property Assessment Manual (the Manual) defines the “true tax value” of real estate as “the market value-in-use of a property for its current use, as reflected by the utility received by the owner or similar user, for the property.” 2002 REAL PROPERTY ASSESSMENT MANUAL – VERSION A at 2 (incorporated by reference at 50 IAC 2.3-1-2). A taxpayer may use any generally accepted appraisal methods as evidence consistent with the Manual’s definition of true tax value, such as sales information regarding the subject property or comparable properties that are relevant to a property’s market value-in-use, to establish the actual true tax value of a property. *See* MANUAL at 5.
- c. 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. MANUAL at 4, 8; *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). This is also true for succeeding assessment years through 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 DLGF 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, a party relying on evidence concerning a property’s market value as of a date substantially removed from the relevant valuation date of January 1, 1999, must explain how that evidence demonstrates or is relevant to the property’s value as of January 1, 1999. *Id*
- d. Here, the Petitioners presented an appraisal for the subject property. The appraisal estimated the market value of the property to be \$8,600 as of February 4, 2005. *Board Exhibit A*. The Petitioners, however, failed to show the relevance of the February 4, 2005, appraised value to the January 1, 1999, valuation date. Because the Petitioners did not trend the appraisal to the January 1, 1999, valuation date pursuant to the Indiana Tax Court decision in *Long*, the Petitioners failed to raise a prima facie case.
- e. The Petitioners further rely on a “sales comparison” method of establishing the market value of the property. In order to effectively use the sales comparison

approach as evidence in property assessment appeals, however, 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 of the comparability of the two properties. *Long*, 821 N.E.2d at 470. Instead, the party seeking to rely on a sales comparison approach must explain the characteristics of the subject property and how those characteristics compare to those of purportedly comparable properties. *See Id.* at 470-71. They must explain how any differences between the properties affect their relative market value-in-use. This the Petitioners did not do. The Petitioners merely offered MLS sheets for each of the “comparable” properties. This falls far short of the showing required to prove comparability. Moreover, even if the Petitioners had sufficiently shown comparability between the subject property and the properties they offered as comparables, the Petitioners provided no evidence relating the sales, which occurred in 2003, 2004, and 2005, to the January 1, 1999, valuation date.

- f. Where Petitioners have not supported the claim with probative evidence, Respondent’s duty to support the assessment with substantial evidence is not triggered. *Lacey Diversified Indus. LTD v. Department of Local Government Finance*, 799 N.E.2d 1215, 1221-1222 (Ind. Tax Ct. 2003).

### **Conclusion**

- 16. The Petitioners failed to provide sufficient evidence to establish a prima facie case. The Board finds in favor of the Respondent.

### **Final Determination**

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

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

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Commissioner,  
Indiana Board of Tax Review

## IMPORTANT NOTICE

### - Appeal Rights -

**You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5, as amended effective July 1, 2007, by P.L. 219-2007, and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice. The Indiana Tax Court Rules are available on the Internet at <<http://www.in.gov/judiciary/rules/tax/index.html>>. The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>. P.L. 219-2007 (SEA 287) is available on the Internet at <http://www.in.gov/legislative/bills/2007/SE/SE0287.1.html>.**