

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

**Petition Nos.:** 76-006-06-1-5-00001  
76-006-06-1-5-00002  
**Petitioners:** Barry & Jean Light  
**Respondent:** Steuben County Assessor  
**Parcel Nos.:** 76-03-15-140-104.000-006  
76-03-15-140-105.000-006  
**Assessment Year:** 2006

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

**Procedural History**

1. Barry & Jean Light appealed the March 1, 2006 assessments for their two parcels. On December 31, 2008, the Steuben County Property Tax Assessment Board of Appeals (“PTABOA”) issued its determinations reducing the improvement value on parcel no. 76-003-15-140-104.000-006 and the land value on parcel no. 76-003-15-140-105.000-006. The reductions were not as much as the Lights had requested.
2. The Lights therefore timely filed Form 131 petitions with the Board. The Lights elected to have their appeals heard under the Board’s small claims procedures.
3. On June 7, 2011, the Board held a hearing through its administrative law judge, Jennifer Bippus (“ALJ”).
4. The following people were sworn in and testified:
  - a) Barry Light
  - b) Marcia Seevers, Steuben County Assessor  
Phyl Olinger, county representative

**Facts**

5. The Lights’ parcels are contiguous and are located at 35 LN 301C Lake George in Fremont. Although the property record cards show the house located on parcel no. 76-003-15-140-104.000-006, the house actually sits on both parcels.
6. Neither the Board nor the ALJ inspected the subject parcels.

7. The PTABOA determined the following values:

Parcel	Land	Improvements	Total
76-03-15-140-104.000-006	\$179,600	\$228,200	\$407,800
76-03-15-140-105.000-006	\$44,900	\$0	\$44,900

8. The Lights requested the following assessments:

Parcel	Land	Improvements	Total
76-03-15-140-104.000-006	\$170,000	\$168,000	\$338,000
76-03-15-140-105.000-006	\$16,500	\$0	\$16,500

### Parties' Contentions

9. The Lights offered the following evidence and arguments:

- a) The Lights' parcels are assessed much higher than other properties in the area. The Lights' house is assessed for \$244,000. Mr. Light offered eight record cards for properties that he felt had houses that were essentially the same as the Lights' house but that were assessed for less. *Light Testimony; Pet'rs Ex. 3.*<sup>1</sup> According to Mr. Light, most of the houses are box-type structures. *Light testimony.* Lot 57, which is next door to the Lights' parcels, has a house that is similar, to the Lights' house, albeit slightly smaller; yet Lot 57's house was assessed for almost \$90,000 less than the Lights' house. *Id.; Pet'rs Exs. 2-3.* Although the Assessor's witness, Ms. Olinger, tried to distinguish the two houses based on their different quality grades, both houses are stick-built and vinyl-sided and have a little bit of brick. *Light testimony.*
- b) The house across the street on Lot 92 is also very similar to the Lights' house. *Id.; Pet'rs Ex. 3.* According to Mr. Light, the house on Lot 89, which he described as a lovely house that is a little bigger than the Lights' house, was assessed for only \$131,600.<sup>2</sup> *Light testimony.*
- c) The Lights have two adjacent parcels of land: Lot 56 (Parcel no. 76-03-15-140-105.000-006) and part of Lot 55 (76-03-15-140-105.000-006). For purposes of this decision, the Board will refer to the second parcel as Lot 55, even though the Lights do not own that entire lot. Lot 55 is a triangle with its apex pointing to the lake. *See Pet'rs Ex. 1; Light testimony.* The lot therefore has no lake frontage. *Light testimony.*
- d) Mr. Light compared the land assessments for Lots 55 and 56 to the assessments for various other properties in the area. Lot 56 is assessed for \$179,560, and Lot 55 is assessed for \$44,900. *Light testimony; Pet'rs Ex. 3.* According to Mr. Light, there is no comparison between Lot 55, which has no lake frontage but is assessed at

---

<sup>1</sup> When comparing the subject property to the improvement and land assessments of other properties, Mr. Light referred to a "summary," although he did not say where that summary could be found. The Lights did not offer a summary as an exhibit. It appears that Mr. Light was referring to a document attached to the Lights' Form 131 petitions. *See Board Ex. A.*

<sup>2</sup> It appears that Mr. Light misstated the assessment for the house on Lot 89. According to that property's record card, the house was valued at \$303,000 for the March 1, 2006 assessment date. *Pet'rs Ex. 3.*

\$44,900, and a lot across the street that has 13 feet of lake frontage and is assessed at \$63,790. *See Light testimony; Pet'rs Ex. 4-5.* Other lots with 13 feet of lake frontage were assessed at \$59,000. *Light testimony.* Simply referring to “effective frontage,” as the Assessor’s representative Ms. Olinger does, fails to explain why a lot with no lake frontage is assessed for close to the same amount as a lot with 13 feet of frontage. *Light argument.*

