

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

**Petition:** 50-005-12-1-5-00049  
**Petitioners:** David and Jean Harris  
**Respondent:** Marshall County Assessor  
**Parcel:** 50-43-06-000-037.000-005  
**Assessment Year:** 2012

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

**PROCEDURAL HISTORY**

1. David and Jean Harris (the “Petitioners”) initiated an assessment appeal with the Marshall County Property Tax Assessment Board of Appeals (the “PTABOA”) on October 29, 2012.
2. On September 25, 2013, the PTABOA issued its Notification of Final Assessment Determination (“Form 115”) declining to make any changes to the assessment.
3. The Petitioners then timely filed a Petition for Review of Assessment (“Form 131”) with the Board on November 6, 2013.
4. The Petitioners elected to have the administrative hearing conducted under the Board’s small claims procedures. The Respondent did not elect to have the proceeding removed from the Board’s small claims procedures.
5. Patti Kindler, the Board’s appointed Administrative Law Judge (the “ALJ”), held the administrative hearing on October 16, 2014. The ALJ did not inspect the subject property.
6. Certified Tax Representative Sharon LeVeque represented the Petitioners. Marshall County Assessor Debra Dunning and Deputy Assessor Mindy Penrose appeared for the Marshall County Assessor’s Office (the “Respondent”). All were sworn in as witnesses and testified under oath.

**FACTS**

7. The subject property is a single-family residence located at 8881 Sycamore Drive in Bremen.
8. The PTABOA determined the 2012 assessed value for the land is \$198,100 and the assessed value for the improvements is \$158,400, for a total assessed value of \$356,500.

9. The Petitioners requested a reduction to \$131,200 for the land and \$141,300 for the improvements, for a total assessed value of \$272,500.

### RECORD

10. The official record for this matter contains the following:

- a) A digital recording of the hearing,  
b) Exhibits:

Petitioners Exhibit A-1:	Notice of hearing, dated September 15, 2014
Petitioners Exhibit B-1-2:	Property Record Card (“PRC”) for subject property
Petitioners Exhibit C-1-10:	Residential Real Estate Evaluation Report for 2012
Petitioners Exhibit D-1-6:	Sales Disclosure Form (“SDF”), Multiple Listing Service (“MLS”) sales information, and PRC for 3852 West Shore Drive
Petitioners Exhibit D-7-14:	SDF, MLS sales information, and PRC for 3624 West Short Drive
Petitioners Exhibit D-15-22:	SDF, MLS sales information, and PRC for 3608 West Shore Drive
Petitioners Exhibit D-23-28:	SDF, MLS sales information, and PRC for 3961 Lake Shore Drive
Petitioners Exhibit D-29-34:	SDF, MLS sales information, and PRC for 3753 Lake Shore Drive
Petitioners Exhibit D-35-36:	PRC for 3607 Lake Shore Drive
Petitioners Exhibit D-37-39:	PRC for 3601 Lake Shore Drive
Petitioners Exhibit E-1-2:	LeVeque Power of Attorney, 2014-2025
Petitioners Rebuttal Exhibit 1:	PRC, MLS sales information, photograph, and replacement cost calculation for 3253 Lake Shore Drive
Petitioners Rebuttal Exhibit 2:	SDF for Parcel 50-43-07-000-070.001-005
Petitioners Rebuttal Exhibit 3:	Demonstrative exhibit regarding front foot pricing
Petitioners Rebuttal Exhibit 5 <sup>1</sup> :	Demonstrative exhibit regarding time adjustments
Respondent Exhibit A:	Respondent’s Exchange of Evidence request to Petitioners, dated September 24, 2014
Respondent Exhibit B:	Form 131
Respondent Exhibit C:	Form 115
Respondent Exhibit D:	LeVeque Power of Attorney, 2010-2015
Respondent Exhibit E:	SDF for subject property, dated June 14, 2006
Respondent Exhibit F:	Photograph of the subject property
Respondent Exhibit G:	Two aerial maps of the subject property

<sup>1</sup> The Petitioners did not present a Rebuttal Exhibit 4.

