

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

**Petition #:** 53-005-02-1-5-00430  
**Petitioner:** Douglas Wells  
**Respondent:** Bloomington Township Assessor (Monroe County)  
**Parcel #:** 0131944000  
**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 Monroe County Property Tax Assessment Board of Appeals (PTABOA) by written document dated June 9, 2003.
2. The Petitioner received notice of the decision of the PTABOA on August 1, 2003.
3. The Petitioner filed an appeal to the Board by filing a Form 131 with the county assessor on August 29, 2003. The Petitioner elected to have this case heard in small claims venue.
4. The Board issued a notice of hearing to the parties dated March 10, 2004.
5. The Board held an administrative hearing on May 6, 2004, before the duly appointed Administrative Law Judge Debra Eads.
6. Persons present and sworn in at hearing:<sup>1</sup>

a) For Petitioner: Douglas Wells  
William Pfrommer, Appraiser  
Eric Koch, Attorney

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<sup>1</sup> Mr. Koch, Ms. Fishman and Ms. Meighen were present during the administrative proceedings on behalf of their respective parties, but they were not sworn in to present testimony.

- b) For Respondent: Judith Sharp, Monroe County Assessor  
Travis Vencel, Appraiser  
James Brinegar, Bloomington Township Assessor  
Joni Fishman, Deputy County Assessor  
Marilyn Meighen, Attorney

### Facts

7. The property is classified as a single-family residential property, as is shown on the property record card for parcel # 0131944000.
8. The Administrative Law Judge (ALJ) did not conduct an inspection of the property.
9. Assessed Value of subject property as determined by the Monroe County PTABOA: Land \$ 11,200, Improvements \$ 126,600.
10. Assessed Value requested by Petitioner: Land \$ 6,800 Improvements \$ 68,200.

### Issues

11. Summary of Petitioner's contentions in support of alleged error in assessment:
  - a) The assessed value established for the subject property exceeds the market value of the subject property. *Wells testimony.*
  - b) The market value of the subject property is between \$73,000 and \$78,800. *Petitioner's Exhibits 1-3.*
12. Summary of Respondent's contentions in support of the assessment:
  - a) The appropriate method of valuation for the subject property should be the income approach, which was not utilized in the appraisal. *Vencel testimony.*
  - b) Comparable 3 in the subject appraisal has been condemned by the local officials and is slated for demolition. *Vencel testimony.*
  - c) The Alternative Valuation Exterior Report contains inconsistencies relative to the subject property, such as the age and square footage of the subject property, rendering the result inaccurate. *Vencel testimony.*
  - d) The amount of rent generated by the subject property appears to be low based on the income reflected by the market in the subject neighborhood. *Vencel testimony.*
  - e) The value of the subject property, based on rent of \$ 400 per bedroom and a gross rent multiplier of 100 –110, would be between \$120,000 and \$132,000. *Vencel 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 #5903.
- c) Exhibits:
  - Petitioner Exhibit 1: An appraisal for the subject property setting value at \$73,000 as of December 29, 2003.
  - Petitioner Exhibit 2: An Alternative Valuation Exterior Report for the subject property setting value at \$75,000.
  - Petitioner Exhibit 3: The Insurance Renewal Declaration for the subject property setting the liability limit at \$78,800.
  - Petitioner Exhibit 4: PTABOA hearing transcript for the subject property.
  - Respondent Exhibit 1: Property record card for the subject property.
- d) These Findings and Conclusions.

## Analysis

14. The most applicable governing cases are:

- a. The Board will not change the determination of the County Property Tax Assessment Board of Appeals (PTABOA) unless the petitioner has established a prima facie case and, by a preponderance of the evidence proven, both the alleged errors in the assessment, and specifically what assessment is correct. *See Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998); *North Park Cinemas, Inc. v. State Bd. of Tax Comm'rs*, 689 N.E.2d 765 (Ind. Tax Ct. 1997).
- b. Once the petitioner has established a prima facie case, the burden shifts to the respondent to rebut the petitioner's evidence and justify its determination with substantial evidence. The respondent must do more than simply assert that the property was assessed correctly; rather, the respondent must give an authoritative explanation of its decision to rebut the petitioner's prima facie case. *See Clark v. State Bd. of Tax Comm'rs.*, 694 N.E.2d 1230, 1233 (Ind. Tax Ct. 1998); *Miller Structures, Inc. v. State Bd. of Tax Comm'rs.*, 748 N.E.2d 943 (Ind. Tax Ct. 2001).

