

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

**Petition #:** 41-038-02-1-5-00135  
**Petitioner:** John and Ellen Griffin  
**Respondent:** White River Township Assessor (Johnson County)  
**Parcel** 1413111808200  
**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 Johnson County Property Tax Assessment Board of Appeals (PTABOA) by written document dated June 5, 2003.
2. The PTABOA’s Notification of Final Assessment Determination was mailed to the Petitioner on October 24, 2003.
3. The Petitioners filed an appeal to the Board by filing a Form 131 with the county assessor on October 30, 2003. Petitioner elected to have this case heard in small claims.
4. The Board issued a notice of hearing notice to the parties dated December 15, 2003.
5. The Board held an administrative hearing on January 29, 2004 before the duly appointed Administrative Law Judge (ALJ) Jennifer Bippus.
6. Persons present and sworn in at hearing:
  - a. For Petitioner:  
John Griffin, Taxpayer
  - b. For Respondent:  
Mark Alexander, Township and PTABOA Representative

## Facts

7. The property is classified as residential with a dwelling as is shown on the property record card (PRC) for parcel #1413 11 18 082/00.
8. The ALJ did not conduct an inspection of the property.
9. Assessed Values of subject property as determined by the Johnson County PTABOA are: Land \$61,900 Improvements \$521,500.
10. Assessed Values requested by Petitioner on the Form 131 are:  
Land \$61,900 Improvements: \$497,500.

## Contentions

11. Summary of Petitioner's contentions in support of alleged error in assessment:
  - a. The total purchase price for the dwelling and land in 1999 was \$553,192: \$480,292 for the dwelling and \$72,900 for the lot. *Griffin testimony & Petitioner Exhibit 1, page 9.*
  - b. The current assessed value is 5% greater than the 1999 purchase price for the subject property. *Griffin testimony and Petitioner Exhibit 1, page 2.*
  - c. An assessment card change in "Market Adjustment" from 108% to 103% is a reasonable corrective measure for this property.
  - d. Various calculations and methodologies submitted show that the assessed value exceeds the purchase price and thus support a change in the assessed value. One such calculation determines a 2% Consumer Price Index which is then applied as a deflation factor to determine values. *Petitioner Exhibit 1, pages 2 – 8.*
  - e. Since *market value* is not specifically stated in the statute to measure property wealth – then it is left to interpretation. Therefore, the measure of property wealth expended upon the subject property is: Improvements - \$480,292 and Land - \$72,900. That is where the property should be assessed. *Griffin testimony.*
12. Summary of Respondent's contentions in support of the assessment are:
  - a. PTABOA made sure that they were in compliance with the land order. *Alexander testimony.*
  - b. The 108% market adjustment was checked and compared to other properties in the neighborhood that sold and determined to be the correct neighborhood factor to be applied. *Alexander testimony & Respondent Exhibit 1.*
  - c. The 108% market adjustment used by the County was applied uniformly to the subject area. *Alexander testimony.*

- d. When the sales ratio analysis was conducted to determine the neighborhood factor the subject was one of the sales in the target period (1998 & 1999) and was considered. *Alexander testimony.*
- e. Assessors determined not to use just the purchase prices during the target period and the PTABOA sustained the assessor's decision. *Alexander testimony.*
- f. If the "powers to be" (legislators, the Department of Local Government Finance (DLGF) and the Courts) wanted sales prices to be used they should have made instructions to do so. No language in the statute says to use sales prices in 1998 and 1999 as the correct value. *Alexander testimony.*
- g. Guidelines were given to the assessors for consistency but there was no statutory requirement to use sale prices. *Alexander testimony.*