Respondent Exhibit H:	2012 PRC and 2004 building permit for subject property
Respondent Exhibit I:	2012 and 2013 Land Orders for German and North Townships
Respondent Exhibit J:	Demonstrative exhibit showing Lake of the Woods 2010 and 2011 on-water sales, with a sales location map
Respondent Exhibit K:	SDF, PRC, and aerial map for 4532 West Shore Drive
Respondent Exhibit L:	SDF, PRC, and aerial map for 3253 Lake Shore Drive
Respondent Exhibit M:	SDF, PRC, and aerial map for 3961 Lake Shore Drive
Respondent Exhibit N:	SDF, PRC, and aerial map for 3654 West Shore Drive
Respondent Exhibit O:	SDF, PRC, and aerial map for 3794 West Shore Drive
Respondent Rebuttal Exhibit P:	Demonstrative exhibit showing Respondent's corrections to Petitioners Exhibit C-8
Board Exhibit A:	Form 131 with attachments
Board Exhibit B:	Notice of Hearing
Board Exhibit C:	Hearing Sign-In sheet

c) These Findings and Conclusions.

### **OBJECTIONS**

11. During the 2012 appeal hearing, Ms. LeVeque objected to the admission of Respondent's Rebuttal Exhibit P because it was not part of the Respondent's original analysis and she had no way of knowing if it was correct. Ms. LeVeque also argued that Respondent's Rebuttal Exhibit P was irrelevant because it included parcels with lot frontages of 35 feet to 50 feet, while the subject property has 90 feet of effective frontage. The Respondent argued that the spreadsheet was prepared as a rebuttal highlighting errors in Petitioners' Exhibit C-8. The ALJ took the objection under advisement.
12. Ms. LeVeque offered no legal basis for her objection. Her argument that the content of the exhibit may be irrelevant or incorrect goes to the weight of the evidence, rather than to its admissibility. Consequently, the objection is overruled and Respondent's Rebuttal Exhibit P is admitted.

### **BURDEN OF PROOF**

13. Generally, a taxpayer seeking review of an assessing official's determination has the burden of proving that a property's assessment is wrong and what its correct assessment should be. *Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d 475,

478 (Ind. Tax Ct. 2003); *Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998). The taxpayer must explain how each piece of evidence relates to the requested assessment. *Indianapolis Racquet Club, Inc. v. Washington Twp. Assessor*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004). If the taxpayer makes a prima facie case, the burden shifts to the assessor to offer evidence to impeach or rebut the taxpayer's evidence. *American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004); *Meridian Towers*, 805 N.E.2d at 479.

14. Ind. Code § 6-1.1-15-17.2, as amended, creates an exception to that general rule and assigns the burden of proof to the assessor in two circumstances. Thus, where the assessment under appeal represents an increase of more than 5% over the prior year's assessment for the same property, the assessor has the burden of proving that the assessment under appeal is correct. Ind. Code § 6-1.1-15-17.2(b). The assessor similarly has the burden where a property's gross assessed value was reduced in an appeal, and the assessment for the following assessment date represents an increase over "the gross assessed value of the real property for the latest assessment date covered by the appeal regardless of the amount of the increase..." Ind. Code § 6-1.1-15-17.2(d). These provisions may not apply if there was a change in the property's improvements, zoning or use, or if the assessment was determined using the income approach to value. Ind. Code § 6-1.1-15-17.2(c) and (d).
15. In any case, if an assessor has the burden and fails to meet it, the taxpayer may offer evidence of the correct assessment. If neither party offers evidence that suffices to prove the property's correct assessment, the assessment reverts to the previous year's value. Ind. Code § 6-1.1-15-17.2(b).
16. The parties agreed on the record that the Petitioners have the burden of proof in this appeal with regard to the 2012 assessment.

## CONTENTIONS

17. Summary of the Petitioners' case:
  - a) The Petitioners purchased the property in 2006 for \$345,000 and it has depreciated since then. The 2012 assessments should be \$131,200 for the land and \$141,300 for the improvements, for a total assessed value of \$272,500. Ms. LeVeque presented the Real Estate Evaluation Report which supports the requested value with a sales comparison and an assessment comparison using other lakefront properties in the area. *LeVeque testimony; Pet'r Exs. C-1-10*.
  - b) Ms. LeVeque estimated the vacant land had a value of \$136,500 in 2004. She arrived at this value by subtracting \$3,500 for a well installation and \$10,000 for a sewer hookup from the land's 2004 purchase price of \$150,000. Ms. LeVeque maintains that there has been no appreciation in land value since that time. *LeVeque testimony; Pet'r Ex. C-1*.

