

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

**Petition #:** 48-025-03-1-5-00018  
**Petitioners:** Danny & Judith Whetsel  
**Respondent:** Pipe Creek Township Assessor (Madison County)  
**Parcel #:** 1100169007  
**Assessment Year:** 2003

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 Madison County Property Tax Assessment Board of Appeals (PTABOA) by written document dated August 10, 2004.
2. The PTABOA’s Notification of Final Assessment Determination was mailed to the Petitioners on September 17, 2004.
3. The Petitioners filed an appeal to the Board by filing a Form 131 with the county assessor on October 21, 2004. Petitioners elected to have this case heard in small claims.
4. The Board issued a notice of hearing to the parties dated April 18, 2005.
5. The Board held an administrative hearing on May 23, 2005, before the duly appointed Administrative Law Judge (ALJ) Debra Eads.
6. Persons present and sworn in at hearing:
  - a) For Petitioner: Danny Whetsel, Property Owner  
Judith Whetsel, Property Owner
  - b) For Respondent: Cheryl Heath, County Chief Deputy Assessor  
Lloyd Brumback, County Deputy Assessor

## Facts

7. The property is classified as residential, as is shown on the property record card (PRC) for parcel # 1100169007.
8. The ALJ did not conduct an inspection of the property.
9. Assessed Values of subject property as determined by the Madison County PTABOA:  
Land \$17,600      Improvements \$92,500
10. The Petitioners did not specify on the 131 Form the assessed values they requested for the subject property.

## Issue

11. Summary of Petitioner's contentions in support of alleged error in assessment:
  - a) The subject property is valued higher than comparable properties. *D. Whetsel testimony*. The \$17,600 assessed value for the subject land is in excess of the selling price for an acre of land in the subject area. *Id.*
  - b) The Petitioners paid \$45,000 for the subject property in 1988 and could only sell the property for \$60,000 – \$65,000 now. *Id.*
  - c) The Petitioners' taxes presently are \$1,162.24 per year. They were \$834.46 per year before the reassessment. *D. Whetsel and J. Whetsel testimony; Petitioner Exhibit 4*. The Petitioners filed an application for a "65 and over exemption," but that does not go into effect until next year. *J. Whetsel testimony*
  - d) The Petitioners submitted information sheets from the Multiple Listing Service (MLS) for two (2) properties that are comparable to the subject property. *Petitioner Exhibit 3*. Those properties sold for \$84,900 and \$89,900, respectively. *Id.*
12. Summary of Respondent's contentions in support of the assessment:
  - a) The Petitioners added a detached garage (24 feet by 24 feet) to the subject property in 2000. *Brumback testimony*.
  - b) The subject dwelling is assessed at \$80,600, the utility shed is assessed at \$400, and the garage is assessed at \$11,500. *Id.*
  - c) The property is fairly assessed at \$17,600 for the land and \$92,500 for the improvements. *Id.*

## 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 # 6181.
- c) Exhibits:

Petitioner Exhibit 1: Notice of Assessment  
Petitioner Exhibit 2: Final Determination of Assessment  
Petitioner Exhibit 3: Comparable properties – MLS listings  
Petitioner Exhibit 4: Copies of Taxes 1999-2005  
Petitioner Exhibit 5: Photograph of subject dwelling

Respondent: No documentary evidence submitted

Board Exhibit A: Form 131 Petition  
Board Exhibit B: Notice of Hearing on Petition

- d) These Findings and Conclusions.

## Analysis

14. The most applicable governing cases are:

- a) A petitioner seeking review of a determination of a local 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 Petitioner’s evidence. *See American United Life Ins. 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 479.

15. The Petitioners did not provide sufficient evidence to support their contentions. This conclusion was arrived at because:

- a) The Petitioners made conclusory statements regarding the value of the subject land and the overall value of the subject property. For example, Danny Whetsel testified that the assessed value of the subject land exceeds the selling price for land in the area, but he did not provide any support for that conclusion. The same is true with regard to Mr. Whetsel's statement that the subject property would only sell for between \$60,000 and \$65,000. *D. Whetsel testimony*. Unsubstantiated conclusions do not constitute probative evidence. *See Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1119 (Ind. Tax Ct. 1998).
- b) The Petitioners also submitted two (2) MLS listing sheets for purportedly comparable properties. In doing so, the Petitioners appear to rely on a sales comparison approach to establish the market value in use of the subject property. *See 2002 REAL PROPERTY ASSESSMENT MANUAL 3* (incorporated by reference at 50 IAC 2.3-1-2)(stating that the sales comparison approach "estimates the total value of the property directly by comparing it to similar, or comparable, properties that have sold in the market."); *See also, Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 469 (Ind. Tax Ct. 2005).
- c) In order to use the sales comparison approach as evidence in a property assessment appeal, the proponent must establish the comparability of the properties being examined. Conclusory statements that a property is "similar" or "comparable" to another property do not constitute probative evidence of the comparability of the two properties. *Long*, 821 N.E.2d at 470. Instead, the proponent must identify the characteristics of the subject property and explain how those characteristics compare to the characteristics of the purportedly comparable properties. *Id.* at 471. Similarly, the proponent must explain how any differences between the properties affect their relative market values-in-use. *Id.*
- d) Here, the Petitioners did not compare the characteristics of the properties identified in the MLS listings to the characteristics of the subject property. Similarly, the Petitioners failed to explain how any differences between the properties affected their relative market values-in-use. Consequently, the MLS listing sheets presented by the Petitioners do not constitute probative evidence.
- e) Finally, the Petitioners contend that their taxes increased following the 2002 reassessment. Each assessment and each tax year stand alone. *Fleet Supply, Inc. v. State Bd. of Tax Comm'rs*, 747 N.E.2d 645, 650 (Ind. Tax Ct. 2001) (citing *Glass Wholesalers, Inc. v. State Bd. of Tax Comm'rs*, 568 N.E.2d 1116, 1124 (Ind. Tax Ct. 1991)). Thus, evidence as to a property's assessment in one tax year is not probative of its true tax value in a different tax year. *See, Id.*

- f) Based on the foregoing, the Petitioners failed to establish a prima facie case for a change in assessment.

### **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 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.**

You must name in the petition and in the petition's caption the persons who were parties to any proceeding that led to the agency action under Indiana Tax Rule 4(B)(2), Indiana Trial Rule 10(A), and Indiana Code 4-21.5-5-7(b)(4), 6-1.1-15-5(b). The Tax Court Rules provide a sample petition for judicial review. The Indiana Tax Court Rules are available on the Internet at <http://www.in.gov/judiciary/rules/tax/index.html>. The Indiana Trial Rules are available on the Internet at <http://www.in.gov/judiciary/rules/trialproc/index.html>. The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code>.

