

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

**Petition #:** 82-027-02-1-5-00236  
**Petitioners:** Gary & Shirley Hopple  
**Respondent:** Knight Township Assessor (Vanderburgh County)  
**Parcel #:** 0901011008007  
**Assessment Year:** 2002

The Indiana Board of Tax Review (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 Vanderburgh County Property Tax Assessment Board of Appeals (PTABOA) by written document dated May 30, 2003.
2. The PTABOA mailed notice of its decision on July 30, 2004.
3. The Petitioners initiated an appeal to the Board by filing a Form 131 petition with the Vanderburgh County Assessor on August 27, 2004. The Petitioners elected to have this case heard in small claims.
4. The Board issued a notice of hearing to the parties dated August 8, 2006.
5. The Board held an administrative hearing on September 29, 2006, before the duly appointed Administrative Law Judge Jennifer Bippus.
6. Persons present and sworn in at hearing:
  - a) For Petitioners: Gary Hopple, Taxpayer
  - b) For Respondent: Susie Majors, Knight Township Real Estate Deputy Assessor  
Candy Wells, Vanderburgh County Deputy Assessor  
Tiffany Collins, Vanderburgh County Deputy Assessor

**Facts**

7. The property is classified as a single-family residential dwelling located at 216 S. New York Avenue, Evansville, as shown on the property record card. The subject property is 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 Vanderburgh County PTABOA:  
Land \$2,400                      Improvements \$24,100                      Total \$26,500.
10. Assessed value requested by Petitioners on the Form 131 petition:  
Land \$1,000                      Improvements \$9,000                      Total \$10,000.

### Issue

11. Summary of the Petitioners' contentions in support of alleged error in assessment:
- a) The Petitioners purchased the subject property for \$10,000 on March 22, 1995. *Hopple testimony; Pet'rs Ex. 1.* The Petitioners submitted an excerpt from the U.S. CENSUS BUREAU, STATISTICAL ABSTRACT OF THE UNITED STATES: 2004-2005 setting forth Consumer Price Indexes (CPI) for various items for the years 1988 to 2003. *Pet'rs Ex. 2.* The CPI for the cost of shelter increased an average of 3.18 percent per year from 1995 to 1999. *Hopple testimony; Pet'rs Ex. 2.* Mr. Hopple applied the shelter CPI to the 1995 purchase price of the subject property to arrive at a 1999 value for the property of \$11,694. *Hopple testimony.*
  - b) The Petitioners filed appeals concerning thirty-three properties. *G. Hopple testimony.* The Petitioners bought fifteen (15) of those properties after 1999, and the PTABOA accepted the purchase prices for those properties. *Id.* The PTABOA, however, refused to lower the assessments for the properties that the Petitioners bought prior to 1999. *Id.* The Petitioners therefore hired Larry Farmer, a certified appraiser, to perform "retroactive" appraisals for each of those properties. *Id.*
  - c) The Petitioners submitted an appraisal of the subject property pursuant to which Mr. Farmer estimated the market value of the property to be \$17,000 as of December 31, 1999. *Pet'rs Ex. 3.* Mr. Farmer utilized three methods of valuation - the cost, sales comparison and income approaches - although he gave the greatest weight to his conclusions under the sales comparison approach. *Id.* Mr. Farmer further certified that he prepared his appraisal in conformity with the Uniform Standards of Professional Appraisal Practice (USPAP). *Id.*
  - d) The Petitioners also submitted a copy of a letter dated November 10, 2004, from Mr. Farmer to Mr. Hopple. *Pet'rs Ex. 5.* In that letter, Mr. Farmer lists numerous reasons to support his belief that the eighteen (18) properties that he appraised are assessed in excess of their market values. *Id.*
  - e) The Petitioners also presented information concerning five properties from the subject neighborhood that they contend are comparable to the subject property. *Hopple testimony; Pet'rs Ex. 4.* Those five properties sold between February 2001 and February 2003. *Id.* Mr. Hopple divided the sale price of each property by the area of each home to arrive at a price-per-square-foot for each property. *Id.* Mr. Hopple next determined that the average price-per-square-foot for the five (5) properties was

\$6.56. *Id.* Mr. Hopple then multiplied that price by the area of the subject home (1,887 square feet) to arrive at a value of \$12,366. *Id.*

- f) Prior to the 2002 general reassessment, the Respondent valued the subject property at \$8,500. *Hopple testimony.* As a result of the reassessment, the subject property is currently valued at \$26,500. *Id.* The Petitioners' evidence, however, does not support an amount even close to the current value. *Hopple argument.*

