

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

**Petition:** 03-005-15-1-5-00292-15  
**Petitioner:** Columbus Trucking, Inc.  
**Respondent:** Bartholomew County Assessor  
**Parcel:** 03-95-13-140-005.300-005  
**Assessment Year:** 2015

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

**Procedural History**

1. The Petitioner initiated its 2015 assessment appeal with the Bartholomew County Assessor on August 10, 2015.
2. On October 23, 2015, the Bartholomew County Property Tax Assessment Board of Appeals (PTABOA) issued its determination for the 2015 assessment year denying the Petitioner any relief.
3. The Petitioner timely filed a Petition for Review of Assessment (Form 131) with the Board, and elected the Board's small claims procedures.
4. The Board issued notice of hearing on January 28, 2016.
5. Administrative Law Judge (ALJ) Jennifer Bippus held the Board's consolidated administrative hearing on March 31, 2016.<sup>1</sup> She did not inspect the property.
6. Milo Smith appeared for the Petitioner. Local government representative Virginia Whipple appeared for the Respondent. County Assessor Lew Wilson appeared as a witness. All of them were sworn.

**Facts**

7. The property under appeal is a single-family rental property located at 2654 Chestnut Street in Columbus.
8. The PTABOA determined the 2015 total assessment is \$216,900 (land \$37,700 and improvements \$179,200).

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<sup>1</sup> This was a consolidated hearing for the 2012 and 2015 assessment years. The Board is issuing separate findings of fact for each year.

9. At the hearing the Petitioner's representative requested a 2015 total assessment of \$153,500.

**Record**

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

- a) Petition for Review of Assessment (Form 131) with attachments,
- b) A digital recording of the hearing,
- c) Exhibits:

- Petitioner Exhibit 1: 2015 subject property record card (PRC),
- Petitioner Exhibit 2: Email from Tami Burton to Milo Smith, dated August 4, 2015,
- Petitioner Exhibit 3: Memorandum from Department of Local Government Finance (DLGF), dated August 24, 2007,
- Petitioner Exhibit 4: Email from Ginny Whipple to Milo Smith, dated September 1, 2015, and a "spreadsheet of appealed properties" from the Bartholomew County Assessor,
- Petitioner Exhibit 5: Spreadsheet from Pet'r Ex. 4 with Petitioner's modifications,
- Petitioner Exhibit 6: Email from Belinda Graber to Milo Smith, dated March 30, 2016, and "Stabilized Operating Statement" prepared by Belinda Graber.
  
- Respondent Exhibit A: Curricula Vitae for Mr. Wilson and Ms. Whipple,
- Respondent Exhibit B: "Statement of Professionalism,"
- Respondent Exhibit C: 2014 subject PRC,
- Respondent Exhibit D: 2015 subject PRC,
- Respondent Exhibit E: Photograph of subject property,
- Respondent Exhibit F: Aerial map indicating location of Respondent's comparable properties,
- Respondent Exhibit G: PRCs and photographs of Respondent's comparable properties,
- Respondent Exhibit H: Spreadsheet listing Respondent's comparable properties,
- Respondent Exhibit I: "Time adjustment explanation,"
- Respondent Exhibit J: "2015 narrative."
  
- Board Exhibit A: Form 131 with attachments,
- Board Exhibit B: Notice of Hearing dated January 28, 2016,
- Board Exhibit C: Hearing sign-in sheet.

- d) These Findings and Conclusions.

## Contentions

### 11. Summary of the Petitioner's case:

- a) The property's 2015 assessment is too high. The assessment increased from \$153,500 in 2014 to \$216,900 in 2015. The Gross Rent Multiplier (GRM) methodology should be applied to assess the property in accordance with a 2007 DLGF memorandum stating, "[T]he preferred method, and the method required by statute, for valuing one to four (1-4) family residential property is the use of the gross rent multiplier (GRM)." The property's current monthly rent is \$1,645. *Smith argument; Pet'r Ex. 1, 2, 3.*
- b) By utilizing a spreadsheet obtained from the Respondent in 2015, Mr. Smith was able to breakdown the difference between the 2015 assessed value and the value obtained based upon the "the GRM [that] should have applied." Mr. Smith specifically pointed to the following properties:
  - 4380 State Street is assessed at 131% higher than the GRM value.
  - 422 9<sup>th</sup> Street is assessed at 307% higher than the GRM value.
  - 1461 California is assessed at 216% higher than the GRM value.
  - 809 Fairview is assessed 137% higher than the GRM value.
  - 2214 Pennsylvania is assessed 130% higher than the GRM value.
  - 1912 Indiana Avenue is assessed 108% higher than the GRM value.
  - 1444 Pearl Street is assessed at 113% higher than the GRM value.
  - 2220 Elm Street is assessed at 107% higher than the GRM value.
  - 416 Union Street is assessed at 207% higher than the GRM value.
  - 263 North Brooks is assessed at 88% of the GRM value.
  - 35665N 250 W is assessed at 73% of the GRM value.
  - 1413 25<sup>th</sup> Street is assessed 223% higher than the GRM value.

