

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

**Petition No.:** 08-002-08-1-1-00001  
**Petitioner:** Vern R. Grabbe  
**Respondent:** Carroll County Assessor  
**Parcel No.:** 08-14-17-000-022.000-002<sup>1</sup>  
**Assessment Year:** 2008

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 Carroll County Property Tax Assessment Board of Appeals (the PTABOA) by written document dated September 22, 2009.
2. The PTABOA issued a notice of its decision on December 17, 2009.
3. The Petitioner filed a Form 131 petition with the Board on January 14, 2010. The Petitioner elected to have his case heard pursuant to the Board's small claims procedures.
4. The Board issued a notice of hearing to the parties dated May 13, 2010.
5. The Board held an administrative hearing on June 15, 2010, before the duly appointed Administrative Law Judge (the ALJ), Ellen Yuhan.
6. Persons present and sworn in at hearing:

For Petitioner: Vern R. Grabbe, Taxpayer

For Respondent: Doris McLeland, Carroll County Assessor  
Brian Thomas, Ad Valorem Solutions

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<sup>1</sup> Parcel No. 08-14-17-000-022.000-002 is the result of the split of Parcel No. 08-14-17-000-012.000-002 on December 3, 2008. The Carroll County PTABOA allowed the Petitioner to appeal his portion of the larger parcel and issued its determination for the Petitioner's portion using the new parcel number.

## Facts

7. The subject property is 7.4144 acres of agricultural land improved with hog buildings located on South 400 East Street, Burlington, in Carroll County.
8. The ALJ did not conduct an on-site visit of the property.
9. For 2008, the PTABOA determined the assessed value of the subject property to be \$10,200 for the land and \$568,300 for the improvements, for a total assessed value of \$578,500.
10. In his petition, the Petitioner requested an assessment of \$10,200 for the land and \$286,528 for the improvements, for a total assessed value of \$296,728. At hearing, however, the Petitioner requested an assessment of \$10,200 for the land and \$317,704 for the improvements for a total assessed value of \$327,904.

## Issues

11. Summary of the Petitioner's contentions in support of an error in his assessment:
  - a. The Petitioner argues that his property is over-valued based on its purchase price. *Grabbe testimony.* According to Mr. Grabbe, he purchased the property for \$357,000 at a well-attended, well-advertised auction on September 11, 2008. *Id.* In support of this argument, Mr. Grabbe presented his settlement statement and a copy of a brochure advertising the auction. *Petitioner Exhibits 6 and 8.* In addition, Mr. Grabbe offered a certificate of insurance showing that the property was insured for \$357,000. *Petitioner Exhibit 12.* Mr. Grabbe testified that, because he previously worked in the banking industry, he would have insured the property for more than \$357,000 if the property was worth more than its purchase price. *Id.*
  - b. Based on his purchase price, the Petitioner contends that the assessed value of the improvements should be no more than \$317,704. *Grabbe testimony.* According to Mr. Grabbe, another purchaser bought the land contiguous to the subject property at the same auction for \$5,300 per acre. *Petitioner Exhibit 10.* Thus, Mr. Grabbe argues, if the Board subtracts the value of his land at \$5,300 per acre, or \$39,296 for 7.4144 acres, from his purchase price of \$357,000, the improvements should be assessed for no more than \$317,704. *Grabbe testimony.*
  - c. The Petitioner also contends the property is over-assessed based on the value of two comparable properties. *Grabbe testimony.* The Petitioner first compared a nearby property that he purchased in 2009 for \$350,000. *Id.* According to Mr. Grabbe, the neighboring property had more farm land than the subject property and therefore he allocated only \$211,221 of the \$350,000 purchase price to the buildings. *Id.*; *Petitioner Exhibit 10.* Because the buildings on the neighboring property could house 4,500 hogs, Mr. Grabbe testified that he calculated the property was worth \$46.94 per hog space by dividing the value he allocated to the buildings by the number of hog

spaces the buildings contained. *Id.* Mr. Grabbe argues that, by applying \$46.94 per hog space to the 6,000 hog spaces the subject property contains, the value of the subject property's buildings is \$281,640. *Petitioner Exhibit 10.* Mr. Grabbe also compared the property he purchased in Clinton County in 2009 for \$41.85 per hog space and argued that, based on the Clinton County purchase price, both the subject property and the neighboring property were over-valued. *Id.*

