

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

**Petition #:** 49-801-02-1-5-03115  
**Petitioner:** C.E. & S.B. Davidson Trust  
**Respondent:** Washington Township Assessor (Marion County)  
**Parcel #:** 8029109  
**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 Petitioner initiated an assessment appeal with the Marion County Property Tax Assessment Board of Appeals (PTABOA) by written document dated July 3, 2003.
2. The Petitioner received notice of the decision of the PTABOA on October 22, 2004.
3. The Petitioner filed an appeal to the Board by filing a Form 131 with the county assessor on October 25, 2004. The Petitioner elected to have this case heard in small claims.
4. The Board issued a notice of hearing to the parties dated January 6, 2005.
5. The Board held an administrative hearing on February 9, 2005, before the duly appointed Administrative Law Judge Alyson Kunack.
6. Persons present and sworn in at hearing:
  - a) For Petitioner: C. Ernest Davidson, Petitioner
  - b) For Respondent: Benjamin Buckles, Washington Township

**Facts**

7. The property is classified as a single-family residence, as is shown on the property record card for parcel #8029109.
8. The Administrative Law Judge (ALJ) did not conduct an inspection of the property.

9. Assessed Value of subject property as determined by the Marion County PTABOA:  
Land \$24,600            Improvements \$63,900

10. Assessed Value requested by Petitioner:  
Land \$9,000            Improvements \$21,740

### **Issue**

11. Summary of Petitioner's contentions in support of alleged error in assessment:

- a) The assessed value of the property is not representative of the market value of the property. *Davidson argument.*
- b) The Petitioner purchased the house in 1948, and believes it was built in 1944. *Davidson testimony; Petitioner Exhibit 2.* The subject home has had few upgrades with the exception of basic maintenance, removal of a trellis from the exterior, installation of storm windows, and conversion from coal heating. *Id.*
- c) Because the home has not been significantly updated, it is very difficult to find properties that are truly comparable. *Davidson testimony.* The same builder built other homes in the neighborhood, but they have been updated and improved to the point where they are no longer truly comparable to the subject property. *Id.*
- d) Before the reassessment, the assessed value of the subject property had been \$9,000 for land and \$22,100 for improvements. *Davidson testimony; Petitioner Exhibit 3.* After the reassessment, those values increased to \$24,600 for land and \$65,400 for improvements. *Id.*

12. Summary of Respondent's contentions in support of the assessment:

- a) The Petitioner is not being assessed for any of the features described in Petitioner Exhibit 1. *Buckles testimony; Respondent Ex. 1.*
- b) Some changes were made to the square footage of the house, but no information was presented that indicated the need for further changes to the assessment. *Buckles testimony.*

### **Record**

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

- a) The Petition, and all subsequent pre-hearing submissions by either party.
- b) The tape recording of the hearing labeled BTR #5551.

c) Exhibits:

Petitioner Exhibit 1: Statement of Contentions

Petitioner Exhibit 2: Sale contract for subject dated August 26, 1948

Petitioner Exhibit 3: Tax bill dated September 7, 2002 for 2001 payable 2002; tax bill dated June 7, 2003 for 2002 payable 2003

Respondent Exhibit 1: Subject property record card (PRC)

Board Exhibit A: Form 131 Petition and attachments

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. The Petitioner did not provide sufficient evidence to support the Petitioner’s contentions. This conclusion was arrived at because:

- a) The Petitioner relies primarily upon the fact that the assessed value of the subject property increased significantly between the March 1, 2001 assessment and the current assessment.
- b) The previous assessment of the subject property however does not have any bearing upon whether the current assessment is correct. *See Barth, Inc. v. State Bd. of Tax Comm'rs* 699 N.E.2d 800, 806, n. 14 (Ind. Tax Ct. 1998) (stating that

“where a taxpayer challenges an assessment, the resolution of that challenge does not depend upon how the property was previously assessed.”).

- c) The Petitioner also presented evidence listing several features that the subject property does not possess, but which the Petitioner claims other properties in the immediate area do possess. *Davidson testimony; Petitioner Ex. 1*. It is not clear what the Petitioner seeks to demonstrate through this evidence. The Petitioner has not attempted to quantify the amount by which the absence of such features affects the market value-in-use of the subject property. Moreover, as the Respondent noted, the Petitioner is not improperly being assessed for any features that it does not possess. *Bucklers testimony; Respondent Exhibit 1*.
- d) The Petitioner also presented a copy of a sales contract for the purchase of the subject property dated August 28, 1948. Sales data can be indicative of market value. However, in order to be probative of a property’s true tax value for the 2002 reassessment, that data must bear some relevance to the property’s market value-in-use as of the valuation date of January 1, 1999. *See Long v. Wayne Township Assessor*, Cause No. 49T10-0404-TA-20, at 8-9 (Ind. Tax Ct. corrected original opinion dated January 28, 2005) (holding that an appraisal indicating a property’s value for December 10, 2003 lacked probative value in an appeal from a 2002 assessment). The Petitioner has provided no explanation regarding how the purchase price in 1948 relates to the market value of the subject property on January 1, 1999, a date more than fifty years removed from the sale.
- e) Based on the foregoing, the Petitioner has failed to establish a prima facie case for a reduction in assessment.

### **Conclusion**

- 16. The Petitioner failed to make a prima facie case. 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: \_\_\_\_\_

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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.**