

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

**Petitions:**            **91-020-06-1-5-00159**  
                          **91-020-06-1-5-00160**  
**Petitioner:**        **Charles H. & Mary L. Blaine**  
**Respondent:**      **White County Assessor**  
**Parcels:**           **014-13510-00**  
                          **014-13520-00**  
**Assessment Year:**  **2006**

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 Petitioners initiated an assessment appeal for each parcel with the White County Property Tax Assessment Board of Appeals (PTABOA) on January 3, 2007.
2. The PTABOA mailed the notice of its decision to the Petitioners on December 1, 2007.
3. The Petitioners appealed to the Board by filing a Form 131 for each parcel on January 3, 2008. They elected small claims procedures.
4. The Board issued a notice of hearing to the parties dated February 14, 2008.
5. Administrative Law Judge Patti Kindler held the hearing in Monticello on March 19, 2008.
6. The following persons were present and sworn as witnesses at the hearing:  
For the Petitioners – Charles H. and Mary L. Blaine, owners,  
For the Respondent – Scott Potts, Authorized County Representative.

**Facts**

7. The subject property consists of two separate, contiguous lots with a garage and a dwelling located at 3930 East Lake Road 26, Monticello, Indiana.
8. The Administrative Law Judge did not inspect the property.
9. The PTABOA determined the assessed value of parcel 014-13510-00 is \$53,500 for land and \$24,300 for improvements (total \$77,800). The PTABOA determined the assessed

value of parcel 014-13520-00 is \$37,900 for land and \$17,500 for improvements (total \$55,400). The total combined assessed value determined by the PTABOA is \$133,200.

10. For parcel 014-13510-00, the Petitioners requested an assessed value of \$40,000 for land and \$15,000 for improvements (total \$55,000). For parcel 014-13520-00, the Petitioners requested an assessed value of \$28,000 for land and \$12,000 for improvements (total \$40,000). The total combined assessed value requested by the Petitioners is \$95,000.

### **Contentions**

11. Summary of the Petitioners' contentions:
  - a) The Petitioners purchased the subject property in 2001 for \$75,000. That sale price included personal property items such as a boat and furniture valued at approximately \$5,000. The sale price of the real property was approximately \$70,000. The assessment of \$133,200 is excessive for its location on Hoagland Ditch. *Charles Blaine testimony; Pet'r Ex 2.*
  - b) The PTABOA requested a "Comparative Market Analysis." Nora Andrews from Zook Realty prepared one that is dated October 6, 2007. She suggested a listing price for both parcels at \$95,000 to \$100,000 in "as-is" condition. Her "Comparative Market Analysis" includes data about four comparables that all sold for less than the subject property's current assessment. The PTABOA ignored this information in the final determination and cited a "lack of supporting evidence to make a change." *Charles Blaine testimony; Pet'r Ex. 1, 3.*
  - c) According to the realtor, the land value for waterfront property on Hoagland Bay is  $\frac{1}{2}$  to  $\frac{3}{4}$  of what it is on Lake Shafer. The subject property is on water with a continuing silt problem that causes a sandbar. Consequently, the water level is very shallow where the subject property is located. For larger boats and pontoons, access to the lake is limited because the bridge height is low. The assessing officials used the lakefront value for the main lake to value the subject property without any consideration to the inferior Hoagland Bay location. *Charles Blaine testimony; Pet'r Ex. 1.*
  - d) The subject property is a larger than normal lot, but approximately  $\frac{1}{3}$  of it is a hill. There are 44 steps down the hill to get to the waterfront. The hillside is unusable. The subject property does not have paved roadway access. *Charles Blaine testimony.*
  - e) The dwelling is a small old fishing cottage with two bedrooms and a  $\frac{3}{4}$  bath. It does not have a foundation. It is in disrepair and is a negative influence because of the cost to tear it down. *Charles Blaine testimony; Pet'r Ex. 2.*
  - f) Hoagland Bay has had very few sales. A neighboring property was listed for sale over a year ago. That property has a year-round home with a 5-car garage. It was

listed on the market for \$187,000 and then reduced to \$140,000. The Petitioners do not know whether that property sold or perhaps it just was taken off the market. The Respondent's comparable located on Big Monon Lake was probably purchased with intent to demolish the existing cottage and to construct a new home. The Respondent's comparable would bring a higher price because it is on a large lake, while the subject property is located on a shallow ditch. *Charles Blaine testimony.*

12. Summary of the Respondent's contentions:

- a) The subject property has 130 feet of water frontage on Hoagland Bay. Comparable sales for the subject property are hard to find because that much water frontage is unusual. *Potts testimony; Resp't Ex. A.*
- b) The sales disclosure form and property record card for the property located at 4322 East Oakcrest Drive show it sold for \$125,000 on October 22, 2004. That lot has 125 feet of water frontage on Monon Lake, which is a comparable land size. In addition, its waterfront is plagued with silt and silt traps. *Potts testimony; Resp't Ex. B, C.*
- c) The amount of water frontage is what determines value on lakefront property. The subject property has 130 foot water frontage. The Petitioners' comparative market analysis is inadequate because it used comparables that have much less water frontage. Comparable #1 from the market analysis has 50 feet of water frontage. Comparable #2 has 45 feet of water frontage. Comparable #3 has 20 feet of water frontage. Comparable #4 has 58 feet of water frontage. The analysis that the Petitioners offered lacks any adjustments for the big differences of waterfront footage, but such differences make a huge difference in value. *Potts testimony; Resp't Ex. D, E, F, G.*
- d) The waterfront land on the main lake is valued at twice as much as the price per square foot on Hoagland Bay. The subject land is properly valued for its size and location. *Potts 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 – “Comparative Market Analysis” prepared by Nora Andrews dated October 6, 2007,  
Petitioner Exhibit 2 – List of the negative influences affecting the subject property,

