

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

**Petition Nos.:** 44-010-06-1-5-00371  
44-010-06-1-5-00373  
**Petitioner:** Patricia A. Gump  
**Respondent:** LaGrange County Assessor  
**Parcel Nos.:** 010-17400-76  
010-17400-43  
**Assessment Year:** 2006

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 assessment appeals with the LaGrange County Property Tax Assessment Board of Appeals (the PTABOA) by written documents dated September 24, 2007.
2. The PTABOA issued notices of its decisions on January 15, 2008.
3. The Petitioner filed Form 131 petitions with the Board on February 6, 2008. The Petitioner elected to have these cases heard according to the Board's small claim procedures.
4. The Board issued notices of hearing to the parties dated July 9, 2008.
5. The Board held an administrative hearing on August 19, 2008, before the duly appointed Administrative Law Judge (the ALJ) Dalene McMillen.
6. The following persons were present and sworn in at hearing:
  - a. For Petitioner: Patricia A. Gump, owner of the property
  - b. For Respondent: Lori Carney, LaGrange County Assessor

## Facts

7. The two properties under appeal are Parcel No. 010-17400-43, which is a 41' x 80' vacant lot (Lot 66) and Parcel No. 010-17400-76 (Lot 67), which is 41' x 80' lot with a 16' x 20' detached garage located at 4820 South 150 East, LaGrange, Johnson Township, in LaGrange County.
8. The ALJ did not conduct an on-site inspection of the properties under appeal.
9. The PTABOA determined the assessed value of Lot 66 to be \$18,500 for the land. There are no improvements on the parcel. The assessed value of Lot 67 is \$18,500 for land and \$4,500 for the improvements, for a total assessed value of \$23,000.
10. The Petitioner requested the land on Lot 66 be valued at \$12,300 and the land and detached garage on Lot 67 be valued at \$16,800.

## Issue

11. Summary of Petitioner's contentions in support of alleged error in assessment:
  - a. The Petitioner owns Lot 66, Lot 67 and a lakefront homesite located on Lots 26 and 27.<sup>1</sup> *Gump testimony*. The Petitioner contends that Lots 66 and 67 are assessed in excess of their market value-in-use. *Id.* According to the Petitioner, the lots are worth no more than \$12,300 each. *Id.* In support of her position, the Petitioner submitted an appraisal, a seller's agreement for the purchase of Oliver Lake, Lot No. 68, and the assessment of Parcel No. 44-10-17-400-000.091-010 (Lot 69) and Parcel No. 0101740074 (Lot 70). *Petitioner Exhibits 1, 14, 16 and 17.*
  - b. The Petitioner first submitted an appraisal report prepared by Debra Lambright of Appraisal Associates. *Petitioner Exhibit 1.* Ms. Lambright is an Indiana Licensed appraiser. *Id.* Using the sales comparison and cost approach methods of valuation, Ms. Lambright estimated the market value-in-use of lots 26, 27, 66 and 67 to be \$444,000 as of January 1, 2005. *Id.* As part of her cost approach valuation, Ms. Lambright estimated the value of Lots 26 and 27 to be \$224,000 and the value of Lot 66 and Lot 67 to be \$12,300 each. *Id.; Gump testimony.*
  - c. The Petitioner also contends that the assessed values of Lot 66 and Lot 67 are overstated in comparison with properties in the surrounding area. *Gump*

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<sup>1</sup> The Petitioner also owns Lot 68 which appears to be adjacent to Lot 67. This lot, however, was not part of the appraised property and is not part of her appeal here.