This data proves that "GRMs are not at all consistent with the assessments." *Smith argument; Pet'r Ex. 4, 5.*

- c) Belinda Graber, a certified appraiser, performed a "stabilized operating statement" for the subject property "just to double-check" Mr. Smith's calculation. Ms. Graber arrived at an indicated GRM of 92.71. This GRM was used to compute the 2014 assessment of \$153,500. Mr. Smith argued there is no reason to change the GRM for 2015. *Smith argument; Pet'r Ex. 6.*

### 12. Summary of the Respondent's case:

- a) The property is correctly assessed. The assessment was preformed "in accordance with the Constitution and laws of the State of Indiana, applicable rules, regulations and guidelines published by the DLGF, and also with generally accepted appraisal principles and the ethical professional guidelines of the International Association of

Assessing Officers (IAAO) and USPAP.” *Whipple argument; Wilson testimony; Resp’t Ex. B.*

- b) Nonetheless, Ms. Whipple presented a sales-comparison analysis to establish a GRM for the subject property. She utilized four comparable properties located in the “same general location” as the subject property. The properties are all located in the same school district. The rental income ranged from “7% below to 19% above” when compared to the subject property. The sizes range from “19% below to 8% above” when compared to the subject property. Because the properties sold in 2012 and 2013, it was necessary to add a time adjustment. No other adjustments were necessary.

	<u>Address</u>	<u>Sale Price</u>	<u>Rent</u>
Comparable #1	923 Hummingbird Lane	\$161,900	\$1,685
Comparable #2	3278 Wheaton Court	\$185,082	\$1,525
Comparable #3	1511 Parkside Drive	\$210,900	\$1,640
Comparable #4	1011 Parkside Drive	\$215,000	\$2,015

According to the information the Respondent had, the subject property’s rent in 2015 was \$1,645 a month. Accordingly, the property located at 1511 Parkside Drive produces the best GRM to establish value of the subject property. This property is similar in size and the monthly rent is almost identical to the subject property. As such, upon utilizing a GRM of 136, the total 2015 assessment of the subject property should be \$224,400. *Whipple argument; Resp’t Ex. H.*

- c) As for the analysis prepared by Ms. Graber, she did not develop her GRM in accordance with IAAO. Instead, Ms. Graber utilized the income capitalization approach. *Whipple argument.*
- d) Finally, in 2014 the Respondent erroneously developed a GRM without current data. Because this was a mistake, it should not be carried forward to the 2015 assessment. *Whipple argument.*

### **Burden of Proof**

- 13. Generally, the taxpayer has the burden to prove that an assessment is incorrect and what the correct assessment should be. *See Meridian Towers East & West v. Washington Twp. Ass’r*, 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). The burden shifting statute as recently amended by P.L. 97-2014 creates two exceptions to that rule.
- 14. First, Ind. Code § 6-1.1-15-17.2 “applies to any review or appeal of an assessment under this chapter if the assessment that is the subject of the review or appeal is an increase of more than five percent (5%) over the assessment for the same property for the prior tax year.” Ind. Code § 6-1.1-15-17.2(a). “Under this section, the county assessor or

township assessor making the assessment has the burden of proving that the assessment is correct in any review or appeal under this chapter and in any appeals taken to the Indiana board of tax review or to the Indiana tax court.” Ind. Code § 6-1.1-15-17.2(b).