- c) Ms. LeVeque also relied on five comparable sales and two comparable assessments in developing her estimate of value. She made adjustments to the values to account for the differences between the subject property and the comparable properties, but there were no adjustments made for time since there was no measurable appreciation. Based on her analysis of properties that sold multiple times between 2005 and 2014, Ms. LeVeque determined that there was no measurable appreciation since the 2004-2008 “bubble.” Therefore, no time adjustments were made to any of the comparables. *LeVeque testimony: Pet’r Exs. C-1, C-2, C-3 and C-9.*
- d) To adjust for the year built, Ms. LeVeque made a \$1,000 adjustment for every ten years of age to account for design and change. The age adjustment was applied consistently to all of the comparables. *LeVeque testimony.*
- e) With regard to condition, Ms. LeVeque looked to the grades assigned by the assessor as reported on each comparable sale’s PRC. Although she did not do any interior inspections, if the assessor had assigned a comparable property a C-grade, she made no adjustments. Whereas, a property assigned a D-grade by the assessor received a \$50,000 adjustment to place it in average condition. All of the D-grades were adjusted the same for consistency. *LeVeque testimony.*
- f) To adjust the comparables for differences in square footage, Ms. LeVeque applied a \$35 per square foot depreciated adjustment. She bracketed the square footage of the subject property for consistency. *LeVeque testimony.*
- g) With regard to lot sizes, Ms. LeVeque took the sales prices of nine properties and deducted the cost of the improvements listed on each PRC of the properties to determine how much of the sale price was allocated to the land. She then took that land-only value and divided it by the number of front feet to arrive at a price per front foot for each property. Such analysis resulted in a median price of \$1,300 per front foot of land, which amount was then applied to all comparables for consistency. Ms. LeVeque did not use square footage to adjust for lot size because lake properties are sold based on the waterfront footage. *LeVeque testimony; Pet’r Ex. C-8.*<sup>2</sup>
- h) Ms. LeVeque also made several other adjustments to the comparables. She used \$5 per square foot to account for differences in decks, patios, and open framed porches, and \$10 per square foot to account for differences in enclosed frame porches. For differences in bath fixtures, Ms. LeVeque used \$400 per fixture, which is a depreciated adjustment of 50% of the Respondent’s cost. Ms. LeVeque also made depreciated adjustments of \$2,000 for fireplaces and for central air. Finally, she made adjustments to her comparables of \$3,000 per garage stall. *LeVeque testimony.*

---

<sup>2</sup> Ms. LeVeque also offered *Petitioners’ Rebuttal Exhibit 3*, which is a variation of *Petitioners’ Exhibit C-8*.

- i) After adjustments, the value of the comparable sales ranged from \$256,000 to \$275,000.<sup>3</sup> Of all the sales, Comparable No. 2 is the most similar to the subject property in terms of size, lot, and age. It also required the lowest net adjustments of all the comparable sales. *LeVeque testimony; Pet'r Exs. C-1, C-2 and C-3.*
- j) Looking at the assessment comparables only, Comparable No. 6 carries the most weight because it required the fewest adjustments of all the sales and assessments used in the analysis. Comparable No. 6 has an adjusted value of \$272,530, which falls in the median range of value. Therefore, Ms. LeVeque requested that the subject property be given a total assessed value of \$272,500. *LeVeque testimony; Pet'r Exs. C-1, C-2 and C-3.*

18. Summary of the Respondent's case:

- a) The subject property's assessment is correct. In 2006, the Petitioners purchased the property for \$345,000. When compared to what the Petitioners paid for the property, the 2012 assessment of \$356,500 is reasonable. *Dunning testimony; Resp't Exs. C, E and H.*
- b) The Petitioner contested only the land value at the PTABOA hearing. Thus, the majority of the Respondent's evidence pertains to the subject property's land, which is properly assessed according to the Marshall County Land Order for Lake of the Woods on-water parcels. *Dunning testimony; Resp't Exs. C and I.*
- c) To support the subject property's 2012 assessment, the Respondent presented a spreadsheet, map, sales disclosures, and property record cards for five improved sales of waterfront properties located in Lake of the Woods. The sales occurred between November 16, 2010 and October 27, 2011. Because the sales were improved, the Respondent subtracted the 2012 assessed value of the improvements from each property's sale price to determine the amount of the sale price attributable to the land. The median price per front foot for the five sales was \$3,382, well above the subject property's 2012 land assessment at \$2,416 per front foot. *Dunning testimony; Resp't Exs. J, K, L, M, N and O.*

