REPRESENTATIVE FOR PETITIONER:
James H. O'Donnell, Tax Representative

REPRESENTATIVE FOR RESPONDENT:
Frank J. Agostino, Attorney

BEFORE THE INDIANA BOARD OF TAX REVIEW

William E. Hindsley,	)	Petition No.: 71-026-04-1-4-00008
	)	
Petitioner,	)	Parcel No.: 18-2193-7238
	)	
v.	)	County: St. Joseph
	)	
St. Joseph County Assessor[1],	)	Township: Portage
	)	
Respondent.	)	Assessment Year: 2004

Appeal from the Final Determination of the
St. Joseph County Property Tax Assessment Board of Appeals

July 13, 2006

FINAL DETERMINATION

The Indiana Board of Tax Review ("Board") having reviewed the facts and evidence, and having considered the issues, now finds and concludes the following:

[1] The Portage Township Assessor made the original assessment under appeal. Thus, under IC 6-1.1-15-3(b) as it existed at the time of the PTABOA determination, the township assessor was the designated respondent. *See* I.C. 6-1.1-15-3(b)(2006); P.L. 219-2007 §§ 156(c). But on January 1, 2009, the Portage Township Assessor's duties under Ind. Code § 6-1.1, were transferred to the St. Joseph County Assessor. *See* I.C § 36-2-15-11. As a result, the St. Joseph County Assessor is the Respondent in this case.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Introduction

1. In this assessment appeal, the taxpayer, William E. Hindsley, offered an appraisal estimating the subject property's market value as of May 6, 2004, together with evidence relating that appraisal to the property's market value-in-use as of the relevant January 1, 1999, valuation date. The Board therefore finds that the property's assessment should be reduced.

Procedural History

2. On July 8, 2005, Hindsley filed notice with the St. Joseph County Assessor contesting the subject property's 2004 assessment. On May 25, 2006, the St. Joseph County Property Tax Assessment Board of Appeals ("PTABOA") issued its determination denying Hindsley relief. On June 20, 2006, Hindsley timely filed a Form 131 petition with the Board. The Board has jurisdiction over Hindsley's appeal under Ind. Code §§ 6-1.1-15 and 6-1.5-4-1.

Hearing Facts and Other Matters of Record

3. On April 14, 2009, the Board's Administrative Law Judge, Jennifer Bippus ("ALJ"), held a hearing on Hindsley's appeal. Neither the Board nor the ALJ inspected the property.

4. The following people were sworn in as witnesses:

   For William E. Hindsley:

   James O'Donnell, Tax Representative
   Philip Krause, Appraiser
   Roy Munford, Contractor

   For the County Assessor:

   David Wesolowski, St. Joseph County Assessor,
   Sue Tranberg, Deputy County Assessor,
   Rosemary Mandrici, County Director of Assessments,
   Ralph Wolfe, PTABOA Member,
   Ross Portolese, PTABOA Member,

Dennis Dillman, PTABOA Member.

5. Hindsley submitted the following exhibits:[2]

Petitioner's Exhibit A - A binder containing 36 exhibit tabs[3],

1 – Copy of Form 130 filed July 8, 2005,
2 – Copy of Power of Attorney, Disclosure Documents, and Tax Rep Certification,
3 – Copy of Property Record Card as of March 1, 2004,
4 – Copy of USPAP appraisal dated May 6, 2004 indicating Market Value of $162,000 as of May 6, 2004,
5 – Copy of Information request from Township Assessor to Petitioner Representative
6 – Copy of Petitioner's Response to the Township Assessor's Information request,
7 – Copy of Offer from Township,
8 – Copy of Petitioner's responses to Township Offer,
9 – Copy of Photos of structure,
10 – Copy of Builders proposal indicating Pre-Engineered Steel Construction (kit),
11 – Copy of Appendix D Pgs 38 and 39 from 2002 Real Property Assessment Guidelines,
13 - Testimony of Ray Mumford about the makeup of the structure,
14 – Copy of *Damon v. State Bd. of Tax Comm'rs*, 738 N.E.2d 1102 (Ind. Tax Ct. 2000),
15 – Copy of *Componx v. State Bd. of Tax Comm'rs*, August 7, 1997,
18 – Copy of *Randall Cole d/b/a WRC Company v. Paoli Township Assessor*, IBTR: 59-012-03-1-4-00001,
19 – Copy of PTABOA Hearing Notification,
20 – Copy of Transcript of PTABOA hearing,[4]
21 – Copy of *Long v. Wayne Township Assessor*,
22 – Copy of Trending Computations using Marshall & Swift Cost Tables,
23 – Copy of *Craig Williamson v. Fall Creek Township Assessor*, IBTR Petition: 29-007- 01-1-5-00004,
24 – Copy of *Russell Zimmerman v. Hamilton County PTABOA*, IBTR Petition: 29-014-01-1-5-00002,
25 – Copy of Appropriate Pages of Marshall & Swift Cost Tables,
26 – Copy of *All Coast Logistics & Manufacturing, Inc. v. Betty Smith, Wayne Township Assessor*, IBTR 89-030-02-1-3-00006 and forward,

