

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

**Petition #:** 82-029-02-1-5-00577  
**Petitioner:** John Kolb  
**Respondent:** Pigeon Township Assessor (Vanderburgh County)  
**Parcel #:** 1143026042012  
**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 Petitioner initiated an assessment appeal with the Vanderburgh County Property Tax Assessment Board of Appeals (PTABOA) by written document dated June 6, 2003.
2. The PTABOA’s Notification of Final Assessment Determination (Form 115) was mailed to the Petitioner on November 21, 2003.
3. The Petitioner filed an appeal to the Board by filing a Form 131 with the county assessor on December 22, 2003. The Petitioner elected to have this case heard in small claims.
4. The Board issued a notice of hearing to the parties dated January 22, 2004.
5. The Board held an administrative hearing on March 15, 2004, before the duly appointed Administrative Law Judge (ALJ) Debra Eads.
6. Persons present and sworn in at the hearing:
  - a) For Petitioner: John Kolb, property owner  
Mike Boatman, property owner’s relative
  - b) For Respondent: Paul Hatfield, Pigeon Township Assessor  
Judy Stricker, Pigeon Township Deputy Assessor  
Candy Wells, Vanderburgh County Hearing Officer

## Facts

7. The property is classified as residential, as is shown on the property record card (PRC) for Parcel # 1143026042012.
8. The ALJ did not conduct an inspection of the property.
9. Assessed Value of subject property as determined by the Vanderburgh County PTABOA:  
Land: \$2,800    Improvements: \$52,100
10. Assessed Value requested by Petitioner:  
Land: \$2,800    Improvements: between \$19,700 and \$33,000

## Issues

11. Summary of Petitioner's contentions in support of alleged error in assessment:
  - a) The Petitioner owned property at 713 W. Illinois Street. The Evansville Department of Metropolitan Development (DMD) had a desire to purchase this property in order to construct baseball fields for the Boys Club. The Petitioner testified that DMD had two (2) appraisals done on the property, one (1) for \$20,000 and the other for \$27,000. The Petitioner stated that he felt that both of the appraisals were too low. The Petitioner informed the DMD that they could obtain ownership of the 713 W. Illinois property if a house of "equal value" was purchased for the Petitioner. DMD sent the Petitioner a list of fourteen (14) houses for the Petitioner to review. The Petitioner agreed to accept 211-213 W. Michigan Street (subject of this appeal) as the property. DMD bought this property for \$54,900, and gave it to the Petitioner. The Petitioner does not live at the subject property. *Kolb testimony & Respondent Exhibits 33 – 36.*
  - b) The Petitioner opined the \$54,900 paid for the subject property represented an overpayment by DMD. DMD paid the \$54,900 for the property at 211-213 W. Michigan Street, so that DMD could obtain the property at 713 W. Illinois. DMD paid the Petitioner \$ 23,500 for the property at 713 W. Illinois Street plus an additional \$31,400 for relocation costs. The Petitioner asserted that DMD did not obtain an appraisal of the subject property and the amount paid by DMD was not market value. *Kolb & Boatman testimonies and Respondent Exhibit 3.*
  - c) An appraisal of the subject property was done on December 12, 2003, estimating the value of the property under appeal as of January 1, 1999, to be \$33,000. *Petitioner Exhibit G.* A market analysis indicating a value between \$13,000 and \$19,500 for the subject property was also submitted. The Petitioner contended that both documents showed that the assessed value of the subject property was too high and the value should be what a property sold for. *Kolb and Boatmen testimony & Petitioner Exhibit H.*
  - d) The subject property cannot be sold for more than \$18,000 due to lead contamination of the ground. *Kolb testimony & Petitioner Exhibit M.*

John Kolb (82-029-02-1-5-00577)