*testimony.* Ms. Gump testified that she purchased Oliver Beach 2<sup>nd</sup> Addition Lot 68, which adjoins Lots 66 and 67, for \$15,000 on June 9, 2006. *Petitioner Exhibits 14 and 15; Gump testimony.* According to the Petitioner, the sale was an arms' length transaction. *Gump testimony.* The Petitioner contends Lot 68 is identical in size to the two lots under appeal, however, its assessed value is \$11,900. *Petitioner Exhibit 13; Gump testimony.* Similarly, she argues, Oliver Beach 2<sup>nd</sup> Addition Lot 69, sold on May 31, 2006, for \$16,000 but is assessed for \$14,800 and Oliver Beach 2<sup>nd</sup> Addition Lot 70 is assessed for \$13,900. *Petitioner Exhibit 16 and 17.* According to the Petitioner, the comparable lots are like the subject lots in that they are off-water, grade level and are 41' x 80' in size. *Gump testimony.* Thus, Ms. Gump contends, because Lot 66 and Lot 67 are identical to the comparable lots, the assessed value of the lots under appeal should be no more than the assessed value of the neighboring properties. *Petitioner Exhibit 13; Gump testimony.*

- d. Finally, in response to the Respondent's evidence, the Petitioner argues that the six comparable properties submitted by the Respondent are not comparable to Lot 66 and Lot 67. *Respondent Exhibits 12 – 17; Gump testimony.* According to the Petitioner, the Respondent's properties are all lakefront properties with dwellings, while Lot 66 and Lot 67 are off-water with a small garden shed on Lot 67. *Gump testimony.*

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

- a. The Respondent contends that Lot 66 and Lot 67 are correctly assessed for \$18,500 each for the land and \$4,500 for the improvement on Lot 67 based on sales of properties in the neighborhood. *Carney testimony.* According to the Respondent, properties in the area sold for prices ranging from \$287,000 to \$445,000 between August 27, 2004, and September 1, 2006. *Respondent Exhibits 11 – 17.* In support of this contention, the Respondent submitted sales disclosure forms and property record cards for properties that sold in the neighborhood. *Respondent Exhibits 12 – 17.* The Respondent contends the comparable properties are inferior in size and location to the subject property and, therefore, the subject property is worth more than the comparable sales. *Carney testimony.*
- b. Further, the Respondent contends the Petitioner's appraisal should be given little weight. *Carney testimony.* The Respondent argues the appraisal does not show that the comparables have back lots comparable to Lot 66 and Lot 67 under appeal. *Carney testimony.*
- c. Finally, the Respondent argues, if the values of Lot 66 and Lot 67 are added to Petitioner's Lots 26, 27 and 68, the total assessed valued of all of the Petitioner's properties is fair and accurate. *Carney testimony.*

## **Record**

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

- a. The Form 131 petitions and related attachments.
- b. The digital recording of the hearing.
- c. Exhibits:

Petitioner Exhibit 1 – Summary appraisal report, prepared by Debra S. Lambright, Appraisal Associates, dated November 2, 2007,

Petitioner Exhibit 2 – Petition to the Indiana Board of Tax Review for Review of Assessment – Form 131 for Parcel No. 010-17400-43,

Petitioner Exhibit 3 – Petition to the Indiana Board of Tax Review for Review of Assessment – Form 131 for Parcel No. 010-17400-76,

Petitioner Exhibit 4 – Notification of Final Assessment Determination – Form 115 for Parcel No. 010-17400-43,

Petitioner Exhibit 5 – Notification of Final Assessment Determination – Form 115 for Parcel No. 010-17400-76,

Petitioner Exhibit 6 – Petition to the Property Tax Assessment Board of Appeals for Review of Assessment – Form 130 for Parcel No. 010-17400-43,

Petitioner Exhibit 7 – Petition to the Property Tax Assessment Board of Appeals for Review of Assessment – Form 130 for Parcel No. 010-17400-76,

Petitioner Exhibit 8 – Plat map of Walb’s Second Addition to Oliver Beach,

Petitioner Exhibit 9 – Notice of Assessment of Land and Structures – Form 11 R/A for Parcel No. 010-17400-43, dated December 22, 2006,

Petitioner Exhibit 10 – Notice of Assessment of Land and Structures – Form 11 R/A for Parcel No. 010-17400-76, dated December 22, 2006,

Petitioner Exhibit 11 – Notice of Assessment of Land and Structures – Form 11 R/A for Parcel No. 44-10-17-400-00.043-010, dated May 14, 2008,

