

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

**Petition #:** 82-019-02-1-5-00010 and 82-019-02-1-5-00010A  
**Petitioner/Owner:** Alexander and Michelle D. Kolumbus (82-019-02-1-5-00010A)  
**Petitioner:** Center Township Assessor (82-019-02-1-5-00010)  
**Respondent:** Vanderburgh County PTABOA  
**Parcel #:** 02191025870166  
**Assessment Year:** 2002

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 Owner initiated an assessment appeal with the Vanderburgh County Property Tax Assessment Board of Appeals (PTABOA) by written document dated May 1, 2003.
2. The Petitioners received notice of the decision of the PTABOA on October 24, 2003.
3. The Owner filed an appeal to the Board by filing a Form 131 with the county assessor on November 21, 2003 and the Township filed a separate appeal to the Board by filing a Form 131 with the County Assessor on November 21, 2003. The Petitioners elected to pursue this case on the small claims docket.
4. On December 15, 2004, the Board issued an order consolidating the petitions into a single proceeding. The petitions concern the same parcel and assessment year.
5. The Board issued a notice of hearing to the parties dated February 3, 2004.
6. The Board held an administrative hearing on March 16, 2004, before the duly appointed Administrative Law Judge Debra Eads.
7. Persons present and sworn in at hearing:
  - a) For Petitioner: Alexander Kolumbus, Owner  
John Gerard, Center Township Assessor  
Donald Cobb, Deputy Assessor, Center Township

- b) For Respondent: Cheryl Musgrave, Vanderburgh County Assessor  
Tammy Elkins, Vanderburgh County Chief Deputy  
Candy Wells, Vanderburgh County Hearing Officer

### **Facts**

8. The property is classified as residential, as is shown on the property record card for parcel # 0219102587016.
9. The Administrative Law Judge (ALJ) did not conduct an inspection of the property.
10. Assessed Value of subject property as determined by the Vanderburgh County PTABOA: Land \$ 31,400, Improvements \$ 333,600.
11. Assessed Value requested by Owner and the Township per the filed Form 131 Petitions is: Land \$ 31,400, Improvements \$ 303,100. Requested value was amended at the administrative hearing to: Land \$ 31,400, Improvements \$ 274,600.

### **Issues**

12. Summary of Petitioner's contentions in support of alleged error in assessment:
  - a) The Center Township Assessor and the property owner reached an agreement regarding the appropriate assessed value for the subject property.
  - b) The agreement was disregarded by the Vanderburgh County PTABOA.
  - c) The value agreed upon was based on the 2002 sales disclosure (Petitioner Exhibits 6 and A3) value of the property with a time adjustment of 2.5% per year to January 1, 1999.
  - d) The 2.5% per year adjustment was based on information provided by two licensed real estate appraisers (Petitioner Exhibits 8 and A11) .
  - e) The Vanderburgh County PTABOA did not request to be a party to this action in a timely manner.
  - f) The Township contends the Form 115 determination for the property was in the hands of the auditors office prior to the hearing thereby indicating a lack of due consideration of the evidence presented.
  - g) The property owner testified that a review of the property details and the sale amounts of two properties (Petitioner Exhibits A2 thru A8) included as comparables to the subject indicate the appropriate value of the subject property to be \$ 306,000.
13. Summary of Respondent's contentions in support of the assessment:
  - a) The Vanderburgh County PTABOA acted within their authority in establishing a value for the subject property other than the value agreed upon by the Township and the property owner.
  - b) The value determined by the PTABOA was based on the value indicated in the 2002 sales disclosure (Petitioner Exhibits 6 and A3) for the subject property.

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- c) The 2.5% time adjustment applied by the Township was not appropriate for the subject property due to the wide parameters indicated by the fee appraiser in the time adjustment support document (Petitioner Exhibits 8 and A11).
- d) The PTABOA did not dispute that the Form 115 determination for the subject appeal had been forwarded to the auditors office prior to the hearing, but further testified that this action was taken at the request of the auditors office due to the quantity of appeals and with the full understanding that the indicated values were preliminary and could be changed as a result of the outcome of the hearing.
- e) The PTABOA determined that the owner failed to establish comparability between the two properties (Petitioner Exhibits A2 thru A8) and the subject and therefore the 2002 sales disclosure for the subject property (Petitioner Exhibits 6 and A3) serves as the best indication of value for the property.

