

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

**Petition #:** 60-060-02-1-5-00060  
**Petitioners:** Bobby L. & Mary Jo Hall  
**Respondent:** Washington Township Assessor, Owen County  
**Parcel #:** 06008000019600  
**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 Petitioners initiated an assessment appeal with the Owen County Property Tax Assessment Board of Appeals (PTABOA) by written document dated October 22, 2003.
2. The Petitioners received notice of the decision of the PTABOA on December 22, 2003.
3. The Petitioners filed an appeal to the Board by filing a Form 131 with the county assessor on February 23, 2004. Petitioners elected to have this case heard in small claims.
4. The Board issued a notice of hearing to the parties dated March 10, 2004.
5. The Board held an administrative hearing on May 12, 2004, before the duly appointed Administrative Law Judge Joan L. Rennick.
6. Persons present and sworn in at hearing:
  - a) For Petitioner: Bobby L. Hall, Taxpayer  
Julian Duling, Duling Insurance Agency
  - b) For Respondent: Scott Potts, Manatron Sabre  
Ann Denney, Owen County Assessor  
Joseph Heinmiller, PTABOA Member  
Kenneth W. Anderson, PTABOA Member  
Margaret Tucker, PTABOA Member

## Facts

7. The property is classified as residential, as is shown on the property record card for parcel #06008222219600.
8. The Administrative Law Judge (ALJ) did not conduct an inspection of the property.
9. Assessed Value of subject property as determined by the Owen County PTABOA:  
Land: \$25,000            Improvements: \$96,200            Total: \$121,200.
10. Assessed Value requested by Petitioners:  
Land: \$14,000            Improvements: \$90,000            Total: \$104,000.

## Issues

11. Summary of Petitioner's contentions in support of alleged error in assessment:
  - a) Land value is overstated compared to other residential lots in the area. (*Hall testimony.*)
  - b) The use of the subject property is restricted due to sinkholes. The value of the land should be reduced because the land affected by the sinkholes is unusable. A reduction was applied to the land value of other properties having the same problem with sinkholes in another subdivision. (*Hall testimony.*)
  - c) Duling Insurance Agency prepared a replacement cost estimate for the subject property estimating the insurable replacement cost at \$89,876. The insurable replacement cost is less than the assessed value of the subject property. (*Hall testimony; Pet. Ex. 1, Tab 3*)
  - d) There have been no sales of property comparable to the subject property in the last three (3) years. Compared to the assessments of comparable properties, the subject property is overvalued. (*Hall testimony; Pet Ex. 1, Tab 4.*)
12. Summary of Respondent's contentions in support of the assessment:
  - a) Market evidence, such as an appraisal, was requested by the PTABOA as a basis of comparison.
  - b) The subject property was assessed in accordance with the replacement cost schedules contained in Version A Guidelines. (*Potts testimony.*)
  - c) The assessment information of lots surrounding the subject property demonstrates equal treatment for assessment purposes. (*Potts testimony.*)
  - d) Sales information of properties in the area is the best indicator of the market value for the area, but Hall did not provide sales data. (*Potts 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 BTR #5248
- c) A letter authorizing Scotts Potts to represent Gilmer W. Tucker, Washington Township Trustee, before the Board in these proceedings.
- d) Evidence submitted by Petitioner, labeled Petitioner Exhibit 1 through 2.
- e) Evidence submitted by Respondent, labeled 1 through 4.
- f) These Findings and Conclusions.

## Analysis

14. The most applicable governing cases are:

- a. [I]t is the taxpayer's duty to walk the Indiana Board . . . through every element of the analysis; arguments that (1) generically claim without explanation that the taxpayer made a prima facie case and (2) cite to large portions of the record as though the evidence speaks for itself do not constitute probative evidence.

*Indianapolis Racquet Club, Inc. v. Wash. Twp. Assessor*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004) (citing *Clark v. State Bd. of Tax Comm'rs*, 779 N.E.2d 1277, 1282 n.4 (Ind. Tax Ct. 2002)).

- b. The petitioner must sufficiently explain the connection between the evidence and petitioner's assertions in order for it to be considered material to the facts. Conclusory statements are of no value to the Board in its evaluation of the evidence. *See generally, Heart City Chrysler v. State Bd. of Tax Comm'rs*, 714 N.E.2d 329, 333 (Ind. Tax Ct. 1999).