- d. Finally, the Petitioner contends that his assessment was not reduced by the 20% obsolescence deduction that the PTABOA determined his property was entitled to. *Grabbe testimony; Petitioner Exhibit 11.* According to Mr. Grabbe, the buildings on the property were built in 1998 and 2000 with used materials which, he argues, further entitles him to 20% obsolescence. *Id.* Moreover, Mr. Grabbe contends, the assessment of his hog buildings is incorrect because all of the buildings are identical and yet the 1998 building is assessed at \$216,000, while the newer buildings were valued at \$168,900 each. *Id.*

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

- a. The Respondent contends that the Petitioner's assessment is correct. *Thomas testimony.* According to the Respondent's representative, a field appraiser conducted a physical inspection of the property. *Thomas testimony; Respondent Exhibit 2.* As a result of that inspection, Mr. Thomas testified, the PTABOA corrected the descriptions of some improvements, corrected the grade and size of other improvements, added omitted items and applied a -20% obsolescence factor to the improvements. *Id.* In support of this contention, the Respondent's representative presented a property record card showing the corrected assessment for 2008. *Respondent Exhibit 11.* Despite the fact that the PTABOA approved all of the inspector's changes, however, Mr. Thomas argues, the PTABOA only listed the obsolescence adjustment in its findings. *Thomas testimony.*
- b. The Respondent's representative also contends that the Petitioner's assessment was correct based on the market value of the improvements. *Thomas testimony.* According to Mr. Thomas, the 20% obsolescence adjustment was determined by analyzing construction costs of other similar buildings in Carroll County in 2004. *Id.* In support of this contention, Mr. Thomas submitted copies of receipts for the construction of two comparable buildings. *Respondent Exhibit 7.* Mr. Thomas argues that the Respondent's cost evidence supports the market value-in-use of the Petitioner's buildings and shows that the Petitioner was treated equitably. *Thomas testimony; Respondent Exhibits 8 and 11.*
- c. The Respondent further contends that the Petitioner's purchase price is not probative of the property's market value-in-use because Mr. Grabbe purchased the property for well below the property's market value. *Thomas testimony.* In support of this argument, the Respondent's representative submitted a property record card and a sales disclosure form showing that the Petitioner purchased a contiguous property for \$350,000 approximately five months after purchasing the subject property. *Thomas*

*testimony; Respondent Exhibits 2 and 4.* According to Mr. Thomas, the subject property's buildings are newer and 63% larger than the neighboring property's structures, and they have connecting chutes between each building. *Thomas testimony; Respondent Exhibits 2, 3 and 5.* Despite these facts, the Petitioner only paid \$7,000 more for the subject property than he did for the neighboring property with older and substantially smaller buildings. *Id.*

- d. Finally, the Respondent contends that the Petitioner failed to show the market value-in-use of his property because the parcel he appealed did not exist until after he purchased a portion of a larger parcel in September of 2008 and the parcel was split. *Id.* In support of this contention, the Respondent's representative submitted the property record card for the Petitioner's parcel showing it was created on December 3, 2008. *Respondent Exhibit 9.* Mr. Thomas argues that if the Board issues a ruling on the assessed value of the original, larger parcel on which the improvements were located as of March 1, 2008, Parcel No. 08-14-17-000-012.000-002, the correct assessment is \$143,200 for the land and \$568,300 for the improvements. *Thomas testimony; Respondent Exhibit 2.* Alternatively, Mr. Thomas argues, if the Board allows the Petitioner to appeal only the portion of the land and the improvements that the Petitioner purchased, Parcel No. 08-14-17-000-022.000-002, the correct assessment is \$10,200 for the land and \$568,300 for the improvements. *Id.*

### **Record**

13. The official record for this matter is made up of the following:
- a. The Petition,
  - b. The compact disk recording of the hearing labeled 08-002-08-1-1-00001 Vern R. Grabbe,
  - c. Exhibits:
    - Petitioner Exhibit 1 – Form 131 Petition,
    - Petitioner Exhibit 2 – Form 115, Notification of Final Assessment,
    - Petitioner Exhibit 3 – Request for Review, Carroll County,
    - Petitioner Exhibit 4 – Copy of the property's 2009 tax bill,
    - Petitioner Exhibit 5 – Electronic mail message from Mr. Vieth to Mr. Grabbe,
    - Petitioner Exhibit 6 – The Petitioner's settlement statement,
    - Petitioner Exhibit 7 – The property's deed,
    - Petitioner Exhibit 8 – The announcement of the real estate auction,
    - Petitioner Exhibit 9 – Valuation record for Parcel No. 08-14-17-000-012.000-002,
    - Petitioner Exhibit 10 – Spreadsheets,
    - Petitioner Exhibit 11 – Valuation record for Parcel No. 08-14-17-000-012.000-002 for 2008 and for Parcel No. 08-14-17-000-012.000-002 for 2009,
    - Petitioner Exhibit 12 – Certificate of Insurance,