### **Record**

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

- a) The Petition, and all subsequent pre-hearing, and post-hearing submissions by either party.
- b) The tape recording of the hearing labeled BTR #5900.
- c) Exhibits:
  - For 82-019-02-1-5-00010
    - Petitioner Exhibit 1: *Copy of the memo of County HO to the PTABOA*
    - Petitioner Exhibit 2: *Copy of the memo from Township to the PTABOA*
    - Petitioner Exhibit 3: *Copy of 2002 Settlement Statement*
    - Petitioner Exhibit 4: *Copy of 2002 appraisal*
    - Petitioner Exhibit 5: *Two property record cards for subject*
    - Petitioner Exhibit 6: *Copy of 2002 sales disclosure for subject*
    - Petitioner Exhibit 7: *Two pages of sales info from Vanderburgh County database*
    - Petitioner Exhibit 8: *Time adjustment information*
    - Petitioner Exhibit 9: *Copy of the draft of the Bill Waltz memo*
    - Petitioner Exhibit 10: *Copies of several tax codes and procedural rules*
    - Petitioner Exhibit 11: *Copy of several pages concerning cost approach to value*
    - Petitioner Exhibit 12: *October 24, 2003 PTABOA minutes*
    - Petitioner Exhibit 13: *Appeals comparable adjustment outlines for two properties*
  - For 82-019-02-1-5-00010A
    - Petitioner Exhibit A1: *Memo detailing Petitioner contentions*
    - Petitioner Exhibit A2: *Chart comparing two comparables with subject*
    - Petitioner Exhibit A3: *Copy of 2002 sales disclosure for subject*
    - Petitioner Exhibit A4: *Subject information from Vanderburgh County database*

Petitioner Exhibit A5: *2001 sales disclosure for 10001 Oglesby Dr*  
 Petitioner Exhibit A6: *Info from county database for 10001 Oglesby Dr*  
 Petitioner Exhibit A7: *2001 sales disclosure for 7827 Highland Ct*  
 Petitioner Exhibit A8: *Info from county database for 7827 Highland Ct*  
 Petitioner Exhibit A9: *Memo from Township to PTABOA*  
 Petitioner Exhibit A10: *Copy of agreement between Center Township and the property owner*  
 Petitioner Exhibit A11: *Info concerning time adjustment*  
 Petitioner Exhibit A12: *2002 Settlement statement for subject*  
 Petitioner Exhibit A13: *Copy of memo of County Hearing Office to the PTABOA*  
 Petitioner Exhibit A14: *2002 appraisal for subject*

Respondent Exhibit 1: *Memo with attached PTABOA minutes*

Board Exhibit A: *Form 131 petition*  
 Board Exhibit B: *Notice of Hearing*  
 Board Exhibit C: *Consolidation Order*  
 Board Exhibit D: *Notice of County Assessor as Additional Party*

d) These Findings and Conclusions.

### **Analysis**

15. The most applicable governing law is:

**IC 6-1.1-15-1:**

\* \* \*

(g) Immediately upon receipt of a timely filed petition on the form prescribed under subsection (e), the county assessor shall forward a copy of the petition to the township assessor who made the challenged assessment. The township assessor shall, within thirty (30) days after the receipt of the petition, attempt to hold a preliminary conference with the petitioner and resolve as many issues as possible. Within ten (10) days after the conference, the township assessor shall forward to the county auditor and county assessor a completed response to the petition on the form prescribed under subsection (f). The county assessor shall immediately forward a copy of the response form to the petitioner and the county property tax assessment board of appeals. If after the conference there are no items listed in the petition on which there is disagreement:

(1) the township assessor shall give notice to the petitioner, the county property tax assessment board of appeals, and the county assessor of the assessment in the amount agreed to by the petitioner and the township assessor; and

(2) the county property tax assessment board of appeals may reserve the right to change the assessment under IC 6-1.1-9.