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[2] The Board uses the descriptions on Hindsley's exhibit coversheet.
[3] The following tabs did not contain exhibits: 16, 17, 29 – 35.
[4] The exhibit is actually a compact disc with a digital recording of the PTABOA hearing.

27 - Bureau of Labor Statistics Consumer Price Index,
28 – Copy of *Bill & Johnnie Cash v. Department of Local Government Finance*, 45-001-02-1-5-00065 + 65A,
36 – Copy of Standard & Poor's Commercial Real Estate Indices and trending explanation,

Petitioner's Exhibit B - Narrative for the hearing.

6. The Assessor submitted the following exhibits:

   Respondent's Exhibit 1 - Form 130 petition for the March 1, 2002 assessment date,
   Respondent's Exhibit 2 - Form 115 determination for the March 1, 2004, assessment date,
   Respondent's Exhibit 3 - Taxpayer's Summary Copy B and C for pay 2005.

7. The Board recognizes the following additional items as part of the record of proceedings:

   Board Exhibit A - Form 131 petition and attachments,
   Board Exhibit B - Notice of Hearing,
   Board Exhibit C - Respondent's Witness List for IBTR hearing,
   Board Exhibit D - Notice of Appearance for Frank Agostino,
   Board Exhibit E - Notice of County Assessor Appearance as an Additional Party,
   Board Exhibit F - Hearing Sign-In Sheet.

8. The subject property is located at 3822 Lincolnway West, South Bend. It is used as a rental-car-service center and office.

9. The PTABOA determined the property's assessment to be $49,100 for the land and $158,100 for the improvements, for a total assessment of $207,200.

10. On his Form 131 petition, Hindsley requested values of $49,100 for the land and $92,600 for the improvements, for a total assessment of $141,700. At the hearing, Hindsley's representative asked for a total assessment of $149,600.

Objections

11. The parties made several objections at the hearing, all of which the ALJ took under advisement.

12. The Assessor objected to Petitioner's Exhibit A(8)—page 4 of the Form 130 petition that Hindsley filed to appeal the subject property's 2002 assessment. *Agostino objection*. James O'Donnell, Hindsley's tax representative, described the exhibit as an agreement by the parties for the property's 2002 assessment. The Assessor argued that the exhibit was not relevant because only Hindsley signed it; the line for the township assessor's signature is blank. The Assessor, however, offered the full Form 130 petition as Respondent's Exhibit 1. And page 4 of that exhibit contains the same agreement with signatures from both Hindsley and the township assessor. The Board therefore overrules the Assessor's objection.

13. Hindsley, in turn, objected to Respondent's Exhibit 1, arguing that it was not relevant because it addressed the property's 2002 assessment instead of the March 1, 2004, assessment at issue in this appeal. *O'Donnell objection.* Given that Hindsley had already offered substantially the same document, the Board overrules his objection.

14. The Assessor also objected to Petitioner's Exhibits A(23) and A(24)—excerpts from two Board decisions. *Agostino objection*. The Assessor argued that Hindsley should have offered the entire decisions instead of excerpts. *Id*. The Board overrules the Assessor's objection. Although Hindsley marked and offered those decisions as evidence, there is nothing evidentiary about them. A party need not prove the contents of the Board's determinations; the Board can take official notice of them.