- Respondent Exhibit 1 – Exhibit list,
- Respondent Exhibit 2 – Written summary,
- Respondent Exhibit 3 – Aerial photograph of the subject property and the surrounding properties,
- Respondent Exhibit 4 – Property record card and sales disclosure form for the neighboring property,
- Respondent Exhibit 5 – Comparison of the hog buildings on the subject property and the hog buildings on the neighboring property,
- Respondent Exhibit 6 – Aerial photographs of the property for which construction costs were provided,
- Respondent Exhibit 7 – Itemized construction costs,<sup>2</sup>
- Respondent Exhibit 8 – Copy of the subject property’s property record card,
- Respondent Exhibit 9 – Copy of the property record card for Parcel No. 08-14-17-000-022.000-002, showing that the appealed property did not exist in 2008,
- Respondent Exhibits 10 - 12 – Corrected property record cards for the subject property for the 2008 assessment,
  
- Board Exhibit A – Form 131 petition,
- Board Exhibit B – Notice of Hearing, dated May 13, 2010,
- Board Exhibit C – Hearing sign-in sheet,

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 Township Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also, Clark v. State Board of Tax Commissioners*, 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 Township 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”).

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<sup>2</sup> The Petitioner objected to Respondent Exhibit 7 because the purchaser’s name was redacted from the receipts and, therefore, Mr. Grabbe argues, he would not be able to verify the information. The Petitioner, however, made no attempt to verify the cost information prior to hearing; nor did he seek information at the hearing regarding the basis or foundation for the Respondent’s documents. Because no post-hearing evidence is allowed in Board hearings, any attempt by Mr. Grabbe to “verify” the information after the hearing concluded would be moot. *See* 52 IAC 2-8-8. The Petitioner therefore failed to show he was somehow prejudiced by the redacted information. Thus his objection is over-ruled.

- 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 case. *Id.*; *Meridian Towers*, 805 N.E.2d at 479.
15. The Petitioner failed to provide sufficient evidence to establish an error in his assessment. The Board reached this decision for the following reasons:
- a. The 2002 Real Property Assessment Manual defines “true tax value” as “the market value-in-use of a property for its current use, as reflected by the utility received by the owner or a similar user, from the property.” 2002 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.3-1-2). Appraisers traditionally have used three methods to determine a property’s market value: the cost approach, the sales comparison approach and the income approach to value. *Id.* at 3, 13-15. Indiana assessing officials generally assess real property using a mass-appraisal version of the cost approach, as set forth in the REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 – VERSION A.
  - b. A property’s market value-in-use as determined using the Guidelines is presumed to be accurate. *See* MANUAL at 5; *Kooshtard Property, VI, LLC v. White River Twp. Assessor*, 836 N.E.2d 501,505 (Ind. Tax Ct. 2005); *P/A Builders & Developers, LLC*, 842 N.E.2d 899 (Ind. Tax Ct. 2006). A taxpayer may rebut that assumption with evidence that is consistent with the Manual’s definition of true tax value. MANUAL at 5. A market value-in-use appraisal prepared according to the Uniform Standards of Professional Appraisal Practice (USPAP) often will suffice. *See Kooshtard Property VI*, 836 N.E.2d at 505, 506 n.1. A taxpayer may also offer sales information regarding the subject property or comparable properties and any other information compiled according to generally accepted standards. MANUAL at 5.
  - c. Regardless of the method used to rebut an assessment’s presumption of accuracy, a party must explain how its evidence relates to the property’s market value-in-use as of the relevant valuation date. *O’Donnell v. Department of Local Government Finance*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006); *see also Long v. Wayne Township Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). For the March 1, 2008, assessment, the valuation date was January 1, 2007. 50 IAC 21-3-3.
  - d. Here, the Petitioner first argues that his property is over-valued based on his purchase of the property for \$357,000 at a well-advertised and well-attended auction in September of 2008. While the price that a purchaser pays at an auction may not be the strongest evidence of a property’s market value, where the party establishes that the property was advertised to the public for a reasonable amount of time and where there was open, competitive bidding, an auction price may have some probative weight. In this case, however, the auction took place on September 11, 2008 – which is more than twenty months after the January 1, 2007, valuation date for the 2008 assessment year. Because the Petitioner failed to provide any evidence relating his

September 11, 2008, purchase price to the property's January 1, 2007, value, the Petitioner's evidence fails to raise a prima facie case. *See Long*, 821 N.E.2d at 471 (holding that an appraisal indicating a property's value for December 10, 2003, lacked probative value in an appeal from a 2002 assessment because the taxpayer did not explain how it related to the relevant valuation date.)