16. The County officials contend that they may reject a stipulated agreement between the taxpayer and Township officials. *Musgrave testimony.*

17. The Petitioners contend that the value agreed upon at the preliminary conference should be documented on a Notification of Final Assessment Determination, Form 115, and issued as a ministerial function of the PTABOA. The Petitioners contend that the case should not have been before the PTABOA. *See Kolumbus testimony; Gerard testimony.*

18. The relevant language of IC 6-1.1-15-1(g) indicates that:

If after the [preliminary] conference there are no items listed in the petition on which there is disagreement:

(1) the township assessor shall give notice to the petitioner, the county property tax assessment board of appeals, and the county assessor of the assessment in the amount agreed to by the petitioner and the township assessor; and

(2) the county property tax assessment board of appeals may reserve the right to change the assessment under IC 6-1.1-9.

Ind. Code § 6-1.1-15-1(g).

19. The Board tends to agree with the logic outlined in Petitioner Exhibit 9 suggesting the most appropriate application of Ind. Code § 6-1.1-15-1(g) would be to honor the results reached by the township assessor and the taxpayer at the preliminary conference. However, the Board feels obligated to respect other plausible interpretations of Ind. Code § 6-1.1-15-1(g) as it read prior to amendment in P.L. 1-2004.

20. The Respondent's contention is essentially that:

(a) the law contemplates the PTABOA having the ability to reject an agreement between the township assessor and a taxpayer – it is only the manner and process that is in dispute; and

(b) the process used by the PTABOA in this case provided sufficient due process protections and should be upheld.

21. Although there is disagreement regarding the proper application of Ind. Code § 6-1.1-9, there was no dispute among the parties regarding the sufficiency of due process afforded to both the township officials and the taxpayer relative to the PTABOA decision. Indeed, both parties presented arguments to the IBTR concerning the accuracy of the trending calculation in response to the PTABOA decision.

22. Additionally, Ind. Code § 6-1.1-15-1(g) was amended in a manner that reinforces the position that the PTABOA must be allowed a means for ultimately overriding the township assessor and taxpayer agreements. The amendment preserves the right of the PTABOA to change the assessment, it only amended the statutory means for doing so.

23. It would be a waste of resources to refuse jurisdiction based on procedural error when neither party has alleged any harm. The likely outcome, if jurisdiction was not accepted, would be for the PTABOA to change the assessment in accordance with all provisions of

IC 6-1.1-9, resulting in yet another appeal and another IBTR hearing to decide the substantive issue concerning the trending calculation.

24. Accordingly, although the Board cannot endorse this method, we nevertheless conclude that the Vanderburgh County PTABOA acted within its authority in re-examining the appropriate value for the subject property and that the PTABOA provided sufficient notice to both the property owner and the Center Township Assessor of a scheduled hearing.

### The Trending Calculation

25. The most applicable governing case law is:

*Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d 475 (Ind. Tax Ct. 2003).

*Canal Square Ltd. Pshp. v. State Bd. of Tax Comm'rs*, 694 N.E.2d 801 (Ind. Tax Ct. 1998).

26. The Courts have recognized the need to trend that evidence to values for the year under appeal. *See State Bd. of Tax Comm'rs v. Garcia*, 766 N.E.2d 341 (Ind. 2002) (finding the use of the consumer price index to adjust cost data was permissible); *Inland Steel v. State Bd. of Tax Comm'rs*, 739 N.E.2d 201, 220 (Ind. Tax Ct. 2000) (finding that the amount of deflator adjustments must be supported by the record).
27. In order to time adjust taxpayer submitted appraisals, the Township commissioned a study by C. David Matthews, a General Certified Real Estate Appraiser, documenting changes in the Vanderburgh County real estate market from 1997 through 2003. *Petitioner Exhibits 8 and A11*.<sup>1</sup>
28. The Matthews study explains that its purpose is to provide a general trend analysis of properties throughout Vanderburgh County to assist the assessors in adjusting property owner appraisals to the valuation date set forth in the Manual. *See Petitioner Exhibits 8 and A11 at 1, 2*.
29. The Matthews study used three methodologies: (1) Paired Sales; (2) Average Price of Homes Sold; and (3) Consumer Price Index. *Petitioner Exhibits 8 and A11*. The methodologies are discussed at *Petitioner Exhibits 8 and A11 at 2, 3*. The study discusses why the use of each method is appropriate and the relative weight each carries. *Id.*

