

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

**Petition Nos.:** 08-007-10-1-5-00004  
08-007-10-1-5-00005  
**Petitioner:** Jean A. Sales Estate  
**Respondent:** Carroll County Assessor  
**Parcel Nos.:** 08-06-20-007-021.000-007  
08-06-20-007-027.000-007  
**Assessment Year:** 2010

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

**Procedural History**

1. The Petitioner filed Form 130 Petitions for Review of Assessment with the Carroll County Property Tax Assessment Board of Appeals (PTABOA) on November 5, 2010.
2. The PTABOA issued notice of its determinations on April 25, 2011.
3. The Petitioner filed its Form 131 petitions with the Board on May 26, 2011. The Petitioner elected to have its appeals heard pursuant to the Board's small claims procedures.
4. The Board issued a notice of hearing to the parties dated January 12, 2012.
5. The Board held an administrative hearing on February 14, 2012, before the duly appointed Administrative Law Judge (the ALJ) Ellen Yuhan.
6. Persons present and sworn in at hearing:

For Petitioner: Jeffrey C. Rider, attorney,

For Respondent: Neda K. Duff, Carroll County Assessor,  
Brian Thomas, county's valuation witness.

## Facts

7. The subject properties are single-family dwellings located at 1202 East Main Street, Parcel No. 08-06-20-007-021.000-007 (Parcel 21), and 1146 East Main Street, Parcel No. 08-06-20-007-027.000-007 (Parcel 27), in Delphi, Indiana.
8. The ALJ did not conduct an on-site inspection of the properties.
9. For 2010, the PTABOA determined the assessed value of Parcel 21 to be \$11,500 for the land and \$17,800 for the improvements, for a total assessed value of \$29,300, and the assessed value of Parcel 27 to be \$11,900 for the land and \$18,300 for the improvements, for a total assessed value of \$30,200.
10. For 2010, the Petitioner requested a total assessed value of \$9,500 for Parcel 21 and \$10,500 for Parcel 27.

## Issues

11. Summary of the Petitioner's contentions in support of an error in its properties' assessments:
  - a. The Petitioner's counsel contends that the subject properties were over-valued for the 2010 assessment year based on their appraised values. *Rider testimony*. According to Mr. Rider, the appealed properties and several other properties were appraised as part of an estate proceeding. *Id.* The appraisals were prepared by Kyle Cross, an appraiser trainee, under the supervision of Jack Cross, a certified general appraiser, who attested the appraisals were prepared in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP). *Petitioner Exhibit 1*. The appraisers estimated the value of Parcel 21 to be \$9,500 and Parcel 27 to be \$10,500 as of December 25, 2010. *Id.*
  - b. The Petitioner's counsel contends that all of the properties included in the estate were modest properties that were not in good repair. *Rider testimony*. According to Mr. Rider, the subject properties appear to be in better condition on the outside than they are on the inside. *Id.* Mr. Rider contends that the wiring and flooring in the subject properties are dubious and the properties will require a large investment to make them rentable. *Id.*
  - c. The Petitioner's counsel testified that a similar property included in the Petitioner's estate is a good indication of the properties' value. *Rider testimony*. According to Mr. Rider, the property at 122 East Summit appraised for \$11,500. *Id.*; *Petitioner Exhibit 2*. The estate received a bid of \$13,000 for the property, but the buyer retracted the offer because he felt that the property needed more work than was

feasible. *Rider testimony*. Mr. Rider testified that the property ultimately sold for \$6,600 after being listed with a realtor for several months. *Id.*

- d. The Petitioner's counsel contends that each of the other properties included in the estate were either rented or used as storage facilities by the decedent. *Rider testimony*. All of the properties, with the exception of the two subject properties and one other property on the canal, were offered at public auction. *Id.* The auction resulted in the sale of all but one property. *Id.* In each case, the auction results were less than the appraised values, indicating that the appraisals may have over-valued the properties. *Id.*
- e. Mr. Rider concludes that the properties' appraisals and the auction process are the best indicators of fair market value and support a reassessment for each property consistent with its appraised value. *Rider argument*.