- e. The Petitioner also contends his property is over-valued based on the sale prices of two additional properties – one that the Petitioner purchased in 2009, and the adjacent property that another purchaser bought at the same auction in September of 2008. In making this argument, the Petitioner essentially relies on a sales comparison approach to establish the market value-in-use of his property. *See* MANUAL at 3 (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.”). In order to effectively use the sales comparison approach as evidence in a property assessment appeal, however, 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 Petitioner made no attempt to show the properties were “comparable.” Instead, the Petitioner contends each property is a hog farm and calculated a value per hog space based on the properties' sales prices. The Petitioner, however, failed to show that a “price per hog space” valuation is a generally accepted method of valuing a hog farm. Thus, the Petitioner did not prove his method of valuation is sufficiently reliable to rebut his assessment's presumption of accuracy. Moreover, the two sales the Petitioner relied upon as “comparable” sales occurred in 2008 and 2009, respectively. Again, the Petitioner failed to relate the sales prices to the January 1, 2007, valuation date and, therefore, the comparable sales have no probative value in determining the property's 2008 assessment.
- e. Finally, the Petitioner argues that his assessment does not reflect the twenty percent obsolescence that he was awarded by the PTABOA. To the contrary, however, the revised property record card shows depreciation of 5% and a -20% obsolescence adjustment applied to the hog buildings. Moreover, the assessed value of the property as reflected on the property record card equals the assessed value as determined by the PTABOA on Mr. Grabbe's Form 115.
- f. To the extent that Mr. Grabbe can be seen as arguing that the property should be awarded additional depreciation or obsolescence, the Board finds that he failed to raise a prima facie case. For a Petitioner to show that he is entitled to receive an adjustment for obsolescence, the Petitioner must both identify the causes of obsolescence he believes is present in his improvement and also quantify the amount

of obsolescence he believes should be applied to his property. *Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230, 1241 (Ind. Tax Ct. 1998). Thus, the Petitioner must present probative evidence that the causes of obsolescence identified by the Petitioner are resulting in an actual loss in value to his property. *See Miller Structures, Inc. v. State Bd. of Tax Comm'rs*, 748 N.E.2d 943, 954 (Ind. Tax Ct. 2001). Further, the Petitioner's quantification of the amount of obsolescence must be converted into a percentage reduction and applied against the structure's overall value. *See Clark*, 694 N.E.2d at 1238. It is not sufficient for a Petitioner to merely identify random factors that may cause the property to be entitled to an obsolescence adjustment. The Petitioner must explain how those purported causes of obsolescence cause the property's improvements to suffer an actual loss in value. *See Champlin Realty Co. v. State Bd. of Tax Comm'rs*, 745 N.E.2d 928, 936 (Ind. Tax Ct. 2001). Here, Mr. Grabbe argues that the hog buildings were constructed of used materials, but he failed to provide any evidence of the loss in value his property has suffered because of that construction. Rather he merely contends he's entitled to a 20% obsolescence adjustment. This falls far short of the burden the Petitioner faced to prove his property suffered a loss in value and should receive an adjustment.

- g. The Board therefore finds that the Petitioner failed to raise a prima facie case that his assessment was incorrect. Where a taxpayer has not supported his claim with probative evidence, the Respondent's duty to support the assessment with substantial evidence is not triggered. *Lacy Diversified Indus. LTD v. Department of Local Government Finance*, 799 N.E.2d 1215, 1221-1222 (Ind. Tax Ct. 2003).

### **Conclusion**

16. The Petitioner failed to establish a prima facie case that his property is over-valued. 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: \_\_\_\_\_



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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, as amended effective July 1, 2007, by P.L. 219-2007, and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice. The Indiana Tax Court Rules are available on the Internet at <http://www.in.gov/judiciary/rules/tax/index.html>. The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code>. P.L. 219-2007 (SEA 287) is available on the Internet at <http://www.in.gov/legislative/bills/2007/SE/SE0287.1.html>.