

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

**Petition #:** 84-002-02-1-4-00380  
**Petitioners:** Kathryn Hobbs and Lisa Kaufman  
**Respondent:** Harrison Township Assessor (Vigo County)  
**Parcel #:** 118-06-28-278-005  
**Assessment Year:** 2002

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

**Procedural History**

1. The Petitioners initiated an assessment appeal with the Vigo County Property Tax Assessment Board of Appeals (PTABOA) by written document signed October 23, 2003.
2. The Petitioners received notice of the decision of the PTABOA on August 30, 2004.
3. The Petitioners filed an appeal to the Board by filing a Form 131 with the county assessor on September 14, 2004. The Petitioners elected to have this case heard as a small claim.
4. The Board issued a notice of hearing to the parties dated October 6, 2004.
5. The Board's duly appointed Administrative Law Judge, Rick Barter, held an administrative hearing on December 2, 2004.
6. The persons present and sworn as witnesses at the hearing were:  
Kathryn Hobbs, Petitioner,  
Linc Hobbs, Petitioner's husband,  
Larry Auler, Harrison Township Assessor,  
Richetta Hale, Harrison Township Assessor Chief Deputy,  
Deborah Lewis, Vigo County Assessor, and  
Ann Akers, Vigo County PTABOA member.

**Facts**

7. The property is classified as a commercial office building.
8. The Administrative Law Judge did not conduct an inspection of the property.

9. Assessed value of subject property as determined by the PTABOA:  
Land \$27,800            Improvements \$178,700            Total \$206,500.

10. Assessed value requested by the Petitioners:  
Land \$27,800            Improvements \$152,112            Total \$179,912.

### **Issue**

11. Summary of Petitioners' contentions in support of alleged error in assessment:

- a) Petitioners presented a copy of a "Settlement Statement" prepared in conjunction with the purchase of their equal partner's share of the property in October 2003. This documentation of the transaction demonstrates the total market value of the subject property at that time was \$188,000. *Linc Hobbs testimony; Petitioners Exhibits 1, 3.*
- b) The subject improvements cost \$152,112 to build in 1999. *Linc Hobbs testimony.* In support of this testimony, the Petitioners presented the following documents: (1) a page titled "Construction Inspection Report Job #H/K-99" that shows, among other figures, a "Grand Total With Add-Ons" amount of \$152,111.76; (2) a page titled "Change Order" from Zimmerly Development, Inc. (Zimmerly), dated May 23, 1999, and showing a total cost of \$152,111.76 (after change order deductions totaling \$1,510.25); and (3) a similar page from Zimmerly titled "Change Order Deductions," itemizing a list of five changes totaling \$1,510.25. *Petitioners Exhibit 4.*
- c) These documents show the cost to construct the subject improvements in 1999. They provide the best evidence of the market value of the subject property for a time very near to the valuation date of January 1, 1999. *Linc Hobbs testimony.*

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

- a) An incorrect actual age may have been used when calculating the value of the paving. *Hale testimony; Lewis testimony.*
- b) The paved area had previously served as a parking lot for a medical facility. This parking lot consisted of broken blacktop pavement that had disintegrated prior to construction of the subject improvements in 1999. Petitioners' building contractor merely used an asphalt overlay on the gravel-like surface of the parking area, which resulted in a relatively low cost for the driveway and asphalt on the Petitioners' statement of construction costs. *Auler testimony.*
- c) The Respondent also introduced a copy of a photograph of the property under appeal. *Respondent Exhibit 1.*

## Record

13. The official record for this matter is made up of the following:
- a) The Petition,
  - b) The tape recording of the hearing labeled IBTR 6062,
  - c) Petitioners Exhibit 1 – Form 131,  
Petitioners Exhibit 2 – Form 115 Final Assessment Determination,  
Petitioners Exhibit 3 – Purchase Settlement Statement dated November 8, 2000,  
Petitioners Exhibit 4 – 1999 Construction Costs,  
Respondent Exhibit 1 – Photograph of the subject property,  
Board Exhibit A – Form 131,  
Board Exhibit B – Notice of Hearing,
  - 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 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).
  - 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 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”).
  - 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 evidence. *Id.*; *Meridian Towers*, 805 N.E.2d at 479.
15. The Petitioners provided sufficient evidence to support their contentions. This conclusion was arrived at because:
- a) The improvements are currently assessed at \$178,700. The Petitioners contended the total assessed value of the improvements should be approximately \$152,100.

## Market Value

- b) The Petitioners presented evidence that in October 2003 the market value of the property was \$188,000, a figure that was used for an agreed partnership buyout. (Linc Hobbs explained that they presented this 2003 evidence of market value before they discovered that the proper valuation date was January 1, 1999.)
- c) Indiana's assessment regulations provide that for the 2002 general reassessment, a property's assessment must reflect its value as of January 1, 1999. 2002 REAL PROPERTY ASSESSMENT MANUAL at 4 (incorporated by reference at 50 IAC 2.3-1-2). Consequently, a party relying on a sale price to establish the market value-in-use of a property must provide some explanation as to how this value demonstrates, or is relevant to, the property's value as of January 1, 1999. *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466 (Ind. Tax Ct. 2005).
- d) The Petitioners did not demonstrate the manner in which the 2003 purchase price relates to the valuation date of January 1, 1999. Accordingly, this evidence is of no probative value.

## Cost

- e) The Petitioners also testified that the construction costs of the subject improvements, built in 1999, were \$152,112. In support of this testimony, the Petitioners presented the following documents: (1) a page titled "Construction Inspection Report Job #H/K-99" that shows, in relevant part, a "Grand Total With Add-Ons" amount of \$152,111.76; (2) a page titled "Change Order" from Zimmerly, dated May 23, 1999, and showing a total cost of \$152,111.76 (after change order deductions totaling \$1,510.25); and (3) a similar page from Zimmerly titled "Change Order Deductions," itemizing a list of five changes totaling \$1,510.25.
- f) The cost approach to value is a generally recognized method to determine the value of real property. "In this approach, the appraiser calculates the cost new of the improvements, subtracts from it the accrued depreciation to arrive at an estimate of the improvement's value, and then adds the value of the land as if vacant to arrive at an estimate of the subject property's total value." MANUAL at 13.
- g) The Petitioners therefore have employed a generally recognized appraisal method, based on actual costs, to determine that the value of their improvements in 1999 was approximately \$152,100. This evidence is sufficient to make a prima facie case.
- h) Once the Petitioners establish a prima facie case, the burden shifts to the assessing official to rebut that evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004).

- i) The Respondent testified, in general terms, that the paving might have been incorrectly assessed. None of these comments regarding the paving were linked to any specific value of the property. In the absence of such explanation, this testimony is not probative. *Indianapolis Racquet Club, Inc.*, 802 N.E.2d at 1022.
- j) The Respondent also presented one copy of a photograph of the building. Respondent failed to explain the manner in which this photograph supports the current assessed value. Photographs without explanation are merely conclusory statements and not probative. *Bernacchi v. State Bd. of Tax Comm'rs*, 727 N.E.2d 1133 (Ind. Tax Ct. 2000).

### **Conclusion**

16. The Petitioners made a prima facie case. The Respondent did not rebut it. Therefore, 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 assessed value of the improvements should be changed to \$152,100. The land value was not disputed and should not be changed.

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

\_\_\_\_\_  
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.**