

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

**Petition:** 79-124-04-1-5-20014  
**Petitioner:** Carl L. Treece  
**Respondent:** Tippecanoe Township Trustee Assessor (Tippecanoe County)  
**Parcel:** 124-02900-0106  
**Assessment Year:** 2004

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

**Procedural History**

1. The Petitioner initiated an assessment appeal with the Tippecanoe County Property Tax Assessment Board of Appeals (PTABOA) by written document dated January 16, 2004.
2. The PTABOA issued notice of its decision on June 30, 2005.
3. The Petitioner filed an appeal to the Board by filing a Form 131 with the county assessor on July 26, 2005. The Petitioner elected to have this case heard according to small claims procedures.
4. The Board issued a notice of hearing to the parties dated January 4, 2007.
5. The Board held an administrative hearing on February 6, 2007, before the duly appointed Administrative Law Judge Paul Stultz.
6. Carl L. Treece, the owner of the property, and Suzanne Burchett, a PTABOA member representing the Tippecanoe Township Trustee Assessor, were sworn as witnesses at the hearing.

**Facts**

7. The property is classified as a real property mobile home located at 1719 E. 725 N., West Lafayette, Indiana.
8. The Administrative Law Judge did not conduct an inspection of the property.

9. The assessed value determined by the PTABOA is:  
land \$17,300                      improvements \$5,900                      total \$23,200.
10. The assessed value requested by the Petitioner is:  
land \$10,000                      improvements \$0                      total \$10,000.

### **Contentions**

11. Summary of the Petitioner's contentions:
- a) The property under appeal was a 1972 mobile home that was purchased for \$1,300 in 1977. *Treece testimony*. Mobile home parks would not accept it because the mobile home had not passed mandatory government inspections. *Pet'r Exs. 3, 9*. The Petitioner advertised the mobile home in the local newspaper for two weeks, with an initial asking price of \$4,000. Subsequently, this price was reduced to \$2,000. *Treece testimony; Pet'r Ex. 3*. The Petitioner then attempted to give away the property, but was unsuccessful. The mobile home was dismantled in late 2004 or early 2005. *Treece testimony*.
  - b) The Petitioner's mobile home generated rental income. *Pet'r Exs. 2, 3*. These amounts were small and income taxes were paid on this income. The rental income should not be considered in determining the assessed value of the structure. *Pet'r Ex. 10*.
  - c) The deck and other features were not attached to the mobile home. When the mobile home was removed, these items did not need to be detached from the mobile home. *Treece testimony*.
  - d) The Petitioner presented a statement that is dated December 13, 1977, from Wesley L. Lods, President of Candlelight Development Corporation. In this document, Mr. Lods concluded the probable market value of the mobile home was \$4,000 to \$4,500. Mr. Lods did not inspect the mobile home prior to reaching this opinion of value. *Pet'r Ex. 4*.
  - e) The Petitioner presented an undated statement from Terri Moss, Housing Consultant with Patriot Homes. In this document, Ms. Moss stated her company placed a value of \$1 on any mobile home taken in trade that was constructed prior to 1986. *Pet'r Ex. 5*.
  - f) The Petitioner presented an "Affidavit" dated November 29, 1977, in which Charles L. Fischbach, General Manager of ABC Mobile Home Center, certified the value of the Petitioner's mobile home was \$3,175. This estimate of value was based on information contained in the 1977 Unicomp Price Directory for Used Mobile Homes. *Pet'r Ex. 6*.

- g) The Petitioner presented a statement from Donna Stock of Century 21 Realty Group 1 that is dated June 16, 2005. Ms. Stock identified a 1999 Victorian doublewide manufactured home that was on the market for more than two years. "This home was on the market for over 2 years. The seller finally donated it to Habitat in May 2005." *Pet'r Ex. 7.*
  - h) The Petitioner presented a July 26, 2005, statement from Jane Bowers, Community Manager for Woods Edge MHC, stating her company does not accept any manufactured home built prior to HUD inspections that began in 1978. *Pet'r Ex. 9.*
  - i) The assessed value of the parcel was \$10,300 prior to March 1, 2003, but then it increased to \$23,200. *Pet'r Ex. 8.*
  - j) The Petitioner claimed his "½ acre lot isn't comparable to anything around us and therefore it is a guess at the value of it." *Pet'r Ex. 2.* County restrictions limit building on that size lot without special approval. *Treece testimony.*
12. Summary of the Respondent's contentions:
- a) The mobile home was assessed correctly and in the same manner as all mobile homes in the county. *Burchett testimony.*
  - b) The Petitioner's mobile home is assessed for \$3,200 based on data from NADA. In addition to the mobile home, the current assessed value includes a deck (\$1,600), canopy (\$500), and shed (\$600). *Burchett testimony; Resp't Ex. 1.*
  - c) At one time, the Petitioner was receiving rental income from the property. *Burchett testimony.*
  - d) The Petitioner presented no appraisal to support his contention the mobile home had no value on the assessment date. *Id.*
  - e) The current land value reflects the homesite value in Tippecanoe Township. *Burchett testimony.*