## ANALYSIS

19. 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 by a similar user, from the property." 2011 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.4-1-2); *see also* Ind. Code § 6-1.1-31-6(c). The cost approach, the sales comparison approach, and the income approach are three generally accepted techniques to calculate market value-in-use. MANUAL at 2. Assessing officials primarily use the cost approach. MANUAL at 3. The cost approach estimates the

---

<sup>3</sup> Ms. LeVeque apparently rounded these figures from \$255,090 and \$275,375. Also, Ms. LeVeque either overlooked or excluded Comparable No. 3 (adjusted value of \$206,715) and Comparable No. 4 (adjusted value of \$374,500) from her range of value.

value of the land as if vacant and then adds the depreciated cost new of the improvements to arrive at a total estimate of value. MANUAL at 2. Any evidence relevant to the true tax value of the property as of the assessment date may be presented to rebut the presumption of correctness of the assessment, including an appraisal prepared in accordance with generally recognized appraisal standards. MANUAL at 3.

20. Regardless of the method used to prove a property's true tax value, a party must explain how its evidence relates to the subject property's market value-in-use as of 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. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). The valuation date for a 2012 assessment was March 1, 2012. Ind. Code § 6-1.1-4-4.5(f); 50 IAC 27-5-2(c). To establish a prima facie case, a taxpayer must "demonstrate that their suggested value accurately reflects the property's true market value-in-use (and, consequently, that the assessor's assessed value failed to accurately reflect the market value-in-use)." *Eckerling v. Wayne Twp. Assessor*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006).
21. As discussed above, the Petitioners had the burden of proving that the 2012 assessment of \$356,500 was incorrect by demonstrating what the correct assessment should be. In support of their contention that the subject property is over-valued, the Petitioners presented a Real Estate Evaluation Report that included both a sales comparison approach and an assessment comparison approach.<sup>4</sup> The Petitioners requested a reduction to \$131,200 for the land and \$141,300 for the improvements, for a total assessed value of \$272,500.
22. With regard to the sales comparison approach, Ms. LeVeque, argued that the Petitioners' property was over-valued for 2012 based on the sales of other properties located on Lake of the Woods. A 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." MANUAL at 3. In order to effectively 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. 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.*
23. In support of her argument, Ms. LeVeque submitted a Real Estate Evaluation Report and sales information for five properties she believed to be comparable to the subject property. While Ms. LeVeque provided the SDFs, MLS sales information and PRCs for the purportedly comparable properties, she failed to offer any testimony relating their specific features and amenities to the subject property. Although Ms. LeVeque

---

<sup>4</sup> While Ms. LeVeque's report is similar to an appraisal, she prepared and signed the report as a tax representative and did not certify it as being prepared in conformity with USPAP.

accounted for the differences between the subject property and her comparables by making adjustments for age, condition, square footage, lot size, decks, patios, porches, bath fixtures, fireplaces, central air and garage size, she did nothing to show how the comparable properties' characteristics were actually similar to those of the subject property as required by *Long*.