15. In a related objection, the Assessor took issue with O'Donnell discussing decisions from the Tax Court and Board. *Agostino objection*. The Assessor pointed out that O'Donnell is not an attorney and therefore cannot interpret case law. The Assessor therefore asked that O'Donnell's statements about those decisions be stricken from the record. *Id*.

16. A certified tax representative can practice before the Board, subject to several express limitations. Among other things, a tax representative cannot engage in any representation that involves the practice of law. 52 IAC 1-2-1(b)(4). In fact, practicing law without a license is a crime. *See* Ind. Code § 34-43-2-1 (making it a class-B misdemeanor to

—engage in the business of a practicing lawyer without having been admitted as an attorney by the Indiana Supreme Court).

17. The Board, however, does not believe that O'Donnell engaged in the practice of law. Interpreting case law is part of an attorney's stock-in-trade. But O'Donnell did almost nothing to interpret any Board or Tax Court decisions beyond submitting copies of those decisions and pointing out that they offered guidance on how to trend values to an appropriate valuation date. The Board therefore overrules the Assessor's objection. Nonetheless, there is a fine line between O'Donnell's actions and the unauthorized practice of law. O'Donnell should not take the Board's ruling as an invitation to interpret case law.

18. Finally, the Assessor objected to O'Donnell's comment that the PTABOA had "punitively" issued a no change order (Form 115) in this appeal. *Agostino objection*. The Assessor argued that O'Donnell was not stating a fact. He asked that O'Donnell's comment be stricken from the record.

19. The Board sustains the Assessor's objection. While O'Donnell arguably was testifying to a fact—the intent of the PTABOA members in issuing their determination—he offered nothing to show that he had any personal knowledge of that fact. More importantly, because proceedings before the Board are *de novo*, the PTABOA's intent in issuing its determination is irrelevant.

Administrative Review and the Parties' Burdens

20. A taxpayer seeking review of an assessing official's determination must establish a prima facie case proving both that the current assessment is incorrect and what the correct assessment should 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).

21. In making its case, the taxpayer must explain how each piece of evidence relates to its 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").

22. If the taxpayer establishes a prima facie case, the burden shifts to the respondent to offer evidence to impeach or rebut the taxpayer's evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2003); *Meridian Towers*, 805 N.E.2d at 479.

Analysis

Parties' Contentions

A. Hindsley's contentions

23. Hindsley previously appealed the subject property's March 1, 2002, assessment. In that appeal, Hindsley and the township assessor agreed the subject building was a pre-engineered metal building that should be assessed using the General Commercial Kit ("GCK") cost schedules and should be assigned a C-1 quality grade. They also agreed to a total assessment of $207,200. *O'Donnell testimony; Mandrici testimony; Pet'r Ex. A(8); Resp't Ex. 1.* The Assessor, however, did not actually reclassify the building or change its quality grade to C-1. *O'Donnell testimony*.

24. Hindsley then hired Philip Krause and Stephen Cox, both of whom are certified general appraisers, to appraise the subject property. Krause and Cox prepared an appraisal estimating the property's market value at $162,000 as of May 6, 2004. *O'Donnell testimony; Pet'r Ex. A(4).* They used both the sales-comparison and cost approaches to value, giving the most weight to their conclusions under the sales-comparison approach. *Krause testimony; Pet'r Ex. A(4).* Krause and Cox did not develop the income approach because the property is owner occupied.

25. Based on that appraisal, Hindsley appealed the subject property's March 1, 2004, assessment. The township assessor offered to reduce the property's assessment to the

appraised amount. But Hindsley rejected that offer because the property was worth less as of January 1, 1999—the relevant valuation date for March 1, 2004, assessments. *O'Donnell testimony; Pet'r Ex. A(8) at 2.*

26. O'Donnell looked to three data sources to trend Krause and Cox's appraisal estimate to a January 1, 1999, value: (1) Marshall Valuation Services (which O'Donnell referred to as "Marshall & Swift"); (2) the Consumer Price Index ("CPI") published by the U.S. Department of Labor, Bureau of Labor Statistics; and (3) Standard & Poor's Commercial Real Estate Indices.