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<sup>1</sup> The first page of Petitioner Exhibits 8 and A11 appear to be similar information from Evansville for 1999 through 2003 suggesting an adjustment of 2.5% to 3% per year. However, this brief letter from William R. Bartlett does not have any supporting information to allow the Board to understand the calculations asserted. The Board finds the Bartlett letter to be conclusory and gives it no weight. *See Inland Steel v. State Bd. of Tax Comm'rs*, 739 N.E.2d 201, 220 (Ind. Tax Ct. 2000) (stating that testimony of a recognized appraisal expert without explanation is conclusory and lacks probative value). Further references to Petitioner Exhibit 8 and A11 will be discussing only the study done by C. David Matthews.

30. The Matthews study reconciles the three methods and arrives at an expert opinion that “an annualized rate of 2% per year should be used to adjust sales of properties that have occurred since 1997 to the effective date of January 1, 1999.” *Petitioner Exhibits 8 and A11 at 4.*
31. The Board finds the Matthews study to be probative evidence and to establish a prima facie case that a 2% per year adjustment is appropriate for properties in Vanderburgh County.<sup>2</sup>
32. The PTABOA submitted a Memorandum that attempts to rebut the Matthews study. *Respondent Exhibit 1.* The Memorandum raises several issues regarding the study, and the Board will address each in turn.

*1. No basis for adjustment factor*

33. The PTABOA argues that “there is no evidence in the record as to the source of the 2.5% adjustment factor. The underlying methodology has not been disclosed, and it is therefore impossible to determine if the factor is correct or appropriate for the subject property.” *Respondent Exhibit 1 at 2.*<sup>3</sup>
34. The Board accepts this analysis as it pertains to the Bartlett letter and agrees that it is “unsubstantiated and conclusory.” *See supra, footnote 1.* However, this argument clearly does not apply to the Matthews study. The study thoroughly explains each step of the analysis and methodology and documents the source of its data. The Board finds this argument to be simply incorrect in regard to the Matthews study.

*2. Adjustment factor not specific to subject property*

35. The PTABOA contends that the adjustment factor is “irrelevant and immaterial” because it is for the entire county. *Respondent Ex. 1 at 2.* In essence, the PTABOA is arguing that the countywide study is too broad, and that specific neighborhood data should be used. *Respondent Exhibit 1 at 2.* The Board recognizes that a study of only the neighborhood within which this residence is located would be better evidence than a

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<sup>2</sup> The Township Assessor argues that the adjustment should be 2.5% per year, perhaps based on an average of the Bartlett letter and the Matthews study. *See Board Ex. A; Gerard testimony.* Because the Board has found the Bartlett letter to be conclusory and lacking of probative value, the 2.5% adjustment established therein is not supported by substantial evidence. *See, e.g., Hamm v. Dep’t of Local Gov’t Fin.*, 788 N.E.2d 440, 445 (Ind. Tax Ct. 2003) (stating that decisions of the Board must be supported by substantial evidence). However, the Board does find the Matthews study to provide substantial evidence to support a determination that 2% per year adjustment is appropriate. While this is less than the adjustment requested by the Petitioner, it is the only adjustment that is supported by his evidence.

<sup>3</sup> It should be noted that the Memorandum is dated March 9, 2004, and appears to have been prepared in anticipation of the PTABOA hearing. It is entirely possible that the evidence discussed in the Memorandum is different than that before the Board at this time. However, as the Memorandum provides the only significant attempt to rebut Petitioner’s evidence, the Board will consider it when applicable.

study of the entire county. However, neither party has presented evidence of time adjustment trends for this neighborhood.