### **Record**

13. The official record for this matter is made up of the following:
- a) The Petition,
  - b) A digital recording of the hearing,
  - c) Petitioner Exhibit 1 – Notification of Final Assessment Determination (Form 115),  
Petitioner Exhibit 2 – Petition to the Property Tax Assessment Board of Appeals for  
Review of Assessment (Form 130),

Petitioner Exhibit 3 – Petition to the Indiana Board of Tax Review for Review of Assessment (Form 131),  
Petitioner Exhibit 4 – Statement by Wesley L. Lods, President, Candlelight Development Corporation,  
Petitioner Exhibit 5 – Statement by Terri Moss, Housing Consultant, Patriot Homes,  
Petitioner Exhibit 6 – "Affidavit" from Charles Fischbach, General Manager, ABC Mobile Home Center,  
Petitioner Exhibit 7 – Statement by Donna Stock, realtor,  
Petitioner Exhibit 8 – Notice of Assessment of Land and Structures (Form 11) for March 1, 2003,  
Petitioner Exhibit 9 – Statement from Jane Bowers, Woods Edge MHC,  
Petitioner Exhibit 10 – Owner's statement of tax appeal,  
Respondent Exhibit 1 – Property record card of the subject property,  
Respondent Exhibit 2 – Form 130,  
Respondent Exhibit 3 – PTABOA findings,  
Respondent Exhibit 4 – Form 115,  
Respondent Exhibit 5 – Form 131,  
Board Exhibit A – Form 131,  
Board Exhibit B – Notice of Hearing on Petition,  
Board Exhibit C – Hearing Sign In Sheet,  
Board Exhibit D – Authorization for Suzanne Burchett to represent the Tippecanoe Township Trustee Assessor,<sup>1</sup>

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”).

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<sup>1</sup> The Petitioner objected to the admission of this exhibit because it was not presented at the beginning of the hearing. The Respondent provided this document before the hearing concluded. The Petitioner failed to identify any prejudice resulting from the introduction of this exhibit. Therefore, the authorization for representation, Board Exhibit D, is part of the record.

- 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) Real property is assessed on its "true tax value," which does not mean fair market value. It means "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." Ind. Code § 6-1.1-31-6(c); 2002 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.3-1-2). There are three generally accepted techniques to calculate market value-in-use: the cost approach, the sales comparison approach, and the income approach. The primary method for assessing officials to determine market value-in-use is the cost approach. *Id.* at 3. Other relevant evidence may include actual construction costs, sales information regarding the subject or comparable properties, appraisals, and any other information compiled in accordance with generally accepted appraisal principles. MANUAL at 5.
- b) The 2002 reassessment is to reflect the value of the property as of January 1, 1999. MANUAL at 4. Should a Petitioner present any evidence of value relating to a different date, the Petitioner is required to provide some explanation how that value demonstrates, or is relevant to, the subject property's value as of January 1, 1999. *See Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). The burden was on the Petitioner to present a prima facie case to establish the value of the mobile home on March 1, 2004, and to relate that value to January 1, 1999. The Petitioner failed to do so.
- c) The Petitioner presented several estimates of value from both 1977 and 2005. None of these documents even purports to establish the market value-in-use as of March 1, 2004. Furthermore, the Petitioner presented no explanation to link those estimates to the value as of January 1, 1999. These estimates have no probative value.
- d) Conditions for determining market value include that a "reasonable time is allowed for exposure in the open market." MANUAL at 10. The Petitioner testified that he offered the mobile home for sale in the newspaper for two weeks, but he presented no evidence that this amount of time was reasonable exposure on the open market to establish market value-in-use. The Petitioner testified that his initial ask price was \$4,000, but he subsequently reduced it to \$2,000. The Petitioner failed to establish that these asking prices reflect or relate to the required valuation date. Consequently, the values are not probative evidence of the mobile home's market value-in-use. They do, however, tend to contradict the Petitioner's assertion that the mobile home

had no market value-in-use as of March 1, 2004.<sup>2</sup> Additionally, the Petitioner acknowledged he had been receiving rental income from the mobile home. This fact further refutes his contention that the property had no market value-in-use on the assessment date.