24. Ms. LeVeque failed to establish that her purportedly comparable properties were actually comparable to the subject property or that her adjustments conform to generally accepted appraisal principles. Thus, her sales comparison approach is not probative evidence of the market value-in-use.
25. Even if Ms. LeVeque had shown that the properties were comparable, her adjustments also have a number of errors and inconsistencies such that her estimate of value may or may not accurately reflect the property's true market value-in-use.
  - a. To adjust for the year built, Ms. LeVeque testified that she made a \$1,000 adjustment to all of the comparables for every ten years of age. However, she failed to provide any substantial evidentiary basis for applying a \$1,000 per ten year adjustment. Assuming, arguendo, that she did establish an acceptable basis for using that rate, she still failed to apply the rate consistently. For example, she reported that Comparable No. 1 was 54 years old, but Ms. LeVeque's report shows it was built in 1960, making the property 52 years old in the 2012 assessment year at issue. That minor mistake aside, applying the \$1,000 adjustment to either age should have resulted in a positive adjustment of \$5,000, not the \$4,000 adjustment employed by Ms. LeVeque. Similarly, Comparable No. 3 was built in 1961 and was 51 years old in 2012, which also should have resulted in a positive adjustment of \$5,000 under her adjustment scheme, but instead she assigned it a \$4,500 adjustment without explanation. Furthermore, she adjusted Comparable No. 2 (15 years old, but reported as 17 years old) and Comparable No. 4 (19 years old) by \$1,500, even though she stated the age adjustment spanned ten years and was applied in \$1,000 increments.
  - b. With regard to condition, Ms. LeVeque adjusted Comparable No. 3 and Comparable No. 5 by \$50,000 to account for their lower D-grades as compared to the subject property's C-grade. However, she failed to offer any objective market-based support to explain why \$50,000 was an appropriate amount for the adjustments. Likewise, while Ms. LeVeque adjusted each comparable property to account for their different sizes, she failed to explain how she arrived at the \$35 per square-foot adjustment. In addition, when applying the size adjustment to Comparable No. 3 and Comparable No. 5, she rounded the adjustments while choosing not to round the adjustment to Comparable No. 2. Ms. LeVeque also failed to make any size adjustment to Comparable No. 4 although a positive adjustment was clearly warranted based on the reported square footage for the property.
  - c. Ms. LeVeque's lot size adjustments are also unsupported by the evidence. To account for differences in lot sizes, Ms. LeVeque analyzed nine properties and calculated a price per front foot for each property. *See Pet'r Ex. C-8*. According to



Ms. LeVeque, her analysis resulted in a median price of \$1,300 per front foot, which she then applied to make her adjustments. As part of making a prima facie case, “it is the taxpayer’s duty to walk the [Board] through every element of [its] analysis.” *Long*, 821 N.E.2d at 471 (quoting *Clark v. Dep’t of Local Gov’t Fin.*, 779 N.E.2d 1277, 1282 n. 4 (Ind. Tax Ct. 2002)). However, Ms. LeVeque did nothing to explain how she arrived at \$1,300 or that she followed generally accepted appraisal principles. There are comments at the bottom of her addendum indicating that the \$1,300 front foot price was not based on the median price as she claimed, but on the average of sales 3, 4, 5, 6, 7, 8, and 9. It appears, however, that Ms. LeVeque erroneously calculated the total sum of these seven sales as \$10,991. She further compounded this error by dividing by nine when there were only seven sales included, but her average price of \$1,302 is incorrect regardless of which denominator is used in the calculation.

- d. Furthermore, Ms. LeVeque included the sales of Comparable No. 2 and Comparable No. 3 in her group of nine properties used to calculate her adjustment price, effectively using the comparables’ own values to make their adjustments. Additionally, the improvement values she used to isolate the value allocated to land for Comparable No. 2 and Comparable No. 3 are incorrect according to their PRCs, further undermining her data set. Comparable No. 3 is also included in her analysis twice, but Ms. LeVeque calculated its front foot price differently for each occurrence without explanation. Thus, the Board concludes that the \$1,300 average price per front foot used to make her lot size adjustments is not reliable.
- e. Even if the Board overlooks the errors discussed above and assumes that the \$1,300 average is correct, Ms. LeVeque failed to apply it consistently to the comparables. She calculated her adjustments for Comparable No. 1, Comparable No. 4, and Comparable No. 5 using the subject property’s front foot value of 82 feet, but then failed to make adjustments to Comparable No. 2 and Comparable No. 3 which have 90 feet of frontage. Even this minor 8 foot difference would lead to a negative adjustment of \$10,400 for both properties. Conversely, if the subject property actually has 90 front feet as Ms. LeVeque occasionally claimed during her testimony, then no adjustments were in fact needed for Comparable No. 2 and Comparable No. 3. However, in that case, the adjustments to Comparable No. 1, Comparable No. 4, and Comparable No. 5 should have been \$10,400 higher to properly account for the subject property’s extra 8 feet of frontage.
- f. Ms. LeVeque also did little to explain how she settled on a \$5 per square-foot adjustment for features such as decks, patios, and open-frame porches, a \$10 per square foot adjustment for enclosed porches, a \$2,000 adjustment for fireplaces and air conditioning, or a \$3,000 per garage stall adjustment. Further, Ms. LeVeque’s \$400 per fixture plumbing adjustment not only lacks market support, it was also applied incorrectly. For example, Comparable No. 4 has 3 baths, compared to the subject property’s 2.5 baths. Ms. LeVeque applied a \$400 positive adjustment to Comparable No. 4 when a negative adjustment was necessary.