- Petitioner Exhibit 12 – Notice of Assessment of Land and Structures – Form 11 R/A for Parcel No. 44-10-17-400-000.076-010, dated May 14, 2008,
- Petitioner Exhibit 13 – Plat map of Walb’s Second Addition to Oliver Beach with current assessed values for the land,
- Petitioner Exhibit 14 – Seller’s Agreement for Lot 68 in Walb’s Second Addition to Oliver Beach, dated June 9, 2006,
- Petitioner Exhibit 15 – Borrower’s Statement for Lot 68 in Walb’s Second Addition to Oliver Beach, dated June 9, 2006,
- Petitioner Exhibit 16 – Property record card for Parcel No. 010-17400-74,
- Petitioner Exhibit 17 – Parcel information sheet and sales disclosure for Parcel No. 44-10-17-400-000.091-010,
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- Respondent Exhibit 1 – Property record card for Parcel No. 010-17400-44 (Lot 68),
- Respondent Exhibit 2 – Property record card for Parcel No. 010-17400-76 (Lot 67),
- Respondent Exhibit 3 – Property record card for Parcel No. 010-17400-17 (Lots 26 and 27),
- Respondent Exhibit 4 – Property record card for Parcel No. 010-17400-43 (Lot 66),
- Respondent Exhibit 5 – Notification of Final Assessment Determination – Form 115 for Parcel No. 010-17400-17,
- Respondent Exhibit 6 – Notification of Final Assessment Determination – Form 115 for Parcel No. 010-17400-43,
- Respondent Exhibit 7 – Notification of Final Assessment Determination – Form 115 for Parcel No. 010-17400-76,
- Respondent Exhibit 8 – Plat map of the area,
- Respondent Exhibit 9 – Aerial photograph of the area,
- Respondent Exhibit 10 – Two exterior photographs for Parcel No. 010-17-40017B,
- Respondent Exhibit 11 – Sales disclosure sheet for properties in the area,
- Respondent Exhibit 12 – Property record cards and sales disclosure for Parcel Nos. 0101843012, 0101844001 and 0101844041 and exterior photograph for Parcel No. 010-18-43012,
- Respondent Exhibit 13 – Property record card, sales disclosure and exterior photograph for Parcel No. 0101842001,
- Respondent Exhibit 14 – Property record cards and sale disclosure for Parcel Nos. 0101847001 and 0101842500 and exterior photograph for Parcel No. 010-18-47001,
- Respondent Exhibit 15 – Property record card and exterior photograph for Parcel No. 0102343012,

Respondent Exhibit 16 – Property record card and two exterior photographs for Parcel No. 0112240058,  
Respondent Exhibit 17 – Property record card and two exterior photographs for Parcel No. 0103025018,

Board Exhibit A – Form 131 petitions with attachments,  
Board Exhibit B – Notices of Hearing,  
Board Exhibit C – Hearing sign-in sheets,

- 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 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 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”).
  - 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 failed to provide sufficient evidence to establish a prima facie case for a reduction in values. The Board reached this decision for the following reasons:
- a. Real property is assessed based on its “true tax value,” which means “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, for the property.” Ind. Code § 6-1.1-31-6 (c); 2002 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.3-1-2). A taxpayer may use any generally accepted appraisal method as evidence consistent with the Manual's definition of true tax value, such as actual

construction cost, appraisals, or sales information regarding the subject property or comparable properties that are relevant to the property's market value-in-use, to establish the actual true tax value of a property. See MANUAL at 5.