12. Summary of the Respondent's contentions in support of the assessment:

- a) The Respondent presented an analysis of the comparable properties relied upon by the Petitioners. *Majors testimony; Resp't Ex. 7.* The Respondent contends that some of those properties were sold subsequent to being foreclosed upon, and that those sales should not be considered arms length transactions. *Id.* The Respondent also noted that some of the homes contain two (2) or one and one-half (1 ½) stories, whereas the subject property contains a single story home with a finished attic. *Id.* The Respondent therefore does not consider the homes identified by the Petitioners to be comparable to the subject home. *Majors argument.*
- b) The Respondent identified five (5) properties that it believes are comparable to the subject property. *Majors testimony; Resp't Ex. 8.* Those properties sold for between \$20,000 and \$31,000. *Id.* The lots are close in size and proximity to the subject property. *Id.* All of the homes are of frame construction and were built within a thirty-three (33) year period. *Id.* The subject home and comparable property #3 have a crawl space. *Id.* The remaining homes have a partial crawl space and basement. *Id.* The subject home and all of the comparable homes, except comparable #3, have finished attics. *Id.* The comparable homes range from 996 square feet to 1,356 square feet in size. *Id.* The subject home contains 1,182 square feet, which falls within the range of the comparable homes. *Id.*
- c) The current value of the subject property falls within the range of the sale prices of the comparable properties. The Respondent therefore believes that the Board should not change the subject property's assessment. *Majors testimony.*
- d) Ms. Majors testified that, as far as she is concerned, the appraisal prepared by Mr. Farmer is a "good appraisal." *Majors testimony.* The Respondent, however, valued the subject property using the Real Property Assessment Guidelines for 2002 – Version A. *Id.* The subject house has a quality grade of "D-1." *Id.* While the Respondent did not inspect the inside of the subject home, it appears to be in "average" condition from the exterior. *Id.* The subject home is over 70 years old. *Id.* According to the Residential Depreciation Chart, it is entitled to 50% depreciation. *Id.; Resp't Ex. 10.*

## Record

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

- a) The Form 131 petition.
- b) The tape recording of the hearing labeled IBTR #6197.<sup>1</sup>
- c) Exhibits:

- Petitioners Exhibit 1: Copy of sales disclosure showing 3/22/95 purchase price,
- Petitioners Exhibit 2: Consumer Price Index showing percent change from immediate prior year,
- Petitioners Exhibit 3: Appraisal completed by Larry Farmer,
- Petitioners Exhibit 4: Neighborhood comparable properties,
- Petitioners Exhibit 5: Letter from Larry Farmer.
- Petitioners Exhibit 6: Properties compared to establish a sales price per square foot for the subject property<sup>2</sup>

- Respondent Exhibit 1: Copy of Form 11,
- Respondent Exhibit 2: Copy of the subject property record card (PRC),
- Respondent Exhibit 3: Copy of 2002 Form 131,
- Respondent Exhibit 4: Copy of 2002 Form 130,
- Respondent Exhibit 5: Copy of 2002 Form 115,
- Respondent Exhibit 6: Petitioners' Comparables,
- Respondent Exhibit 7: Township argument to Petitioners' comparables,
- Respondent Exhibit 8: Township comparables,
- Respondent Exhibit 9: Photographs from Guidelines of D & E grade dwellings,
- Respondent Exhibit 10: Residential Depreciation Schedule from Guidelines.

- Board Exhibit A: Form 131 Petition,
- Board Exhibit B: Notice of Hearing,
- Board Exhibit C: Notice of Appearance for County Assessor as Additional Party,
- Board Exhibit D: Notice of Representation – Susie Majors for Knight Township,
- Board Exhibit E: Hearing Sign-In Sheet.

- d) These Findings and Conclusions.

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<sup>1</sup> The tape recording of the hearing appears to cut-off the very tail-end of Ms. Majors' concluding remarks on behalf of the Respondent.

<sup>2</sup> The Exhibit list submitted by the Petitioners does not reference Exhibit 6, which was attached to the other exhibits submitted by the Petitioners. The Respondent submitted many of the same documents in Respondent's Exhibit 6.

## 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 Petitioners provided sufficient evidence to support their contentions. The Board reaches its 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 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. In Indiana, 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.
  - 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). 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.

- 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, 8. Consequently, in order to present evidence probative of a property's true tax value, a party relying on evidence of the property's value as of a date substantially removed from the relevant valuation date must explain how that 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 Petitioners attempt to establish that the current assessment is erroneous by comparing the assessment to the sale prices of (5) other properties from the same neighborhood as the subject property. The Petitioners further rely on the 1995 purchase price of the subject property and Mr. Farmer's "retrospective appraisal" of the property. The Board will address each of those items in turn.
- e) As described above, sales comparison approach is a generally recognized method of appraisal. 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 locates 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 the contributory values of the items affecting value in the market place and uses those contributory values to adjust the sale prices of comparable properties. *Id.* at 13-14
- f) 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 of the comparability of the two properties. *Long*, 821 N.E.2d at 470. 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. Similarly, the proponent must explain how any differences between the properties affect their relative market values-in-use. *Id.*
- g) The Petitioners submitted sale prices, assessment information and photographs for five (5) properties from the same neighborhood as the subject property. *Pet'rs Ex. 4.*