Findings & Conclusions

Page 2 of 7

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

- a) The executed sales disclosure form for the June 1999 purchase of the subject property indicates a selling price of \$54,900 and shows the buyer to be the Petitioner and not the DMD. The sales disclosure form dated June 16, 1999, has Mr. Kolb's signature on it. *Hatfield testimony & Respondent Exhibit 3.*
- b) Records from the DMD showed the subject property was marketed as "for sale by owner" with a listing price of \$54,900. *Wells testimony.*
- c) The Petitioner did not submit any evidence from the time period that the property was acquired by the Petitioner that disputed the value of the subject property. *Wells testimony.*
- d) Mr. Kolb received \$23,500 (based on the appraisals) for the property at 713 W. Illinois Street plus \$31,400 in relocation benefits. The City paid for title work and closing costs. After the taxes and two (2) mortgages were paid, Mr. Kolb received \$12,499.18. *Wells testimony.*
- e) The Respondent identified several flaws in the 1999 appraisal of the subject property as to the comparable properties used and adjustments made. These flaws include: (1) the first purported comparable property was part of a multi-parcel sale that did not separate that part of the purchase price attributable to each of the pieces that made up the total purchase price, but only divided the total purchase price by four (4) to arrive at \$25,000; (2) the sales disclosure form for the second purported comparable property indicates a sale price of \$53,900 rather than the \$40,000 sale price indicated on the appraisal; (3) the alleged sale price of \$28,500 for the third purported comparable property could not be verified by the Township officials, but sale prices of \$40,670 in 1999 and \$57,000 in 2001 for the same property were verified; and (4) adjustments made by the appraiser are excessive and are not explained within the appraisal. *Hatfield testimony; Respondent Exhibits 17, 20, 23 and 24; Petitioner Exhibit G.*
- f) The "sellers" of the three (3) properties used in the market analysis were financial institutions and these transfers were not considered arm's-length transactions by the Indiana Department of Local Government Finance. In addition, this analysis is not an appraisal of the subject property. *Hatfield testimony & Petitioner Exhibit H.*

**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 #5902.
- c) Exhibits:
  - Petitioner Exhibit A: Photograph of the subject property.
  - Petitioner Exhibit B: Minutes of the November 7, 2003, PTABOA meeting.

Petitioner Exhibit C: Minutes of the November 21, 2003, PTABOA meeting.

Petitioner Exhibit D: Memorandum from the County Hearing Officer to the PTABOA regarding parcel 0930013066005.

Petitioner Exhibit E: Memorandum from the County Hearing Officer to the PTABOA regarding parcel 0313003248006.

Petitioner Exhibit F: 1996 sales disclosure form for the subject property.

Petitioner Exhibit G: 2003 appraisal for the subject property.

Petitioner Exhibit H: Undated market analysis for the subject property.

Petitioner Exhibit I: 2003 sales disclosure form and photograph of the property at 418 E. Franklin Street.

Petitioner Exhibit J: Photograph of the property at 121 E. Delaware Street.

Petitioner Exhibit K: 2003 sales disclosure form and photograph of the property at 109 W. Indiana Street.

Petitioner Exhibit L: Memorandum detailing the Petitioner's contentions.

Petitioner Exhibit M: Undated newspaper article concerning an Environmental Protection Agency study regarding the subject neighborhood.

Respondent Exhibit 1: Copy of certified letter accompanying township evidence to the Petitioner.

Respondent Exhibit 2: Copy of the PRC for the subject property.

Respondent Exhibit 3: Copy of 1999 sales disclosure form for the subject property.

Respondent Exhibit 4 - 8: Photographs of the exterior of the subject property.

Respondent Exhibit 9: Interior photographs of the subject property.

Respondent Exhibit 10: Copy of the PRC for 743-745 Delaware Street.

Respondent Exhibit 11: Photograph of the property at 743-745 Delaware Street.

Respondent Exhibit 12: Copy of the PRC for 1107-1109 W. Indiana Street.

Respondent Exhibit 13: Photograph of the property at 1107-1109 W. Indiana Street.

Respondent Exhibit 14: Copy of the PRC for 713 W. Illinois Street.

Respondent Exhibit 15: Photograph of the property at 713 W. Illinois Street prior to demolition.

Respondent Exhibit 16: Photograph of the property at 208 E. Columbia Street.

Respondent Exhibit 17: Copy of sales disclosure form for 208 E. Columbia Street.

Respondent Exhibit 18: Copy of the PRC for 208 E. Columbia Street.

Respondent Exhibit 19: Photograph of the property at 501-503 E. Virginia Street.

Respondent Exhibit 20: Copy of sales disclosure form for 501-503 E. Virginia Street.

