

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

**Petition #:** 42-022-02-1-5-00004  
**Petitioners:** James E. & Sandra K. Maier  
**Respondent:** Vincennes Township Assessor (Knox County)  
**Parcel #:** 022-012-S048-000-028  
**Assessment Year:** 2002

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

**Procedural History**

1. The Petitioners initiated an assessment appeal with the Knox County Property Tax Assessment Board of Appeals (PTABOA) by written document dated November 21, 2003.
2. The PTABOA issued the notice of its decision on April 15, 2004.
3. The Petitioners filed an appeal to the Board by filing a Form 131 with the county assessor on April 30, 2004. Petitioners elected to have this case heard in small claims.
4. The Board issued a notice of hearing to the parties dated May 26, 2004.
5. The Board held an administrative hearing on August 17, 2004, before the duly appointed Administrative Law Judge Rick Barter.
6. Persons present and sworn in at the hearing:
  - a. For Petitioners: Sandra K. Maier, Taxpayer.  
James E. Maier, Taxpayer.
  - b. For Respondent: Rose Goodwin, Vincennes Township Assessor.

**Facts**

7. The property is classified as improved residential, as is shown on the property record card for parcel #022-012-S048-000-028.

8. The Administrative Law Judge did not conduct an inspection of the property.
9. Assessed Value of subject property as determined by the Knox County PTABOA:  
Land \$15,900 Improvements \$73,700 Total \$89,600
10. Assessed Value requested by Petitioners:  
Land \$15,000 Improvements \$60,000 Total \$75,000

### **Issues**

11. Summary of Petitioners' contentions in support of alleged error in assessment:
  - a. The property was appraised by a licensed fee appraiser who estimated the market value to be \$76,500 as of March 2002. *Maier testimony; Petitioners Exhibit 1.*
  - b. Subject was purchased in March 1990 for \$51,500 and has since had the following improvements: vinyl siding and windows (October 1999) at a cost of \$17,600 and a stone foundation and front porch railings in July 2002 at a cost of \$7,045. *Maier testimony; Petitioners Exhibits 5 & 10.*
  - c. A new roof, an upkeep item and not an improvement, was done in May 2003 at a cost of \$3,750. *Maier testimony; Petitioners Exhibit 3.*
  - d. The land is valued the same as Lakewood Development and should be lower. During times of heavy rains, there is standing water at the rear of the property. *Maier testimony.*
12. Summary of Respondent's contentions in support of the assessment:
  - a. Subject was appraised utilizing software approved by the state, the Version A – Real Property Assessment Guideline (Guideline) and directives from the Department of Local Government Finance. *Goodwin testimony.*
  - b. The assessed value as confirmed by the PTABOA during its Form 130 appeal hearing is correct. *Goodwin testimony.*

### **Record**

13. The official record for this matter is made up of the following:
  - a. The Petition, and all subsequent pre-hearing, and post-hearing submissions by either party.
  - b. The tape recording of the hearing labeled BTR #5839.
  - c. Exhibits:
    - Petitioners Exhibit 1: Fee appraisal dated March 26, 2002.
    - Petitioners Exhibit 2: Mortgage document for subject dated June 5, 2002.
    - Petitioners Exhibit 3: Receipt for new roof on subject dated May 9, 2003.
    - Petitioners Exhibit 4: Receipt for filing mortgage on subject in Knox County dated June 19, 2003.
    - Petitioners Exhibit 5: Work agreement/receipt for subject dated July 10, 2002.
    - Petitioners Exhibit 6: Work agreement/receipt for subject dated September 3, 1999.

Petitioners Exhibit 7: 2002 Form 11, Notice of Assessment, for subject dated November 19, 2003.

Petitioners Exhibit 8: Form 114 hearing notice for subject dated March 1, 2002.

Petitioners Exhibit 9: Form 115, Notification of Final Assessment Determination, for subject dated April 15, 2004.

Petitioners Exhibit 10: Form 131 appeal dated April 30, 2004.

Respondent Exhibits: None submitted.

- d. These Findings and Conclusions.

### Analysis

14. The most applicable governing statutes and cases are:
- a. The Board will not change the determination of the County Property Tax Assessment Board of Appeals (PTABOA) unless the Petitioner has established a prima facie case and, by a preponderance of the evidence, proven both the alleged errors in the assessment and specifically what assessment is correct. See *Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998); *North Park Cinemas, Inc. v. State Bd. of Tax Comm'rs*, 689 N.E.2d 765 (Ind. Tax Ct. 1997).
  - b. The Petitioner must sufficiently explain the connection between the evidence and Petitioner's assertions in order for it to be considered material to the facts. See generally, *Heart City Chrysler v. State Bd. of Tax Comm'rs*, 714 N.E.2d 329, 333 (Ind. Tax Ct. 1999).
  - c. The taxpayer can bring in any relevant evidence as long as it is "consistent with the definition of true tax value...true tax value may be said to be equivalent to market value in the residential context." *2002 Real Property Assessment Manual*, pages 2-3.
  - d. 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 East & West v. Washington Twp. Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003).
15. The Petitioners did provide sufficient evidence to support the Petitioners' contentions. This conclusion was arrived at because:
- a. Petitioners presented a fee appraisal of the subject property, performed by Patrick W. Lenahan for refinancing purposes, dated March 6, 2002. The appraisal concluded the real market value of the subject is \$76,500. *Petitioners Exhibit 1*.
  - b. A taxpayer appealing his assessment can bring in any relevant evidence as long as it is "consistent with the definition of true tax value." *2002 Real Property Assessment Manual at 2-3*. Value established by a valid fee appraisal is therefore considered an indicator of true tax value of the subject property.
  - c. In this appeal, Petitioners' fee appraisal constitutes a prima facie case that the correct assessment is \$76,500.

- d. Once Petitioners make a prima facie case, the burden shifts to the Respondent to rebut the evidence.
- e. Respondent testified that subject was assessed according to the state issued manual and DLGF guidelines using state-approved software and is therefore correct. *Goodwin testimony*
- f. The Respondent contended that the property was assessed according to the cost approach contained in the Guideline. The cost approach is a generally recognized method of valuing property. However, the cost approach to value contained in the Guideline is not the only acceptable means of determining a property's true tax value for the 2002 reassessment. (*Guideline, Introduction, page 2*) (Stating that both the comparable sales approach and the capitalized income approach may be used, if applicable).
- g. The Board must therefore evaluate all of the evidence presented to determine which methodology is better supported in this appeal.
- h. The Petitioners' appraisal utilized market data from the sales of comparable properties to determine value. After evaluating all of the evidence, the Board finds the Petitioners' methodology to be the more persuasive in this appeal.
- i. As such, Respondent failed to rebut the Petitioners' prima facie case that the correct total assessed value of the subject is \$76,500.

### **Conclusion**

16. The Petitioners made a prima facie case. The Respondent did not rebut the Petitioners' evidence. The Board finds in favor of the Petitioners.

### **Final Determination**

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the total assessment should be changed to \$76,500.

ISSUED: \_\_\_\_\_

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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. The action shall be taken to the Indiana Tax Court under Indiana Code § 4-21.5-5. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice.**