### **Record**

- 13. The official record for this matter is made up of the following:
  - a. The Petition, and all subsequent pre-hearing, or post-hearing submissions by either party.
  - b. The tape recording of the hearing labeled BTR # 5852.
  - c. Exhibits:
    - Petitioner Exhibit 1 – Consisting of the following:
      - 1. A letter dated January 16, 2004, to the Johnson County Assessor, Summary of Hearing Objections, and calculations determining a Fair Solution
      - 2. Purchase Price vs. Assessment calculations
      - 3. Calculations using the U.S. Department of Labor Consumer Price Index to determine an average inflation rate from 1999 to 2003
      - 4. State Farm Insurance replacement calculations
      - 5. Calculations using the MLS listings for 2003 to determine a price per square foot
      - 5b. MLS listing of homes used in the calculations in Item 5
      - 6. Calculations using the price per square foot determined in Item 5 and the average inflation rate
      - 7. Assessment Card Proposal
      - 8. Calculations to a Fair Solution
      - 9. Copy of the purchase agreement for construction of the dwelling (does not include lot cost)
      - 10. Copy of the lot price
      - 11. Copy of Dwelling Replacement Cost Estimate

Respondent Exhibit 1 – Copy of subject's PRC

Respondent Exhibit 2 – Authorization to Represent

- Board Exhibit A – Form 131  
Board Exhibit B – Notice of Hearing On Petition  
d. These Findings and Conclusions.

### **Analysis**

14. The most applicable governing statutes/rules/case law are:

50 IAC 2.3 Real Property Assessment Manual – Definitions, page 12  
“True Tax Value” is 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, less that portion of use value representing subsistence housing for its owner.

50 IAC 2.3 Real Property Assessment Manual – Definitions, page 9 –  
“Assessment Ratio Study”  
An investigation intended to determine the **assessment ratio** and **assessment equity**.

50 IAC 2.3 Real Property Assessment Manual – Definitions, page 9 –  
“Assessment Ratio”  
(1)The fractional relationship an **assessed value** bears to the **market value** of the property in question. (2) By extension, the fractional relationship the total of the assessment roll bears to the total market value of all taxable property in a jurisdiction.

50 IAC 2.3 Real Property Assessment Manual – Definitions, page 9 –  
“Assessment Equity”  
The degree to which assessments bear a consistent relationship to **market value**.

50 IAC 2.3 Real Property Assessment Manual - Assessment Ratio Study, page 24  
A ratio study is a measure of the performance of a mass appraisal method. It compares the assessing official’s estimate of value with objectively verifiable data. The objectively verifiable data used in the comparison comes from selling prices and single-property appraisals prepared independent of the assessment process. Sales based ratios are preferred because they are less expensive and are more objective than independent single–property appraisals.

50 IAC 2.3 Real Property Assessment Manual – Definitions, page 9 –  
“Equalization”

The process by which an appropriate governmental body attempts to ensure that all property under its jurisdiction is appraised at the same ratio or as required by law.

50 IAC 2.3 Real Property Assessment Manual – Equalization, page 25  
(states in part)

Standards for evaluating the accuracy and uniformity of mass appraisal methods. These standards state the overall level of assessment, as determined by the median assessment ratio, should be within ten percent (10%) of the legal level. In Indiana, this means the median assessment ratio within a jurisdiction should fall between .90 (90%) and 1.10 (110%) in order to be considered accurate.

50 IAC 2.3 Real Property Assessment Guideline - Appendix B, page 8  
“Neighborhood Factor”

The assessing official must determine a neighborhood factor for the neighborhood in which the subject property is located. A neighborhood is defined as a geographical area exhibiting a high degree of homogeneity in residential amenities, land use, economic and social trends, and housing characteristics.

The neighborhood factor accounts for the impact on value caused by physical characteristics in the neighborhood such as the type and layout of streets, availability of support services, and utilities. It also takes into account the economic characteristics such as demand for property and mortgage interest rates; governmental characteristics such as police protection, fire protection, and zoning; and social characteristics such as crime rates, owner-occupied ratios, and family size.

Neighborhood factors are assigned to each neighborhood based upon an analysis of residential properties that have sold within the neighborhood.

50 IAC 2.3 Real Property Assessment Manual – Definitions, page 10 -  
“Market Value”

The most probable price (in terms of money) which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

- a. The buyer and seller are typically motivated;
- b. Both parties are well informed or advised and act in what they consider their best interests;

- c. A reasonable time is allowed for exposure in the open market;
- d. Payment is made in terms of cash or in terms of financial arrangements comparable thereto;
- e. The price is unaffected by special financing or concessions.

*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.