15. The Petitioner did provide sufficient evidence to support the Petitioners' contentions. This conclusion was arrived at because:

- a. The Petitioner established a prima facie case through the presentation of three (3) estimates of value (*Petitioner's Ex. 1-3*), including an appraisal done in conformance with generally recognized appraisal practices. *See Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d 475, 479 (Ind. Tax Ct. 2003).

- b. Petitioner's appraisal shows a value of \$76,532 using the cost approach, and an ultimate value of \$73,000 using the sales comparable approach. *Petitioner Ex. 1*. Petitioner's appraiser testified that the sales comparison approach is more heavily weighted for this type of property. *Pfrommer testimony*.
- c. Pfrommer also examined the assessments of the four properties immediately adjacent to the subject and testified that their assessed values were \$78,600, \$69,800, \$77,500, and \$59,000. *Pfrommer testimony*.
- d. Petitioner also presented a loan valuation report that estimated the property's value at \$75,000. *Petitioner Ex. 2; Wells testimony*. An insurance agreement also shows coverage for \$78,800. *Petitioner Ex. 3; Wells testimony*. Petitioner testified that he feels the market value of the property is \$75,000 and that if he put it up for sale he would ask for \$75,000. *Wells testimony*.
- e. Respondent contends that the appraisal should have included an income approach analysis due to the fact that the property is a rental – an income producing property. *Vencel testimony*. Pfrommer testified that he did not have enough information to do an income analysis and that he considered the sales comparison approach to provide a more accurate measure of value. *Pfrommer testimony*.
- f. Respondent asserted that the comparables used in the appraisal “are comparable, but are not the best three comparables” because they differ in condition. *Vencel testimony*. Vencel opined that there might be more comparable properties in the area. *Vencel testimony*. Respondent also provided testimony that there were flaws in the loan document regarding the subject property's size and age, reducing its credibility, and that comparable three from the appraisal is condemned and scheduled for demolition. *Vencel testimony*.
- g. The Respondent offered only its expert's opinion that, using an estimated rent (higher than the actual rent), and a gross rent multiplier “typical of the area,” the value would be approximately \$120,000 to \$132,000. *Vencel testimony*. While the opinion of an expert is normally given considerable weight, the opinion offered lacked any detailed explanation as to why the value indicated using this particular method is superior to the values indicated by the methods of valuation presented in the Petitioner's evidence or why this opinion provides a detailed, factual explanation of the assessment established by the Respondent. *See Inland Steel v. State Bd. of Tax Comm'rs*, 739 N.E.2d 201, 220 (Ind. Tax Ct. 2000) (stating that testimony of a recognized appraisal expert without explanation is conclusory and lacks probative value). The Board simply cannot find that this conclusory opinion outweighs Petitioner's analysis.
- h. Respondent did not directly address how he arrived at the assessment using the cost approach, instead focusing on impeaching Petitioner's evidence. In order to prove that the assessment is correct, the Township Assessor needed to offer an

alternate valuation or evidence rebutting or impeaching the valuation found in the Pfrommer appraisal. *Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d 475, 479 (Ind. Tax Ct. 2003); *see also Canal Square Ltd. Pshp. v. State Bd. of Tax Comm'rs*, 694 N.E.2d 801, 806 (Ind. Tax Ct. 1998). Respondent's income approach cannot be accepted because it is conclusory and without sufficient factual foundation. While Respondent's testimonial evidence does impeach the credibility of Petitioner Exhibit 2, and casts doubt upon comparable three of the appraisal, it does not impeach Petitioner's entire case to the extent that the assessment should stand. The Board finds that Petitioner presented a prima facie case establishing that the assessment is in error. Petitioner's evidence, the appraisal, three of the four comparables used in the appraisal, the loan valuation, the declaration page for insurance, the cost approach developed in the appraisal, and testimony establish a range of \$73,000 to \$78,800 would be a more correct value. Based on the entire body of evidence, the Board finds that the property should be valued at \$75,000.<sup>2</sup>

### **Conclusions**

16. The Petitioner made a prima facie case through the submission of an appraisal by a licensed appraiser. The Respondent failed to rebut the Petitioner's evidence. The preponderance of the evidence indicates that an assessed value of \$75,000 is justified.
17. The Board finds that the property should be assessed at \$75,000.

### **Final Determination**

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should be changed.

ISSUED: September 17, 2004

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Commissioner,  
Indiana Board of Tax Review

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<sup>2</sup> The owner testified that \$75,000 is the ask price he would give for this property. The 2002 Real Property Assessment Manual recognizes that the owner's ask price can be an accurate measure of true tax value. "True tax value may be thought of as the ask price of property by its owner, because this value more clearly represents the utility obtained from the property, and the ask price represents how much utility must be replaced to induce the owner to abandon the property." 2002 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.3-1-2).

## 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.**