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

- a. Mr. Thomas argues that the subject properties' assessments for 2010 are correct. *Thomas testimony*. Mr. Thomas admitted that the properties were in poor condition, but he argues the PTABOA made adjustments to the properties' assessments based on their condition. *Thomas testimony*. According to Mr. Thomas, the corrected assessments are as close to salvage value as the assessments could be. *Id.*
- b. Further, the Respondent's witness contends that the Petitioner's appraisals should be given little weight. *Thomas testimony*. According to Mr. Thomas, the Petitioner's appraisers used sales of repossessed properties in the properties' appraisals. *Id.* Mr. Thomas testified that the PTABOA felt that the appraisals were lower than what was reasonable for houses that were appealing from the outside. *Id.*

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

- a. The Form 131 petitions,
- b. A digital recording of the hearing labeled Jean A. Sales Estate,
- c. Exhibits:

For petition 08-007-10-1-5-00004 (Parcel 21):  
Petitioner Exhibit 1 – Appraisal of 1202 E. Main Street,

For petition 08-007-10-1-5-00005 (Parcel 27):  
Petitioner Exhibit 1 – Appraisal of 1146 E. Main Street,

For both parcels:  
Petitioner Exhibit 2 – Appraisal of 122 E. Summit Street,

Board Exhibit A – Form 131 petitions,  
Board Exhibit B – Notice of hearing dated January 12, 2012,  
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 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 case. *Id.; Meridian Towers*, 805 N.E.2d at 479.
15. The Petitioner established a prima facie case that the subject properties' assessments should be reduced for the 2010 assessment year. The Board reached this conclusion 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 have traditionally 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. In 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); *PA Builders & Developers, LLC*, 842 N.E.2d 899 (Ind. Tax Ct. 2006). 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 property or comparable properties, and any other information compiled according to generally accepted appraisal principles. MANUAL at 5.
- c. Regardless of the method used to rebut an assessment's presumed 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. 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 the 2010 assessment, the valuation date was March 1, 2010. Ind. Code § 6-1.1-4-4.5(f); 50 IAC 27-5-2(c).
- d. Here, the Petitioner contends that its properties are over-valued based on their appraised values. *Rider argument*. According to Mr. Rider, the properties appraised for \$9,500 and \$10,500 respectively. *Petitioner Exhibit 1*. The appraisers certified that the appraisals were prepared in accordance with USPAP. *Id.* While the appraisals value the subject properties as of December 25, 2010, 50 IAC 27-3-2 states, "...county assessors shall use sales of properties occurring after January 1 of the calendar year immediately preceding the March 1 assessment date in performing value calibration analysis and sales ratio studies under this article for the county. For example, sales beginning on January 1, 2009, shall be used for the March 1, 2010, assessment." An appraisal performed in conformance with generally recognized appraisal principles is often enough to establish a prima facie case that a property's assessment is over-valued. *See Meridian Towers*, 805 N.E.2d at 479. Because the appraisers used 2009 sales in their sales comparison analysis, the Board finds that the appraisals are sufficiently related to the proper valuation date to have probative value. Therefore the Board finds that the Petitioner raised a prima facie case that its properties were over-valued for the 2010 assessment year.
- e. Once the Petitioner raises a prima facie case that its property was over-valued, the burden shifts to the assessing official to rebut the Petitioner's evidence. *See American United Life Insurance Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). To rebut or impeach the Petitioner's case, the Respondent has the same burden to present probative evidence that the Petitioner faced to raise its prima facie case. *Fidelity Federal Savings & Loan v. Jennings County Assessor*, 836 N.E.2d 1075, 1082 (Ind. Tax Ct. 2005).
- f. Here, the Respondent's witness testified that while the properties were in poor condition, the PTABOA believed that the properties' appraised values were unreasonable. *Thomas testimony*. According to Mr. Thomas the appraisers used sales of repossessed properties in their valuation opinion. *Id.* The Respondent, however, failed to offer evidence to support his contention that any of the Petitioner's appraiser's comparable sales were foreclosure sales. Statements that are unsupported by probative evidence are conclusory and of no value to the Board in making its

determination. *Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1118 (Ind. Tax Ct. 1998); and *Herb v. State Bd. of Tax Comm'rs*, 656 N.E.2d 890, 893 (Ind. Tax Ct. 1995). Moreover, even if some of the comparable sales in the appraisals were foreclosure sales, the Board notes that it is well within an appraiser's expertise to choose the sales he or she deems most comparable to the subject property and apply adjustments to those comparable properties to value the differences between them. Absent evidence to the contrary, the comparable properties chosen by the appraiser or the adjustments made by the appraiser in a USPAP-compliant appraisal will be deemed reasonable. The Respondent's arguments, therefore, fail to rebut or impeach the Petitioner's evidence that the properties were over-valued for the 2010 assessment date.

### **Conclusion**

16. The Petitioner established a prima facie case that its properties' assessments were incorrect. The Respondent failed to rebut the Petitioner's case with substantial evidence. The Board therefore finds in favor of the Petitioner.

### **Final Determination**

In accordance with the above findings of fact and conclusions of law, the Indiana Board of Tax Review determines that the assessed values of the subject properties should be reduced to \$9,500 for Parcel 21 and \$10,500 for Parcel 27.

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 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>>.