15. Second, Ind. Code § 6-1.1-15-17.2(d) “applies to real property for which the gross assessed value of the real property was reduced by the assessing official or reviewing authority in an appeal conducted under IC 6-1.1-15, except where the property was valued using the income capitalization approach in the appeal.” Under subsection (d), “if the gross assessed value of real property for an assessment date that follows the latest assessment date *that was the subject of an appeal* described in this subsection is increased above the gross assessed value of the real property for the latest assessment date covered by the appeal, regardless of the amount of the increase, the county assessor or township assessor (if any) making the assessment has the burden of proving that the assessment is correct.” Ind. Code § 6-1.1-15-17.2(d) (emphasis added). This change was effective March 25, 2014, and has application to all appeals pending before the Board.
16. Here, the parties initially agreed that the burden should rest with the Respondent because the assessment increased from \$153,500 in 2014 to \$216,900 in 2015. However, the ALJ made a preliminary decision that the burden of proof should remain with Petitioner because the GRM was used to value the property. Indiana Code § 6-1.1-15-17.2(d) applies to situations where the previous year’s *appeal* was decided using the income capitalization approach, and does not apply where a taxpayer is claiming the burden should shift because the assessment increased by more than 5%. Here, Mr. Smith testified the property was not the subject of an appeal in 2014.
17. The Board overrules the ALJ’s preliminary determination. According to Ind. Code § 6-1.1-15-17.2 the Respondent has the burden of proving the 2015 assessment is correct.

### Analysis

18. The Respondent failed to make a prima facie case that the 2015 assessment was correct.
  - a) Real property is assessed based on its market value-in-use. Ind. Code § 6-1.1-31-6(c); 2011 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.4-1-2). The cost approach, the sales comparison approach, and the income approach are three generally accepted techniques to calculate market value-in-use. Assessing officials primarily use the cost approach, but other evidence is permitted to prove an accurate valuation. 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.
  - b) Regardless of the method used, a party must explain how the evidence relates to the relevant valuation date. *O’Donnell v. Dep’t of Local Gov’t Fin.*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006); *see also Long v. Wayne Twp. Ass’r*, 821 N.E.2d 466, 471 (Ind.

Tax Ct. 2005). For a 2015 assessment, the valuation date was March 1, 2015. *See* Ind. Code § 6-1.1-4-4.5(f).

- c) Here, the Respondent had the burden to prove the 2015 assessment was correct. In an attempt to prove the assessment was correct, Ms. Whipple presented an analysis in which she utilized sales of four rental properties to develop a GRM. She then utilized that GRM to value the subject property. After selecting four properties that she felt were most similar to the subject property, she selected the property located at 1511 Parkside Drive because it was the “most relevant.” This property produced a GRM of 136. Accordingly, when the GRM of 136 is applied to the subject property, it produces a total value of \$224,400.
- d) In order to derive and apply a reliable GRM for valuation purposes, the properties analyzed must still be comparable to the subject property and to one another in terms of physical, geographic, and investment characteristics. To establish that properties are comparable, a party must identify the characteristics of the subject property and explain how those characteristics compare to the characteristics of the purportedly comparable properties. *Long*, 821 N.E.2d at 471. Specific reasons must be provided as to why a proponent believes a property is comparable. Conclusory statements that a property is “similar” or “comparable” to another property do not constitute probative evidence of the comparability of two properties. *Id.* at 470.
- e) Here, Ms. Whipple did compare her purportedly comparable properties to the subject property in some regard. For instance, she stated the purportedly comparable properties are similarly located to the subject property as they are in the same school district. She also stated all of the properties are similar in size and have similar monthly income. But Ms. Whipple’s comparison falls short of the level of comparison required by *Long*. She provided little regarding differences between the properties, and how those differences were reflected in her GRM selection. In fact, she concluded that “Comparable #3” was most comparable to the subject property, but the only adjustment necessary was a time adjustment. She based her assumptions on her own “appraisal knowledge and expertise.” The Board has repeatedly held that, in accordance with *Long*, such unsupported conclusions do not constitute probative evidence.
- f) For these reasons, the Respondent did not offer enough probative evidence to indicate the 2015 assessment was correct. Therefore, the Petitioner is entitled to have its assessment returned to its 2014 level of \$153,500. This ends the Board’s inquiry because the Petitioner only requested the assessment be reduced to its 2014 level.

### **Conclusion**

19. The Respondent had the burden of proving the 2015 assessment was correct, but failed to make a prima facie case. The assessment must be reduced to the previous year's amount.

### **Final Determination**

In accordance with these findings and conclusions, the 2015 assessment must be reduced to \$153,500.

ISSUED: June 23, 2016

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Chairman, 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 and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required not later than forty-five (45) days of the date of this notice.

The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>. The Indiana Tax Court's rules are available at <<http://www.in.gov/judiciary/rules/tax/index.html>>.