

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

**Petition #:** 84-002-02-1-5-00926  
**Petitioner:** Adam Pomfret  
**Respondent:** Harrison Township Assessor (Vigo County)  
**Parcel #:** 118-06-03-207-017  
**Assessment Year:** 2002

The Indiana Board of Tax Review (the 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 Vigo County Property Tax Assessment Board of Appeals (PTABOA) by written document dated October 27, 2003.
2. The PTABOA mailed notice of its decision of to Petitioner on August 30, 2004.
3. The Petitioner filed an appeal to the Board by filing a Form 131 with the County Assessor on September 14, 2004. The Petitioner elected to have this case heard as a small claim.
4. The Board issued a notice of hearing to the parties dated October 6, 2004.
5. The Board held an administrative hearing on December 2, 2004, before the duly appointed Administrative Law Judge Rick Barter.
6. Persons present and sworn as witnesses at the hearing:
  - a) Adam Pomfret, Petitioner,
  - b) Larry Auler, Harrison Township Assessor,
  - c) Richetta Hale, Harrison Township Chief Deputy,
  - d) Deborah J. Lewis, Vigo County Assessor,
  - e) Ann Akers, Vigo County PTABOA member.

## Facts

7. The property is a dwelling located at 4430 North 14½ Street, Terre Haute. The location is in Harrison Township.
8. The Administrative Law Judge did not conduct an inspection of the property.
9. Assessed value of subject property as determined by the PTABOA is:  
Land \$6,800                      Improvements \$100,300                      Total \$107,100.
10. Assessed value requested by Petitioner is:  
Land \$6,000                      Improvements \$73,000                      Total: \$79,000.

## Issue

11. Petitioner's contentions in support of alleged error in assessment:
  - a) The total assessed value of the property should be \$79,000. *Pomfret testimony.*
  - b) Petitioner presented an appraisal prepared for mortgage loan purposes. This appraisal concluded the total value of the property as of March 30, 2001, was \$79,000. *Petitioner Exhibit 1.*
  - c) The appraisal included evidence of comparable homes that demonstrates the property under appeal is incorrectly assessed. *Pomfret testimony.*
  - d) Petitioner purchased the subject property in April 2001 for \$76,000. *Id.*
12. Respondent's contentions regarding the assessment:
  - a) The Vigo County PTABOA heard several appeals on parcels in the same neighborhood as the subject property. These hearings established that there are two groups of homes within this particular neighborhood. There is a larger group of older homes and a smaller group of newer homes. The newer, smaller homes are similar to the subject. The higher value of the older homes has been instrumental in the establishment of the neighborhood factor of 120 percent. This neighborhood factor is unrealistically raising the assessed values of the group of newer homes in this neighborhood. *Lewis testimony.*
  - b) The local officials had hoped to complete a full analysis of the situation that would result in some adjustment to the assessed values of the newer homes. That analysis, however, has not been completed. Respondent intends to address the inequity in 2005. *Lewis testimony.*

- c) Neither the Township Assessor nor the County Assessor disputed the Petitioner's contentions about the value of his house, and both assessors acknowledged that the Petitioner's assessment could be in error. *Auler testimony; Lewis testimony.*

### **Record**

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

- a) The Petition,
- b) The tape recording of the hearing labeled IBTR 6063,
- c) Exhibits:
  - Petitioner Exhibit 1: Copy of appraisal of the subject property as of March 30, 2001,
  - Respondent Exhibits: None,
  - Board Exhibit A: Form 131,
  - Board Exhibit B: Notice of Hearing.
- 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. There is sufficient evidence to support the Petitioner's contentions. This conclusion was arrived at because:
- a) The most significant evidence in this case is the testimony that Petitioner bought the subject property for \$76,000 in April 2001. Respondent made no attempt to rebut or impeach that testimony. Respondent made no attempt to prove that the price was anything other than market value. Furthermore, Respondent made no attempt to prove that the value of the property had changed by over \$30,000 between the valuation and the time Petitioner bought it. This purchase price evidence has probative value.
  - b) Petitioner presented a residential appraisal that concluded the value of the subject was \$79,000 as of March 30, 2001. The effective date of the appraisal does not conform to the valuation date for the 2002 reassessment. Indiana's assessment regulations provide that for the 2002 general reassessment, a property's assessment must reflect its value as of January 1, 1999. 2002 REAL PROPERTY ASSESSMENT MANUAL at 4 (incorporated by reference at 50 IAC 2.3-1-2). Consequently, a party relying on an appraisal to establish the market value-in-use of a property must provide some explanation as to how this value demonstrates, or is relevant to, the property's value as of January 1, 1999. *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). The effective date of the appraisal is problematic for Petitioner's claim.
  - c) The appraisal's conclusion of value, however, is based on the sales of three comparable properties that occurred on July 3, 2000, July 7, 2000, and September 5, 2000. Although each of the comparables has slightly smaller homes on smaller lots, they all are in the same neighborhood and the comparability of those properties to the subject property is not disputed. The comparables do not specifically establishing what the values would have been in 1999, but their timing and sale prices between \$71,900 and \$73,000 are a reasonable indication that the current assessed value of the subject property at \$107,100 is too high.
  - d) The appraisal, the comparable sales, and the purchase price of the subject property together make convincing proof that Petitioner's claim for a \$79,000 assessment on this property is reasonable and justified. Accordingly, the Petitioner made a prima facie case in support of his contention.
  - e) 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).
  - f) The Township Assessor and the County Assessor did not dispute, rebut, or impeach Petitioner's evidence. They both acknowledged the assessment could be in error. Therefore, this assessment must be corrected.

**Conclusion**

- 16. The Petitioner made a prima facie case. The Respondent did not rebut the Petitioner’s evidence. The Board finds in favor of the Petitioner.

**Final Determination**

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the total assessed value of the parcel should be changed to \$79,000, which is the amount Petitioner requested.

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

\_\_\_\_\_  
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.**