27. Section 98 of the Marshall & Swift comparative cost indices gives instructions for deflating a value from a point in time to a historical date. *O'Donnell testimony*. The Board used this method in *Zimmerman v. Hamilton County PTABOA and Washington Twp. Assessor* and *Williamson v. Fall Creek Twp. Assessor*. *Pet'r Exs. A(23)-A(24).* O'Donnell used the indices for type-S construction in Indianapolis. *O'Donnell testimony; Pet'r Exs. A(22), A(25).* The April 2004 index was 1.052, which O'Donnell divided by the January 1999 index of 1.221, to arrive at a deflator of .861589. *O'Donnell testimony; Pet'r Exs. A(22), A(25).* He then applied that deflator to the depreciated cost of improvements ($115,656) set forth in the Krause and Cox appraisal's cost approach. *Id.; Pet'r Ex. A(4).* That resulted in a January 1, 1999, improvement value of $99,648. *Id*. O'Donnell then added the appraisal's land-value estimate of $50,000 to reach a total value of $149,648 as of January 1, 1999. While the land may have been worth less than $50,000 in 1999, O'Donnell's attempts to document1999 land value were fruitless. *O'Donnell testimony.*

28. In contrast to the Indianapolis-based data from Marshall & Swift, the CPI index was a national average for all urban consumers and all items. *Pet'r Ex. A(27)*. O'Donnell extrapolated a May 6, 2004 index from the indices for April 30, 2004 and May 31, 2004, and divided that extrapolated index into the index for January 1, 1999, to obtain a trending factor of .870822. *Id*. He then applied that trending factor to Krause and Cox's appraisal estimate to reach a January 1, 1999, value of $141,100. *Id.* O'Donnell's

calculations using the Standard & Poor's indices were similar, although the underlying data was different. The Standard & Poor's data looked at commercial real estate values and broke down its indices by geographical regions. O'Donnell used the indices for the Midwest and determined a deflator of 80.617%, which yielded a January 1, 1999, value of $130,600. *O'Donnell testimony; Pet'r Ex. A(36).*

29. O'Donnell also estimated the subject property's value by taking the property's actual construction costs from 1985 and using the Marshall & Swift indices to trend those costs forward to January 1, 1999. *O'Donnell testimony; Mumford testimony; Pet'r Ex. A(12).* Using that method, he determined a January 1, 1999, value of $155,570. *Id.*

30. In O'Donnell's view, the value derived from using the Marshall & Swift indices to trend Krause and Cox's appraisal to a January 1, 1999, value was the best evidence of the subject property's true tax value. Unlike the CPI and the Standard & Poor's indices, the Marshall & Swift indices were based on data specific to Indiana. O'Donnell therefore requested that the subject property's March 1, 2004, assessment be reduced to $149,600. *O'Donnell testimony; Pet'r Ex. A(22).*

B. The Assessor's contentions

31. Ms. Mandrici, the former Portage Township Assessor, agreed that she offered to settle Hindsley's appeal at $162,200. *Mandrici testimony*. And at the Board's hearing, the Assessor's counsel again asked O'Donnell whether Hindsley would accept an assessment of $162,000.

32. Nonetheless, the Assessor contended that the subject property's assessment should not be reduced below $207,200. *Agostino argument*. Hindsley and the Portage Township Assessor agreed to that amount when they settled Hindsley's 2002 appeal. *Mandrici testimony; Resp't Ex. 1*. And the 2002 assessment was based on the same valuation date as 2004 assessment at issue in this appeal. Thus, the Assessor argued, Hindsley was estopped from requesting a lower amount. *Agostino argument*.

33. The Assessor also contended that Hindsley failed to meet his burden of proof because he based his claim on an appraisal that valued the subject property as of May 6, 2004. That was not the correct valuation date for the property's March 1, 2004, assessment. *Agostino argument*. Although O'Donnell attempted to trend the value estimated in that appraisal to reflect a value as of January 1, 1999, his methods were unsupported by statute or case law. *Id*. The Assessor offered three witnesses—himself, Rosemary Mandrici, and Dennis Dillman—each of whom testified that property values increase and decrease from year to year, and that a trending method that simply uses a consistent inflator or deflator is invalid. *Mandrici testimony, Wesolowski testimony, Dillman testimony*. Dillman acknowledged that the Marshall & Swift data used by O'Donnell was market-generated information. But he explained that building costs generally go up, while other factors such as interest rates tend to go up and down. *See id*.