- g. Finally, Ms. LeVeque stated that, based on her sales comparison analysis, the sale that should be given the most weight is Comparable No. 2, which had an adjusted value of \$255,090. She testified that it is the most like the subject property in terms of size, lot size and age, and it required the lowest net adjustments of all the comparables. However, by her own admission, the sales price she reported for Comparable No. 2 included \$20,000 in personal property that should have been excluded. Based on these errors, the Board is not convinced that Ms. LeVeque's sales comparison approach conforms to generally accepted appraisal principles. It is not probative evidence of market value-in-use.
26. The Petitioners also offered an assessment comparison approach using the 2012 assessments of two properties located on Lake of the Woods. An assessment comparison approach attempts to show market value-in-use through comparable assessments. Ind. Code § 6-1.1-15-18. The statute does not automatically make evidence of other assessments probative. *Id.* A party must still establish the comparability of the properties being examined. Again, conclusory statements that a property is "similar" or "comparable" to another property do not suffice. *Long*, 821 N.E.2d at 470. Instead, a party must identify the characteristics of the property under appeal and explain how those characteristics compare to the characteristics of the other properties. *Id.* at 471. Similarly, a party must explain how any differences between the properties affect their relative market values-in-use. *Id.*
27. While Ms. LeVeque introduced copies of the PRCs for the two purportedly comparable properties, she failed to offer any meaningful testimony relating these properties' specific features and characteristics to the subject property. Ms. LeVeque failed to establish that her purportedly comparable properties were actually comparable to the subject property as required by *Long*. Furthermore, Ms. LeVeque's adjustments to the two assessment comparables suffered from many of the same errors present in her sales comparison approach discussed above. Also, given the small sample size of two properties, there is a question as to whether Ms. LeVeque simply selected these two properties as comparables to support a predetermined assessed value for the subject property.<sup>5</sup> Thus, the Petitioners' requested value is not probative evidence of the market value-in-use of the subject property.
28. Because the Petitioners did not offer probative evidence to show the market value-in-use of the subject property, they failed to make a prima facie case that the 2012 assessment was incorrect. Where the Petitioners have not supported their claim with probative evidence, the Respondent's duty to support the assessment with substantial evidence is not triggered. *Lacy Diversified Indus. v. Dep't of Local Gov't Fin.*, 799 N.E.2d 1215, 1221-1222 (Ind. Tax Ct. 2003).

---

<sup>5</sup> This is of even greater concern because Ms. LeVeque acknowledged that she is being paid on a contingency fee basis. *See Pet'r Ex. C-1*. Where an expert has a financial interest in the outcome of a case, such as with a contingent fee, that fact is an appropriate consideration in weighing the credibility of the expert's opinion. *See Wirth v. State Bd. of Tax Comm'rs*, 613 N.E.2d 874, 877 (Ind. Tax Ct. 1993) (stating that the contingent nature of an expert witness's fee goes to the weight of the expert's testimony). An expert witness's opinion of value should be unbiased, and the fact that she is being paid a contingency fee diminishes her credibility.

## CONCLUSION

29. The Petitioners did not make a prima facie case for reducing the property's 2012 assessment. The Board therefore finds for the Respondent.

## FINAL DETERMINATION

In accordance with these findings and conclusions, the Board orders no change to the property's 2012 assessment.

ISSUED: March 16, 2015

---

Chairman, Indiana Board of Tax Review

---

Commissioner, Indiana Board of Tax Review

---

Commissioner, Indiana Board of Tax Review

### - APPEAL RIGHTS -

You may petition for judicial review of this final determination under the provisions of Ind. 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 Ind. 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>.