- b. In addition, the 2006 assessment must reflect the value of the property as of January 1, 2005. Ind. Code § 6-1.1-4-4.5; 50 IAC 21-3-3. A Petitioner who presents evidence of value relating to a different date must provide some explanation about how it demonstrates, or is relevant to, the subject property's value as of January 1, 2005. See *Long v. Wayne Township Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005).
- c. The Petitioner first sought to have her assessment lowered based on an appraisal that estimated the value of lots 26, 27, 66, and 67 and the improvements thereon to be \$444,000 as of January 1, 2005. *Petitioner Exhibit 1*. The Petitioner, however, did not include Lots 26 and 27 in her appeal. Although the appraisal valued Lot 66 and Lot 67 at \$12,300 each, the calculation was simply a small part of the appraiser's cost approach valuation wherein she estimated the value of the Petitioner's entire property at \$454,328. While individually the parcels may have a lower value, the Petitioner's appraisal treats the property as a whole. More importantly, the Petitioner's evidence suggests that the assessor and appraiser merely allocated the land values differently between the Petitioner's various lots. The township assessed Lots 26 and 27 for \$164,300 together and Lot 66 and Lot 67 for \$18,500 each. *Respondent Exhibit 2 – 4*. The appraiser, on the other hand, estimated the value of Lots 26 and 27 together to be \$224,000 and Lot 66 and Lot 67 to be \$12,300 per lot. *Petitioner Exhibit 1*. Thus, the Petitioner's appraisal is insufficient proof of the individual lots' value for this Board to make a change to the value of Lot 66 and Lot 67 in the absence of Lots 26 and 27.
- d. The Petitioner further contends the properties are over-valued based on the assessments of neighboring properties. *Petitioner Exhibits 13, 16 and 17*. Here the Petitioner merely argued that the neighboring properties were comparable to Lot 66 and 67 but were assessed differently. This argument was rejected by the Indiana Tax Court in *Westfield Golf Practice Center, LLC v. Washington Township Assessor*, 859 N.E.2d 396 (Ind. Tax Ct. 2007). In that case, the landing area for the petitioner's driving range was assessed as "usable undeveloped" land and assigned a value of \$35,100 per acre, while the landing areas of other driving ranges were assessed at a golf course rate of \$1,050 per acre. 859 N.E.2d at 397. Westfield appealed contending that its assessment was not uniform and equal. *Id.* The Indiana Tax Court held that under the prior assessment system, "true tax value" was determined by Indiana's assessment regulations and "bore no relation to any external, objectively verifiable standard of measure." 859 N.E.2d at 398. Therefore, "the only way to determine the uniformity and equality of assessments was to determine whether the regulations were applied similarly to comparable properties." *Id.* Presently, "Indiana's overhauled property tax assessment system

incorporates an external, objectively verifiable benchmark ... market value-in-use.” 859 N.E.2d at 399. “As a result, the new system shifts the focus from examining how the regulations were applied (i.e., mere methodology) to examining whether a property’s assessed value actually reflects the external benchmark of market value-in-use.” *Id.* Thus, it is not enough for a taxpayer to show that its property is assessed higher than other comparable properties. *Id.* Instead, the taxpayer must present probative evidence to show that the assessed value, as determined by the assessor does not accurately reflect the property’s market value-in-use. *Id.*

- e. Finally, the Petitioner contends the properties are over-valued based on her purchase of a neighboring property. *Gump testimony.* Ms. Gump testified that she purchased Lot 68 in Oliver Beach 2<sup>nd</sup> Addition for \$16,000 on June 9, 2006. *Petitioner Exhibits 14 and 15; Gump testimony.* According to the Petitioner, Lot 68 is identical in size and adjoins the two lots under appeal. *Gump testimony.* For the 2006 assessment, however, properties are valued as of January 1, 2005. Ind. Code § 6-1.1-4-4.5; 50 IAC 21-3-3. Here, the Petitioner’s purchase of Lot 68 post-dates the relevant valuation date of January 1, 2005, by eighteen months. The Petitioner presented no explanation of how the purchase price indicates the current assessment is incorrect or how the sale price of Lot 68 relates to the value of Lot 66 and Lot 67 as of January 1, 2005. Further, the Petitioner failed to show how Lot 68’s value individually relates to its value as part of the Petitioner’s entire property.
- f. The Petitioner’s property as a whole may, in fact, be over-valued based on the Petitioners’ appraisal. The Petitioner, however, failed to bring her entire property before the Board and the evidence she did provide failed to sufficiently prove the value of the individual properties Ms. Gump sought to appeal. Where a petitioner fails to provide probative evidence for an assessment change, the Respondent’s duty to support the assessment with substantial evidence is not triggered. *Lacy Diversified Indus. v. Department of Local Government Finance*, 799 N.E.2d at 1221, 1222.

### **Conclusion**

16. The Petitioner failed to raise a prima facie case that Lot 66 and Lot 67 were 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 assessments 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

## 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 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 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/bills/2007/SE0287.1.html>.**