36. The fact that it may be possible to come up with better evidence does not rebut the Matthews study.<sup>4</sup> The study is still probative as to value changes over time in Vanderburgh County. The subject property is in Vanderburgh County. *Board Ex. A*. In order to prove that a different time adjustment should be used, the PTABOA needed to offer an alternate calculation or evidence rebutting the calculations found in the Matthews study. *Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d 475, 479 (Ind. Tax Ct. 2003); *see also Canal Square Ltd. Pshp. v. State Bd. of Tax Comm'rs*, 694 N.E.2d 801, 806 (Ind. Tax Ct. 1998).
37. The PTABOA did not offer an alternate calculation regarding the time adjustment factor appropriate for the neighborhood or evidence to prove that the Matthews study was incorrect. The PTABOA needed to present such evidence to the Board and explain in detail why it disproves the calculations found in the Matthews study in order to rebut Petitioner's prima facie case.

### *3. Adjustment factor application miscalculated*

38. The PTABOA argues that the factor was misapplied – the Township multiplied 2.5% by the number of intervening years rather than applying 2.5% to each year's declining balance. *Respondent Exhibit 1 at 2*. The PTABOA is correct on this point.
39. Because the Board does not accept 2.5% to be appropriate, (*see* ¶¶ 27-31, *infra*) the value must be recalculated using the declining balance method advocated by the PTABOA and a 2% per year time adjustment factor as established by the Matthews study.

### *4. Industry Standards Violated*

40. The PTABOA also argues that the application of the adjustment factor does not conform to industry standards as outlined in this quote from INTERNATIONAL ASSOCIATION OF ASSESSING OFFICERS, PROPERTY ASSESSMENT VALUATION at 77 (2d ed. 1996):

*Time of Sale* When market value increases or decreases over time, an adjustment to the sale price of the comparable is required for time of sale. This adjustment is applied to the sale price of the *comparable property* after applying any adjustment required for atypical financing.

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<sup>4</sup> The Matthews study contains a paragraph that explains that its best data is derived from the east and west sides of the county. It acknowledges that they did not have enough data to determine whether the north ends of the county changed at a rate similar to the south end, or whether the inner city changed at a different rate than the suburban areas. *Petitioner Ex. 8 and A11 at 4*. This “disclaimer” does not mean that the study is flawed or irrelevant. It simply acknowledges that the study has limitations and that better data may exist. However, neither party has supplied better evidence, so the Board will base its determination on the Matthews study. *See* ¶¶ 35-37, *supra*.



*Id.*; (emphasis added in *Respondent Ex. 1 at 2*). The PTABOA claims this method requires adjustment of the comparable property to the valuation date, rather than the adjustment of the subject property to the valuation date as done by the Township Assessor.

41. The PTABOA's argument is misplaced. The quote it relies on is from the chapter on Land Valuation, and it is a sub-topic under the "Direct Sales Comparison Approach." See INTERNATIONAL ASSOCIATION OF ASSESSING OFFICERS, PROPERTY ASSESSMENT VALUATION at 69-95 (2d ed. 1996). This chapter of the book discusses only collection and analysis of data required for land valuation. *Id.* at 69.
42. The direct sales comparison method "compares the subject property with comparable vacant parcels that have sold recently." *Id.* at 72. It is a method for determining the land value of a subject that may have an improvement by comparing unimproved parcels.
43. The standards set forth in this chapter are entirely unrelated to the Matthews study. Matthews used three methods: (1) a paired sales analysis; (2) an analysis of the average and median sale prices; and (3) the consumer price index. *Petitioner Ex. 8 and A11 at 2, 3*. These methods are used to estimate value trends in multiple properties over time – an entirely different process than the land valuation of one specific property as described in INTERNATIONAL ASSOCIATION OF ASSESSING OFFICERS, PROPERTY ASSESSMENT VALUATION at 69-95 (2d ed. 1996). The PTABOA is attempting to impose standards for assessing individual properties on methods for analyzing aggregate data. This attempt to compare two methods that are clearly not comparable does not impeach the methodology of the Matthews study. The PTABOA has not rebutted the Matthews study on this point.