15. The Petitioner did not provide sufficient evidence to establish a prima facie case. This conclusion was arrived at because:

### Land Value

- a. The Petitioner presented into evidence assessment records of properties in Owen County from both previous years and the 2002 assessment to show increases in land values. *Pet'r Ex. 1(i)-(j)*. Petitioner contends these show a disparity in land value because his property is assessed at \$25,000 for total land value and the allegedly comparable properties are assessed at approximately \$14,000 for land. *Hall testimony*. Petitioner fails to explain how the properties presented in Exhibit 1(i) and (j) are comparable to his property. It is impossible to meaningfully compare properties without knowing more about the size of each parcel (the

subject is an acre, and the Board is unable to discern the size of the other properties presented), the proximity of the comparables to the subject (and the effect of the proximity on the market value), or the physical features of the parcels to be compared. “[Petitioner’s] conclusory statement that something is comparable does not constitute probative evidence. Because [Petitioner] did not present evidence that the land [] was comparable to its own, [he] did not present a prima facie case.” *Blackbird Farms Apts., LP v. Dep’t of Local Gov’t Fin.*, 765 N.E.2d 711, 715 (Ind. Tax Ct. 2002) (holding that where “there is no comparison of lot sizes or shapes, no comparison of topography or geographical features, no comparison of lot accessibility and uses[,]” comparability has not been shown).

- b. The Petitioner provided photographs of the sinkhole problem on the subject property and the measures used to fill the holes. The Petitioner requested an adjustment for this problem similar to what was done in another subdivision, but provided no evidence that the local assessing officials have ever given such relief. To prevail in an appeal for the application of a negative influence factor, the Petitioner must present both “probative evidence that would support an application of a negative influence factor and a quantification of that influence factor at the administrative level.” *Phelps Dodge v. State Bd. of Tax Comm’rs*, 705 N.E.2d 1099, 1106 (Ind. Tax Ct. 1999). The Petitioner in this case presented evidence indicating the existence of sinkholes on the property that may qualify for an influence factor, but unfortunately, he did not present evidence quantifying the loss in value represented by the sinkhole.

#### Improvement Value

- c. Petitioner presented a replacement cost estimate given by Duling Insurance Company as evidence that the improvement should be valued lower than the \$96,200 assessment. (*Petitioner Ex. 1(c)*.) The estimate shows a total replacement cost of \$89,876 with approximately \$40,000 for labor and \$49,000 for materials. (*Id.*; *Duling testimony*.) While replacement cost can be a method of proving value, Petitioner did not contend there was an error in the application of the guidelines nor did he offer any explanation as to why the estimate given by the insurance agent should be considered more reliable. Proper application of the manual is considered under 50 IAC 2.3 to be a reasonable estimation of value. *See* 2002 REAL PROPERTY ASSESSMENT MANUAL (incorporated by reference at 50 IAC 2.3-1-2). Petitioner has not shown that the manual was applied incorrectly. Further, the policy written by Duling Insurance shows the dwelling is insured for \$135,500 – substantially higher than the replacement cost provided. (*See Petitioner Ex. 1(f)*.) In light of this lack of explanation, the Board finds the replacement cost presented to be less credible than that derived from the manual.
- d. A purchase agreement from February 24, 1992, was also presented showing a purchase price of \$75,500. (*Petitioner Ex. 1(e)*.) Petitioner did not explain how the purchase agreement relates to the assessment of the property some ten years

later. The Board does not find the purchase agreement to be probative of the value of the property for this assessment.

- e. Petitioner contends that the assessment of the residence is correct in all aspects except for the kitchen – he claims the kitchen is assessed too high and should be reduced to the “common grade.” (*Hall testimony; Petitioner Exhibit 1(k).*) Review of the property record card shows no adjustments were made to specifically assess the kitchen. (*See Petitioner Ex. 1(a).*) The Board declines to make an adjustment to the assessment of the kitchen based only on photographs when Petitioner has not demonstrated an error in the assessment.

**Conclusion**

16. The Petitioner failed to make a prima facie case on both the land value and the improvement value. The Board finds in favor of Respondent.

**Final Determination**

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should not be changed.

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.**