Petitioner Exhibit 3 – Form 115 Notification of Final Assessment Determination from PTABOA for parcel 014-13520-00,  
Petitioner Exhibit 4 – Letter from White County Assessor dated March 12, 2008, with copies of exhibits and list of witnesses,  
Petitioner Exhibit 5 – Map showing location of 3812 East Forest Lodge Loop,  
Respondent Exhibit A – Plat of the subject property,  
Respondent Exhibit B – Sales disclosure form for parcel 010-23260-00,  
Respondent Exhibit C – Property record card (PRC) for parcel 010-23260-00,  
Respondent Exhibit D – PRC for Comparable #1 in the market analysis,  
Respondent Exhibit E – PRC for Comparable #2 in the market analysis,  
Respondent Exhibit F – PRC for Comparable #3 in the market analysis,  
Respondent Exhibit G – PRC for Comparable #4 in the market analysis,  
Board Exhibit A – Form 131 Petitions with attachments,  
Board Exhibit B – Notice of Hearing,  
Board Exhibit C – Hearing Sign-In Sheet,  
Board Exhibit D – Notice of Appearance,

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. The Petitioners did not provide sufficient evidence to support their claims. This conclusion was arrived at because:
- a) 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); 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. To that end, Indiana promulgated a series of guidelines that explain the application of the cost approach. REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 – VERSION A (incorporated by reference at 50 IAC 2.3-1-2). 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 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 local realtor’s “Comparative Market Analysis” is dated October 6, 2007. It provides an opinion that the listing price for the subject property should be between \$95,000 and \$100,000 based on comparing the subject property to sales of four other waterfront properties. *Pet’r Ex. 1*. While the Petitioners could prove a case with many types of evidence, any such evidence must conform to generally accepted appraisal principles. MANUAL at 5. The Petitioners failed to establish that the realtor’s “Comparative Market Analysis” does so. For example, it does not show adjustments to allow for apparently significant differences between the subject property and those it considered as comparables. Therefore, that document has no probative value.
  - c) Furthermore, the 2006 assessment must reflect the value of the property as of January 1, 2005. Ind. Code § 6-1.1-4-4.5; 50 IAC 21-3-3. Any evidence of value relating to a different date must have some explanation about how that evidence demonstrates, or is relevant to, value as of January 1, 2005. *See Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). The realtor’s opinion purports to set a value as of October 6, 2007, which is more than 32 months after the required valuation date for 2006 assessments. The evidence does not explain how the “Comparative Market Analysis” might relate to the January 1, 2005. To repeat, that document is not probative evidence for what the 2006 assessment should be. The Petitioners’ 2001 purchase price is not probative for the same reason.
  - d) The Petitioners testified that a neighboring house with superior features such as central heating and a 5-car garage was on the market for over a year at \$187,000, without selling. Subsequently that listing price was reduced to \$140,000. The Petitioners argue that these facts support their claim that their assessment at

\$133,200 is excessive. The Petitioners, however, did not submit sufficient evidence to support any conclusion about the relative values. The neighbor's lot size, square footage, condition, and other amenities are unknown. The Petitioners even admitted they did not know whether that property sold. The Petitioners failed to establish how the neighbor's property is similar to the subject property or how the differences affect the relevant market value-in-use. Accordingly, the evidence about the neighbor's property does not help the Petitioners make a case. *Long*, 821 N.E.2d at 471.

- e) The Petitioners argued that the value of their property is diminished for several reasons. Part of the land is a hillside with 44 steps down to lake level. The road is not paved. Hoagland Bay is plagued with silt build up and shallow water. Large boats can not access the main lake because of a low bridge. The cottage is a detriment to the land value because another buyer would probably demolish it. While the Board understands that these kinds of things could potentially affect the market value of the property, the Petitioners failed to quantify the amount that any of these facts might lower value. The Petitioners' unsubstantiated conclusions concerning such negative influences do not constitute probative evidence. *See Blackbird Farms Apts., LP v. Dep't of Local Gov't Fin.*, 765 N.E.2d 711, 715 (Ind. Tax Ct. 2002); *Whitley Prods., Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).
- f) Where the Petitioner fails to provide probative evidence for an assessment change, the Respondent's duty to support the assessment with substantial evidence is not triggered. *Lacy Diversified Indus. v. Dep't of Local Gov't Fin.*, 799 N.E.2d at 1221, 1222.

### **Conclusion**

- 16. The Petitioners 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 should not be changed.

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

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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>>