#### *5. Assessment Manual Violated*

44. The PTABOA asserts that the Petitioner's adjustment factor does not conform to the 2002 REAL PROPERTY ASSESSMENT MANUAL because the taxpayer's individual appraisal evidence does not conform to the aggregate data requirements and the adjustment does not use neighborhood data. See *Respondent Ex. 1 at 2, 3* (citing 2002 REAL PROPERTY ASSESSMENT MANUAL at 5 (incorporated by reference at 50 IAC 2.3-1-2)).
45. The section quoted recognizes the need for a mass appraisal system, and that mass appraisals do not guarantee exact results for each individual property. The system must necessarily utilize "neighborhood" data (i.e. sales information), and "industry wide" data (i.e. cost information), that are objective and verifiable. See, e.g., *State Bd. of Tax Comm'rs v. Town of St. John*, 702 N.E.2d 1034, 1041 (Ind. 1998). It goes on to state that "challenges to [individual] assessments [must] be proven with aggregate data," and "[s]ince assessments are calculated using aggregate data, it is not permissible to use individual data without first establishing its comparability or lack thereof to the aggregate data." 2002 REAL PROPERTY ASSESSMENT MANUAL at 5.
46. In the paragraph following the above statement, the Manual specifies the value determined according to the mass appraisal rules may be presumed correct, "[h]owever,

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the taxpayer shall be permitted to offer evidence relevant to the fair market value-in-use of the property” to rebut the presumption. 2002 REAL PROPERTY ASSESSMENT MANUAL at 5. The Board reads these requirements to obligate a taxpayer to first show that any individual cost information, or individual sales information, is of the same nature as the categories of cost data or sales data that comprises the aggregate data used to generate the value under the mass appraisal system. In other words, the individual data is comparable to, and could fairly be considered part of the same category as, the aggregate used under the rules.

47. The difficulty in this case is that the Manual does not contemplate “trending” the values, or time adjustments to the subject property based on the difference between the valuation date and the assessment date. *See generally*, 2002 REAL PROPERTY ASSESSMENT MANUAL at 1-7. The Department of Local Government Finance, however, did recognize the need for such trending subsequent to the rules being adopted. *See* Department of Local Government Finance, *Appeals and Preliminary Conference Reminders*, THE COMMUNICATOR, Winter 2004, at 8 (stating “[a]ppraisals do not need to have a January 1, 1999, valuation date. Appraisals that are more recent should be trended back in time for inflation/deflation.”).
48. The overarching principle is that the taxpayer can bring in any relevant evidence as long as it is “consistent with the definition of true tax value.” *See generally*, 2002 REAL PROPERTY ASSESSMENT MANUAL at 2-3. True tax value may be said to be equivalent to market value in the residential context. *Id.* The township assessor submitted evidence that the market value of residential properties in Vanderburgh County ought to be adjusted or “trended” in order to reflect the market value on the valuation date. The Respondents did not contest the appraiser’s status as a real estate professional qualified to offer an opinion on the market trends. Instead they challenged his conclusions, and questioned the application of his conclusions to the subject property.
49. The difficulty the Board has in accepting the Respondent’s contentions is expressed by the Tax Court in *Meridian Towers*, 805 N.E.2d at 479. Simply raising questions about the opinion of a qualified expert does not serve to rebut the evidence or properly founded opinion of an expert. *See* ¶¶ 35-37, *infra*. The evidence supports the contention that sales of properties occurring in Vanderburgh County in 2002 would more accurately reflect the market value for such properties on the January 1, 1999, valuation date if they were adjusted according to the stated opinions. The Respondent only suggests that the trending may not be justified as applicable to the subject property because the analysis is countywide rather than by neighborhood. The inapplicability would need to be shown in order to render the general proposition unjustified. The Manual does not establish a means for trending, so it cannot be said to establish the aggregate category that the data must fall within in order to be properly considered. The Township’s data relates to residential property and covers the broader jurisdiction within which the subject lies – the county. If the Respondent possessed evidence that the general adjustment factor is not representative of the changes in sales prices within the subject neighborhood, it chose not to submit it. *See* ¶ 35, *infra*. The Board finds the Township’s evidence sufficient to allow the conclusion that a 2% adjustment per year is not in violation of the Manual.