Discussion

34. Indiana assesses real property based on its "true tax value," which the 2002 Real Property Assessment Manual defines 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, sales-comparison, and income approaches. *Id.* at 3, 13-15. Indiana assessing officials generally use a mass-appraisal version of the cost approach set forth in the Real Property Assessment Guidelines for 2002 - Version A.

35. 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) *reh'g den. sub nom. P/A Builders & Developers, LLC*, 842 N.E.2d 899 (Ind. Tax Ct. 2006). But a taxpayer may rebut that presumption 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. *Id.;*

Kooshtard Property VI, 836 N.E.2d at 506 n.6. A taxpayer may also offer actual construction costs, sales information for the subject or comparable properties, and any other information compiled according to generally accepted appraisal principles. MANUAL at 5.

36. Regardless of the method used to rebut an assessment's presumption of accuracy, a party must explain how its evidence relates to the appealed 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). For March 1, 2004, assessments, that valuation date was January 1, 1999. *See* MANUAL at 2, 4, 12 (setting January 1, 1999, as the valuation date for the 2002 general reassessment and stating that the Manual provides the assessment rules for all assessment from March 1, 2002, through March 1, 2005).

37. Hindsley made a prima facie case rebutting the presumption that the subject property's assessment accurately reflected its market value-in-use. He offered an appraisal prepared by Krause and Cox, certified licensed appraisers who formed their opinion and prepared their appraisal in conformity with USPAP. *Pet'r Ex. A(4)*. Krause and Cox considered all three generally accepted valuation approaches, and ultimately based their opinion on the cost and sales-comparison approaches. Similarly, through O'Donnell's testimony, Hindsley explained how Krause and Cox's valuation opinion related to the subject property's market value-in-use as to the relevant January 1, 1999, valuation date.

38. The burden therefore shifted to the Assessor to impeach or rebut Hindsley's evidence. *Meridian Towers*, 805 N.E.2d at 479.

39. The Assessor attacked Hindsley's evidence on two grounds: (1) that Hindsley was estopped from contesting the subject property's current assessment, and (2) that Krause and Cox's appraisal lacked probative value because it estimated the subject property's value as of May 6, 2004, and Hindsley did not offer a valid method for relating that appraisal to the subject property's value as of January 1, 1999. *Agostino argument.*

Neither ground is convincing. The first rests on a misunderstanding of the doctrine of collateral estoppel, and the second is both legally and factually unpersuasive.

40. The Assessor argued that Hindsley was estopped from asking for an assessment other than the $207,200 that he agreed to in settling his appeal of the subject property's 2002 assessment. Estoppel is a judicial doctrine grounded in equity, and it takes many forms, including collateral estoppel, judicial estoppel, promissory estoppel, estoppel by deed, and estoppel by record. *In re: Marriage of Zoller*, 858 N.E.2d 124, 127 (Ind. Ct. App. 2006). Here, the Assessor waived his estoppel argument because he failed to identify the particular theory of estoppel on which he relied. *See id*. (pointing out that party failed to identify which particular estoppel theory he relied on, but addressing estoppel argument notwithstanding waiver).

41. Waiver aside, collateral estoppel is the only theory that even arguably appears relevant to the facts in this case. The doctrine of collateral estoppel (also called issue preclusion) bars a party from re-litigating a fact or issue that was necessarily adjudicated in an earlier action. *Tofany v. NBS Imaging Systems, Inc*., 616 N.E.2d 1034, 1037 (Ind. 1993). Because administrative agencies operate differently from courts, special concerns arise when a party asks for preclusive effect to be given to an administrative determination. *See South Bend Federation of Teachers v. Nat'l Education Assoc., South Bend*, 180 Ind. App. 299, 389 N.E.2d 23 (1979). Also, because each assessment year and each tax year stands alone, collateral estoppel generally does not apply in tax cases. *Miller Brewing Co., v. Ind. Dep't of State Revenue*, 903 N.E.2d 64, 69 (Ind. 2009)(quoting *Glass Wholesalers v. Ind. Bd. of Tax Comm'rs*, 568 N.E.2d 1116, 1124 (Ind. Tax Ct. 1991). Nonetheless, administrative collateral estoppel has been applied in at least some property tax appeals. *See Lindeman v. Wood,* 799 N.E.2d 1230, 1231 (Ind. Tax Ct. 2003).

