

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

**Petition:** 51-008-07-1-5-00011  
**Petitioners:** William & Barbara Arvin  
**Respondent:** Martin County Assessor  
**Parcel:** 51-08-24-300-041.000-008  
**Assessment Year:** 2007

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

**Procedural History**

1. The Petitioner initiated an assessment appeal for the 2007 assessment with the Martin County Property Tax Assessment Board of Appeals (PTABOA) on July 8, 2008.
2. The PTABOA mailed notice of its final determination on November 19, 2008.
3. The Petitioners filed a Form 131 on December 15, 2008 and elected to have this case heard according to small claims procedures.
4. The Board issued a notice of hearing to the parties dated March 29, 2010.
5. Administrative Law Judge Kay Schwade held the Board's administrative hearing on May 19, 2010. She did not conduct an inspection of the property.
6. William Arvin, County Representative Kirk Reller and County Assessor Carolyn McGuire testified at the hearing. Barbara Arvin and Janet Hembree also were sworn, but they did not testify.

**Facts**

7. This is a case about a residential property located at 205 A Street in Logootee.
8. The PTABOA determined the assessed value is \$5,500 for land and \$43,600 for improvements (\$49,100 total).<sup>1</sup>
9. The Petitioners requested a total assessed value of \$37,000.

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<sup>1</sup> During the hearing there was some discussion about these numbers. Specifically, the Respondent claimed the assessed land value is a little higher. That position apparently comes from what is shown on the property record card. The PTABOA's Form 115, however, clearly says the land assessment is \$5,500 and that is the controlling number. Any record to the contrary should be corrected to match the Form 115.

## **Record**

10. The official record for this matter is made up of the following:
- a) Petitions for Review of Assessment (Form 131) with attachments,
  - b) Notice of Hearing,
  - c) Hearing Sign-In Sheet,
  - d) Digital recording of the hearing,
  - e) Petitioner Exhibit 1 – Appraisal,  
Respondent Exhibit 1 – Property record card (PRC) and photograph of the appraisal’s Comparable #1,  
Respondent Exhibit 2 – PRC and photograph of the appraisal’s Comparable #2,  
Respondent Exhibit 3 – PRC and photograph of the appraisal’s Comparable #3,  
Respondent Exhibit 4 – PRC and photograph of the property,  
Respondent Exhibit 5 – Appraisal (purporting to be the same Appraisal as Petitioner Exhibit 1, but Respondent Exhibit 5 lacks several pages that are in the version Petitioners presented),
  - f) These Findings and Conclusions.

## **Contentions**

11. Summary of the Petitioner’s case:
- a) The property tax assessment fact sheet states that the assessed value should reflect the value a willing buyer would pay for the property on the assessment date. It also states that the Indiana Tax Court says an appraisal, properly trended to the correct valuation date, is the best evidence of value. *W. Arvin testimony.*
  - b) This property has been used as a wood shop since approximately 2002. The condition of the property is not livable. The home does have a central air unit, but it is not functional because the duct work runs in the attic. The temperature in the attic is too hot for the central air system to work efficiently. *W. Arvin testimony.*
  - c) This property was purchased for \$38,000 under a 5 year contract. The appraisal was performed to obtain bank financing for a “balloon” payment at the end of the contract. *W. Arvin testimony.*
  - d) The comparables used in the appraisal are probably correct even though the appraisal compares bungalows to ranch style homes. All the comparables are very similar to the subject property. *W. Arvin testimony.*

- e) The appraisal values the property at \$37,000 as of August 29, 2007. The appraiser inspected the property. She took photographs and used comparable sales to arrive at the value. It would not sell for more than \$37,000. It might not even sell for that much. *W. Arvin testimony; Pet'r Ex. 1.*

12. Summary of the Respondent's case:

- a) Indiana is a market value-in-use state rather than a pure market value state. For this 2007 assessment, the county attempted to establish market value-in-use as of January 1, 2006. The effective date of the appraisal is August 29, 2007, which is more than 20 months beyond the valuation date. *Reller testimony; Resp't Ex. 5; Pet'r Ex. 1.*
- b) The value established by the appraisal is suspect because the appraiser made improper adjustments to the sales used as comparables. Comparable #1 sold in December 2006 for \$35,000. That sale was the first sale following foreclosure transferring the property from Beneficial Indiana to Jeffrey and Naomi Hough. By the International Association of Assessing Official (IAAO) standards, this type of sale does not represent an arm's length transaction. Rather, it is a distressed sale and should not be used as a comparable. The appraisal incorrectly identifies Comparable #1 as a bungalow when it is a ranch style. The appraisal also incorrectly reports the age of Comparable #1 as 106 years old when it is actually newer than the subject property so the age adjustment is incorrect. The subject property has central air, but the appraisal improperly makes an adjustment to Comparable #2 for its central air system. Comparable #2 is a bungalow and is 30% smaller than the property. Comparable #3 is approximately 100 years old. It is 60 years older and 40% smaller than the property. There is another incorrect adjustment for central air. If the appraiser had inspected the subject property, its central air system should have been noted. *Reller testimony; Resp't Ex. 1, 2, 3, 5; Pet'r Ex. 1.*
- c) The PTABOA gave the appraisal and its opinion about value little weight because of its questionable adjustments. *Reller testimony.*

### Analysis

13. A petitioner who seeks 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). In making its case, a petitioner 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”).

14. Real property is assessed on the basis of 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); 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. MANUAL at 3. Indiana promulgated a series of guidelines that explain the application of the cost approach. REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 – VERSION A. The value established by use of the Guidelines, while presumed to be accurate, is merely a starting point. A taxpayer is permitted to offer evidence relevant to market value-in-use to rebut that presumption. Such 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.
15. A 2007 assessment must reflect value as of January 1, 2006. Ind. Code § 6-1.1-4-4.5; 50 IAC 21-3-3. An appraisal or any other evidence must have some explanation as to how it demonstrates or is relevant to value as of the required valuation date. *See Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005).
16. The Petitioners relied on an appraisal with an effective date of August 2007, but they did not make any attempt to show how the appraisal’s opinion about the value of the subject property might relate to January 1, 2006. Therefore, the appraisal is not probative evidence.
17. Additionally, the Petitioners testified that the condition of the property was not livable. While the condition of a property can have an impact on its value, the Petitioners did not provide any evidence detailing what the actual loss in value might be. Without any evidence establishing how that point translates into a relevant valuation number, the statements do not help to prove that the assessment must be changed. Unsupported conclusory statements about condition and value are not probative evidence. *See Whitley Products, Inc. v. State Bd. of Tax Comm’rs*, 704 N.E.2d 1113, 1119, (Ind. Tax Ct. 1998).
18. Where the Petitioner fails to provide probative evidence supporting its position that an assessment should be changed, the Respondent’s duty to support the assessment with substantial evidence is not triggered. *Lacy Diversified*, 799 N.E.2d at 1221-1222.

### **Conclusion**

19. 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 assessment will not be changed.

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

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Commissioner, Indiana Board of Tax Review

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Commissioner, Indiana Board of Tax Review

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Commissioner, Indiana Board of Tax Review

### - 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>>