### Form 115 determination

50. The forwarding of the Form 115 determination to the auditors office prior to the scheduled hearing certainly should be considered premature; however, this action alone does nothing to support or disprove the validity of the assigned value.

### The Petitioner's Comparables

51. The Owner and Center Township Assessor had agreed to a value of \$ 334,500. At the hearing, the Owner contended that value should be \$ 306,000. *Kolumbus testimony.*
52. The Petitioner presented sales of two properties purported to be comparable to the subject property. Comparable 1 sold for \$ 307,000 and Comparable 2 sold for \$ 305,000. Both properties sold in 1999. *Petitioner Exhibits A5 thru A8.* The Petitioner contends that these sales support the value of \$ 306,000 as of January 1, 1999. *Kolumbus testimony.*
53. The Petitioner (Township Assessor) presented worksheets adjusting the sales price of the comparable properties. The adjusted sale price of Comparable 1 is \$ 348,500. The adjusted sale price of Comparable 2 is \$ 293, 500. *Petitioner Exhibit 13.*
54. The Petitioner presented a copy of the settlement statement showing the subject property was purchased for \$ 365,000 on December 4, 2002. *Petitioner Exhibits 3 and A12.*
55. The Petitioner also presented an appraisal for the subject property. The appraisal estimated the value of the property to be \$ 370,000 as of November 15, 2002. *Petitioner Exhibits 4 and A14.*
56. The Respondent contends that the Petitioner did not prove the two properties were comparable to the subject property. For example, no mention was made of the construction materials used or of the relative quality of the amenities in the comparables or the subject property. *Musgrave testimony.*
57. The Respondent gave validity to the sale and defaulted to the sale price even though the sale was in 2002. The PTABOA did not adjust for time. *Musgrave testimony.*
58. The Petitioner did not establish comparability between the two properties purported to be comparable and the subject property. The best evidence of value available is the sale price of \$ 365,000.

### **Objections**

59. The Center Township Assessor objected to the appearance of the PTABOA and the county assessor in this action because he had not been given thirty days written notice of the county's appearance pursuant to 52 IAC 2-6-6.

60. The section referred to by the township, 52 IAC 2-6-6, contemplates the typical situation seen before the Board – a taxpayer challenging an assessment originally performed by the township assessor. It is in that situation where the other parties (the township assessor and the taxpayer) are entitled to notice before the county assessor can intervene. *See* 52 IAC 2-6-6(a), (b).
61. In this case, however, we have the less common situation where a township assessor is challenging the action of the county PTABOA. In this case, the PTABOA is necessarily involved because it must defend its actions. The county assessor, as a member of the PTABOA, may also be involved in the defense. In this situation, no additional notice under 52 IAC 2-6-6(b) needs to be given.

### **Conclusions**

#### Ability of County to Reject Stipulations Made By Township and Taxpayer

62. The Vanderburgh County PTABOA acted within its authority in re-examining the appropriate value for the subject property and the PTABOA appropriately notified both the property owner and the Center Township Assessor of the hearing.

#### The Trending Calculation

63. The Petitioner presented a prima facie case establishing that a 2% trending adjustment per year was generally appropriate for Vanderburgh County. Respondent failed to offer evidence rebutting the validity of Petitioner's trending calculation or to offer alternate calculations of its own. *See Meridian Towers*, 805 N.E.2d at 479. The Board finds in favor of the Petitioner on this issue.

#### Form 115 determination

64. The forwarding of the Form 115 determination to the auditors office prior to the scheduled hearing certainly should be considered premature; however, this action alone does nothing to support or disprove the validity of the assigned value.

#### The Petitioner's Comparables

65. The Petitioner did not establish comparability between the two properties purported to be comparable and the subject property. The best evidence of value available is the sale price of \$ 365,000 on December 4, 2002. However, the sale price must be adjusted for time using the 2% trending adjustment. The Board finds in favor of the Respondent on this issue.

### **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 reflect the 2% per year trending adjustment.

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.**