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

15. The Petitioner did provide sufficient evidence to support Petitioner's contentions. This conclusion was arrived at because:
- a. The Petitioner submitted a Fixed Cost Agreement (*Petitioner Exhibit 1, page 9*) between the contractor and the purchaser (Petitioners) and testified that the two (2) parties agreed to a purchase price for the subject home of \$480,292. This did not include the cost for the lot. *Griffin testimony*. The Respondent did not argue that the Petitioner's purchase agreement did not reflect the monies spent to construct the subject structure. The Respondent stated that if "the powers to be" (legislators, DLGF, and the Courts) wanted sales prices to be used they should have instructed the assessors to do so. *Alexander testimony*. The Respondent opined that there is no language in the statute that says to use sales prices in 1998 and 1999 as the correct indicator of value. *Alexander testimony*.

However, 50 IAC 2.3 defines "market value" in the following manner: The most probable price (in terms of money) which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

- a. The buyer and seller are typically motivated;
- b. Both parties are well informed or advised and act in what they consider their best interests;

- c. A reasonable time is allowed for exposure in the open market;
  - d. Payment is made in terms of cash or in terms of financial arrangements comparable thereto;
  - e. The price is unaffected by special financing or concessions.
- b. The Petitioner submitted a Replacement Cost Estimate (*Petitioner Exhibit 1, page 11*) from State Farm Insurance for \$482,200. Though the insured value does not establish the market value of the subject structure it does lend support to the Petitioner's claim regarding his purchase price. There would be no reason for an insurance company to insure a structure for a value more than what would be required to replace that structure. The Respondent did not refute the evidence.
- c. The Petitioner submitted a price list (*Petitioner Exhibit 1, page 10*) for the lots in Highland Park II. This is the subdivision that the subject property is located in. The price for the subject lot is listed as \$72,900. This is the amount that the Petitioner testified that he paid in 1999. *Griffin testimony*. The Respondent did not dispute this amount. The assessed value of the subject lot as shown on the PRC is \$61,920 (*Respondent Exhibit 1*).
- d. The Petitioner calculated an annual inflation rate of two percent (2%) as a deflation factor. The Petitioner determined this rate by using the U.S. Department of Labor, Bureau of Labor Statistics – Consumer Price Index (*Petitioner Exhibit 1, page 12*) for the years 1999 through 2003. The Petitioner used the 2% per annum to trend the local market sales and listings of properties back to the January 1, 1999 valuation date. *See Petitioner's Exhibit 1, pages 3, 4, and 6*. The 2% inflation rate employed by the Petitioner in these calculations is a measure of the average change in prices over time in the Midwest urban area for a market basket of consumer goods and services and is not necessarily indicative of local real estate market conditions. Real property values are influenced by local economic conditions, environmental factors, governmental and social factors; neighborhood trends vary widely from location to location. It should be noted that trends affecting a neighborhood could produce an immediate impact on the value of a property however; national trends may not affect local values for some time after. The Petitioner does not make a sufficient connection between the determined 2% factor and those influences on the subject property to be considered probative.

The Respondent questioned the Petitioner as to whether any research was done to tie the Consumer Price Index to the subject property's location in White River Township (Johnson County). The Petitioner

stated that this might be answered in his analysis of properties in Highland Park (subject property's subdivision). A review of the Petitioner's analysis (*Petitioner Exhibit 1, pages 5 and 6*) did not answer the Respondent's question of how the 2% determined by the Petitioner from the Consumer Price Index, could be tied to or was relevant to, properties in White River Township. The Petitioner merely determines an average price per square foot for seven (7) properties in the subdivision and then applies the 2% to that average price, trending the value back to 1999.

- e. The Petitioner was able to sufficiently explain the connection between his evidence and his assertion that the assessment of the subject property was excessive. In addition, the Petitioner was able to make a prima facie case as to both an alleged error in the assessment and what the assessment should be.

### **Conclusion**

16. The Petitioner made a prima facie case. The Board finds in favor of the Petitioner. The Board finds that the assessment of the subject property should be: Land \$72,900, Improvements \$480,292 based on the testimony and evidence submitted by the Petitioner.

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should be changed.

ISSUED: May 27, 2004

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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.**