Respondent Exhibit 21: Copy of the PRC for 501-503 E. Virginia Street.  
Respondent Exhibit 22: Photograph of the property at 907-909 Oakley Street.  
Respondent Exhibit 23: Copy of 2001 sales disclosure form for 907-909 Oakley Street.  
Respondent Exhibit 24: Copy of 1999 sales disclosure form for 907-909 Oakley Street.  
Respondent Exhibit 25: Copy of the PRC for 907-909 Oakley Street.  
Respondent Exhibit 26: Photograph of the property at 418 E. Franklin Street.  
Respondent Exhibit 27: Copy of the PRC for 418 E. Franklin Street.  
Respondent Exhibit 28: Photograph of the property at 121 E. Delaware Street.  
Respondent Exhibit 29: Copy of the PRC for 121 E. Delaware Street.  
Respondent Exhibit 30: Photograph of the property at 109 W. Indiana Street.  
Respondent Exhibit 31: Copy of the PRC for 109 W. Indiana Street.  
Respondent Exhibit 32: Copy of the PRC of the subject property.  
Respondent Exhibit 33: Copy of the PRC for 24 W. Maryland Street.  
Respondent Exhibit 34: Photograph of the property at 24 W. Maryland Street.  
Respondent Exhibit 35: Copy of the PRC for 207 W. Missouri Street.  
Respondent Exhibit 36: Photograph of the property at 207 W. Missouri Street.  
Respondent Exhibit 37: Cover memorandum and attached minutes of the PTABOA meeting of November 21, 2003.

Board Exhibit A – Form 131.

Board Exhibit B – Notice of Hearing on Petition.

Board Exhibit C – Notice of County Assessor's Appearance.

d) These Findings and Conclusions.

### **Analysis**

14. The most applicable governing cases are:

- a. *Heart City Chrysler v. State Board of Tax Commissioners*, 714 N.E. 2d 329 (Ind. Tax 1999). The Petitioner must sufficiently explain the connection between the evidence and Petitioner's assertion in order for it to be considered material to the facts.
- b. *Clark v. State Board of Tax Commissioners*, 694 N.E. 2d 1230 (Ind. Tax Ct. 1998); *North Park Cinemas, Inc. v. State Board of Tax Commissioners*, 689 N.E. 2d 765 (Ind. Tax Ct. 1997). 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

John Kolb (82-029-02-1-5-00577)

Findings & Conclusions

Page 5 of 7

evidence proven, both the alleged errors in the assessment, and specifically what assessment is correct.

15. The Petitioner did not provide sufficient evidence to support the Petitioner's contentions. This conclusion was arrived at because:

- a) The sales disclosure form for the 1999 sale of the subject property clearly indicates the purchaser of the property to be the Petitioner, contradicting the Petitioner's testimony (*Kolb testimony*) that it was the DMD who was the purchaser. *Hatfield testimony & Respondent Exhibit 3*.
- b) There were inconsistencies in the appraisal of the subject property (*Petitioner Exhibit G*) identified by the Respondent (*Hatfield testimony*) that diminish the credibility of the Petitioner's proposed value. These inconsistencies are as follows: (1) the first purported comparable property was part of a multi-parcel sale that did not separate that part of the purchase price attributable to each of the pieces that made up the total purchase price, but only divided the total purchase price by four (4) to arrive at \$25,000; (2) the sales disclosure form for the second purported comparable property indicates a sale price of \$53,900 rather than the \$40,000 sale price indicated on the appraisal; (3) the sale price of \$28,500 for the third purported comparable property could not be verified by the Township officials, but sale prices of \$40,670 in 1999 and \$57,000 in 2001 for the same property were verified; and (4) adjustments made by the appraiser are excessive and are not explained within the appraisal. *Respondent Exhibits 17, 20, 23 and 24 & Petitioner Exhibit G*.
- c) The purported comparable properties used in the market analysis (*Petitioner Exhibit H*), in which a financial institution was the seller, cannot reasonably be assumed to represent a value for the property on the open market. The Petitioner presented no evidence that the purchase of property from a financial institution, whose business is not the selling or buying of homes, represented an arm's-length transaction that involved market conditions.
- d) The Petitioner's appraisal concludes the property's value is \$33,000 (*Petitioner Exhibit G*). However, the Petitioner's market analysis concludes the property's probable sale price of the property is \$18,500 (*Petitioner Exhibit H*). The disparity between the values indicated in the appraisal and the market analysis are not reconciled in the Petitioner's evidence. The Petitioner has therefore failed to establish that either proposed value is correct.
- e) The Respondent presented evidence that the subject property was marketed as "for sale by owner" with a listing price of \$54,900, the ultimate selling price of the property. The actual sale price of the property is deemed to be the best evidence of market value.

### **Conclusions**

16. The Petitioner failed to make a prima facie case for the reasons stated above. 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 assessment should not be changed.

ISSUED: June 7, 2004

---

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.**