While the documents submitted by the Petitioners contain information concerning various features of the properties at issue, the Petitioners seek to compare only the location of the properties and relative sizes of the houses contained thereon. *See Hopple testimony; Pet'rs Exs. 4, 6.* Thus, the Petitioners base their entire sales comparison analysis on Mr. Hopple's calculation of the average price-per-square-foot of living area for the purportedly comparable properties. *See id.* While there is no doubt that the relative size of a home significantly affects its market value, other features also affect value. In fact, the range of values calculated by Mr. Hopple (\$3.11/sq. ft. – 11.28/sq. ft.) strongly suggests that features other than the size of the respective homes affected the market value of the purportedly comparable properties. *See Pet'rs Ex. 6; Hopple testimony.* Consequently, the Petitioners' sales comparison analysis based solely on the relative size of the homes being compared is entitled to little or no weight.

- h) The Petitioners also rely on the fact that they bought the subject property for \$10,000 in 1995. *Hopple testimony; Pet'rs Ex. 1.* As explained above, the Manual expressly recognizes that the sale of a subject property may be probative of its market value-in-use. MANUAL at 5. The property, however, must have been in substantially the same physical condition at the time of sale as it was on the assessment date. The record in this case is devoid of evidence on that point. Moreover, the sale in this case occurred almost four (4) years prior to the relevant valuation date of January 1, 1999. The Petitioners attempt to relate the purchase price to the January 1, 1999, valuation date using a national Consumer Price Index (CPI) for the cost of shelter. *See Hopple testimony; Pet'rs Ex. 2.* A national price index, however, is not particularly compelling evidence regarding the appreciation/depreciation in the real estate market for the subject area between 1995 and either the March 1, 2002, assessment date or the January 1, 1999, valuation date. For these reasons, the Board does not give significant weight to price paid by the Petitioners to purchase the subject property in 1995.
- i) The Petitioners, however, also presented an appraisal prepared by Larry L. Farmer, a certified appraiser. *Pet'rs Ex. 3.* In that appraisal, Mr. Farmer estimates the market value of the subject property to be \$17,000 as of December 31, 1999. *Id.* Mr. Farmer certifies that he prepared the appraisal in conformity with USPAP. *Id.* Moreover, Mr. Farmer applied the cost, sales comparison and income approaches to value in appraising the subject property, although he gave the greatest weight to his conclusions under the sales comparison approach. *Id.*
- j) Mr. Farmer's appraisal is precisely the type of evidence recognized by the Manual and Tax Court as probative of a property's true tax value. *See MANUAL, at 5; Kooshtard Property VI, 836 N.E.2d at 505, 506 n.1.* Moreover, the appraisal values the subject property as of December 31, 1999, which is within one year of the relevant valuation date of January 1, 1999. Thus, based on Mr. Farmer's appraisal, the Petitioners established a prima facie case that the current assessment is in error and that the subject property should be assessed for \$17,000.

- k) The burden therefore shifted to the Respondent to impeach or rebut the Petitioners' evidence. *See Meridian Towers*, 805 N.E.2d at 479.
- l) The Respondent did not attempt to impeach the reliability or credibility of Mr. Farmer's opinion of value. In fact, Ms. Majors testified to her belief that Mr. Farmer's appraisal was a "good appraisal." *Majors testimony*. Instead, the Respondent submitted information concerning the sales of properties that it contends are comparable to the subject property.
- m) The Respondent presented property record cards, sales disclosure information, and photographs for five (5) purportedly comparable properties. *Resp't Ex. 8*. The Respondent compared the subject property to the purportedly comparable properties in terms of the following characteristics: the size of the homes and lots; the presence of attics, basements, crawl spaces and garages; the type of framing used in construction of the homes; and the year that the homes were built. *Id.*; *Majors testimony*. While there are similarities between the properties with regard to those features, there are also significant differences, and the Respondent did not adjust the sale prices of the comparable properties to account for those differences. Instead, the Respondent simply laid out the range of sale prices (\$20,000 to \$31,000) and asserted that the subject property's assessment falls within that range. *Id.* The Board therefore gives little or no weight to the Respondent's sales comparison analysis.
- n) Finally, the Respondent contends that it valued the subject property in accordance with the Guidelines. *Majors testimony*. Once the Petitioners established a prima facie case of error through Mr. Farmer's appraisal, however, it became incumbent on the Respondent either to impeach the reliability of Mr. Farmer's opinion of value or to introduce its own market-based evidence to show that the current assessment is a reasonable measurement of the subject property's market value in use. The Respondent's assertions that it properly applied the Guidelines in assessing the subject property do not suffice.
- o) The Petitioners established by a preponderance of the evidence that the current assessment is in error and that the true tax value of the subject property is \$17,000.

### **Conclusion**

- 16. The Petitioners established by a preponderance of the evidence that the current assessment is incorrect and that the true tax value of the subject property is \$17,000.

### **Final Determination**

In accordance with the above findings and conclusions, the Indiana Board of Tax Review now determines that the assessment should be changed to \$17,000.



ISSUED: November 20, 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>>.