42. This, however, is not one of those appeals. As recognized by the Indiana Supreme Court, collateral estoppel applies only to matters that were actually litigated and decided. *Miller Brewing*, 903 N.E.2d at 68 (citing, *inter alia*, RESTATEMENT (SECOND) OF JUDGMENTS § 27 (1982)). Thus, under general preclusion law, "settlements ordinarily occasion no issue

preclusion, unless it is clear . . . that the parties intend their agreement to have such an effect." *Arizona v. California*, 530 U.S. 392, 414, 120 S.Ct. 2304, 2319, 147 L.Ed. 2d 374, 396 (2000); *see also*, RESTATEMENT (SECOND) OF JUDGMENTS, § 27 at comment g. Hindsley did not actually litigate the subject property's value in the 2002 appeal. Instead, he and the Portage Township Assessor settled that appeal through an agreement that lists values of $49,100 for land and $158,100 for improvements, and says "changed to GCK from GCM Grade changed from C to C-1 added 800 sq. ft. office & Mezzanine." *Resp't Ex. 1 at 4*. Nothing in that agreement indicates that the parties intended it to have any preclusive effect in a later appeal.

43. The Assessor's attack on O'Donnell's methodology for relating Krause and Cox's appraisal to the subject property's value as of January 1, 1999, also fails. The Indiana Tax Court has repeatedly held that, for assessments based on the January 1, 1999, valuation date, a party must explain how its evidence relates to an appealed property's value as of that date. But neither the Tax Court's decisions, nor the statutes and administrative rules governing real property assessment, lay out any specific method for doing so. The Board has therefore accepted a variety of methods, including measures of inflation such as the CPI. The issue, though, is fact specific, and the Board's approval of a relation-back method in one case does not mean that the method is immune from attack under different circumstances.

44. The Assessor, however, did little to attack O'Donnell's various methods for relating Krause and Cox's appraisal to a January 1, 1999 value. The Assessor simply offered three witnesses who testified that property values fluctuate from year-to-year and that any trending methodology that shows a steady increase or decrease is invalid. Notably, the Assessor did not offer any evidence to show that property values actually fluctuated in such a way to make O'Donnell's inflation-based methodologies invalid.

45. Of course, holding that the Assessor failed to impeach or rebut O'Donnell's trending evidence begs the question—which of O'Donnell's three alternative methods should be

used?[5] Each leads to a different value— $149,600 (rounded) for the Marshall & Swift indices, $141,100 for the CPI, and $130,600 for Standard and Poor's commercial real estate indices. And each has its own relative strengths and weaknesses. O'Donnell's Marshall & Swift calculations use Indiana-based data. But those calculations start with Krause and Cox's cost-approach conclusions instead of their ultimate valuation opinion and the calculations address only the subject improvements. O'Donnell's calculations using the CPI and the Standard and Poor's indices start from Krause and Cox's ultimate valuation opinion but use data that is not as geographically targeted. In fact, the CPI data was an average for all cities throughout the country. Collectively, the three approaches support reducing Krause and Cox's appraisal to at least the $149,600 yielded by O'Donnell's Marshall & Swift-based calculations. Because O'Donnell himself testified that the Marshall & Swift-based approach most accurately reflected the subject property's January 1, 1999 value, the Board will not further analyze whether one of the other two approaches, both of which yielded lower values, was more appropriate.

Summary of Final Determination

46. Hindsley made a prima facie case that his property's assessment should be reduced to $149,600. The Assessor failed to impeach or rebut Hindsley's evidence. The Board therefore finds for Hindsley and orders the subject property's assessment be reduced to $149,600.

The Final Determination of the above captioned matter is issued by the Indiana Board of Tax Review on the date first written above.

[5] O'Donnell offered a fourth method in which he trended the actual 1985 construction costs forward to January 1, 1999 values. The 1985 construction costs are too remote from both the assessment and valuation dates to be probative.

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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 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>.