- e) The Petitioner also introduced evidence that a 1999 Victorian doublewide manufactured home was donated to a charitable organization.<sup>3</sup> The Petitioner essentially relies on a comparison approach to establish the market value-in-use of the subject property. *See* MANUAL at 3 (stating that the sales comparison approach “estimates the total value of the property directly by comparing it to similar, or comparable, properties that have sold in the market.”). In order to use a 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 of the comparability of the two properties. *See Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 470 (Ind. Tax Ct. 2005). The Petitioner is “responsible for explaining to the Indiana Board the characteristics of [his] own property, how those characteristics compared to those of the purportedly comparable properties, and how any differences affected the relevant market value-in-use of the properties.” *Long*, 821 N.E.2d at 471. The Petitioner offered no such explanation. The donated property has no probative value in determining the market value-in-use of the Petitioner’s property.
- f) The Petitioner showed that the previous year’s total assessed value was only \$10,300. Each assessment and each tax year, however, stand alone. *Fleet Supply, Inc. v. State Bd. of Tax Comm’rs*, 747 N.E.2d 645, 650 (Ind. Tax Ct. 2001) (citing *Glass Wholesalers, Inc. v. State Bd. of Tax Comm’rs*, 568 N.E.2d 1116, 1124 (Ind. Tax Ct. 1991)). The evidence of a property’s assessment in one tax year is not probative of its true tax value in a different tax year.
- g) The Petitioner also contended the assessed value of his land should be reduced to \$10,000. He presented no market evidence in support of that proposed value. Instead, the Petitioner acknowledged his “½ acre lot isn’t comparable to anything around us and therefore it is a guess at the value of it.” *Pet’r Ex. 2*. Unsubstantiated conclusions do not constitute probative evidence. *Whitley Products, Inc. v. State Bd. of Tax Comm’rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998). The Petitioner failed to present any probative evidence for a different land value.

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<sup>2</sup> “True tax value may be thought of as the ask price of property by its owner, because this value more clearly represents the utility obtained from the property, and the ask price represents how much utility must be replaced to induce the owner to abandon the property.” MANUAL at 2. The Petitioner’s initial ask price of \$4,000 actually exceeds the current assessed value of the mobile home, \$3,200.

<sup>3</sup> The Petitioner failed to establish any particular value for this purported comparable. The Petitioner apparently assumed that the owner’s donation somehow established that it had little or no value. Such an assumption is not necessarily true. The failure to establish a value on the donated property means that it can do nothing to prove a value for the subject property.

- h) When a taxpayer fails to provide probative evidence supporting a claim that an assessment should be changed, the Respondent's duty to support the assessment with substantial evidence is not triggered. *See Lacy Diversified Indus. v. Dep't of Local Gov't Fin.*, 799 N.E.2d 1215, 1221-1222 (Ind. Tax Ct. 2003); *Whitley*, 704 N.E.2d at 1119.

### **Conclusion**

16. 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 should not be changed.

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

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Commissioner,  
Indiana Board of Tax Review

### **IMPORTANT NOTICE**

#### **- APPEAL RIGHTS -**

You may petition for judicial review of this final determination pursuant to the provisions of Indiana Code § 6-1.1-15-5. The action shall be taken to the Indiana Tax Court under Indiana Code § 4-21.5-5. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice. You must name in the petition and in the petition's caption the persons who were parties to any proceeding that led to the agency action under Indiana Tax Court Rule 4(B)(2), Indiana Trial Rule 10(A), and Indiana Code §§ 4-21.5-5-7(b)(4), 6-1.1-15-5(b). The Tax Court Rules provide a sample petition for judicial review. The Indiana Tax Court Rules are available on the Internet at <<http://www.in.gov/judiciary/rules/tax/index.html>>. The Indiana Trial Rules are available on the Internet at <[http://www.in.gov/judiciary/rules/trial\\_proc/index.html](http://www.in.gov/judiciary/rules/trial_proc/index.html)>. The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>.