- e) During his 30 years as a real estate broker and builder, Mr. Light has dealt with many different properties. Although there may be differences in the statistical data for the Lights’ parcels and the other properties that Mr. Light identified, as a practical matter, they are comparable to each other and would sell for close to the same amount. *Light testimony.* Mr. Light has been in almost all the houses, and they do not differ much from the Lights’ house in quality, although they may differ a little in size. *Id.* Someone in the marketplace would say the same thing. *Id.*

10. The Assessor offered the following evidence and arguments:

- a) After correcting the house’s dimensions, the PTABOA lowered Lot 56’s improvement value from \$244,000 to \$228,200. The PTABOA also reduced Lot 55’s land value from \$45,900 to \$44,900. *Olinger testimony; Resp’t Exs. 5, 10.*
- b) Ms. Olinger created a spreadsheet comparing the Lights’ property to six purportedly comparable properties that the Lights identified at the PTABOA’s hearing. All six properties are located on Lake George—five are lakefront parcels and the sixth is an off-water parcel. Ms. Olinger compared the properties based on various criteria from their property record cards. According to Ms. Olinger, all of the properties, except Lot 89, are inferior to the Lights’ parcels. *Olinger testimony; Resp’t Exs. 7-8.*
- c) In response to Mr. Light’s claims about Lot 55’s frontage, Ms. Olinger offered page 45 from the Real Property Assessment Guidelines for 2002-Version A to show how assessors were directed to calculate frontage for triangular lots. *Olinger testimony; Resp’t Ex. 11.* In accordance with those directions, the Assessor determined that Lot 55 had 10 feet of effective frontage even though it had no actual frontage. *Id.*

### **Record**

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

- a) The Form 131 petitions,
- b) A digital recording of the hearing,
- c) Exhibits:

Petitioners Exhibit 1: Certificate of Survey,  
Petitioners Exhibit 2: Property Record Card (“PRC”) for Lot 56 of Kopekanne Beach 1<sup>st</sup> Addition,

- Petitioners Exhibit 3: PRCs for the following properties: Lot 57, Lot 92, Lot 63, Lot 91, Lot 67, Lot 89, Lot 3 Block 1 (Nip Beach), 215 Ln. 130A Lake George
- Petitioners Exhibit 4: PRCs for the following properties: Lot 56, Lot 57, Lot 92, Lot 89, Lot 59, Lot 91, Lot 55 (Kopekanne Beach 2<sup>nd</sup> Add.), Lot 93, Lot 53,
- Petitioners Exhibit 5: PRC for Lot 55,
- Respondent Exhibit 1: Respondent Exhibit Coversheet,
- Respondent Exhibit 2: Steuben County Assessor Summary of Testimony,
- Respondent Exhibit 3: Power of Attorney Certification attached to Power of Attorney,
- Respondent Exhibit 4: PRC for Lot 56,
- Respondent Exhibit 5: Form 115 for parcel 76-03-15-140-104.000-006 (Lot 56),
- Respondent Exhibit 6: Assessor PTABOA Requested Evidence correcting dimensions of dwelling,
- Respondent Exhibit 7: PRCs submitted by the Petitioners at the PTABOA hearing,
- Respondent Exhibit 8: Respondent Analysis of Petitioner's Comparable PRCs,
- Respondent Exhibit 9: PRC for Lot 55,
- Respondent Exhibit 10: Form 115 for parcel 76-03-150-140-105.000-006 (Lot 55),
- Respondent Exhibit 11: Copy of page 45 from the Real Property Assessment Guidelines for 2002– Version A,
- Respondent Exhibit 12: Aerial map of subject parcels
- ,  
Respondent Exhibit 13: Respondent Signature and Attestation Sheet,
- Board Exhibit A: Form 131 petitions,
- Board Exhibit B: Hearing notice dated January 6, 2010,
- Board Exhibit C: Request for Continuance from Petitioners dated January 7, 2010,
- Board Exhibit D: Continuance granted by Board dated January 11, 2010,
- Board Exhibit E: Hearing notice dated March 25, 2011,
- Board Exhibit F: Hearing sign-in sheet,

d) These Findings and Conclusions.

## **Analysis**

### Burden of Proof

12. A taxpayer seeking review of an assessing official's determination must make a prima facie case proving both that the current assessment is incorrect and what the correct assessment should 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).
13. In making its case, the taxpayer must explain how each piece of evidence relates to its 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”).

14. If the taxpayer makes a prima facie case, the burden shifts to the respondent to offer evidence to impeach or rebut the taxpayer’s evidence. *See American United Life Ins. Co v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004); *Meridian Towers*, 805 N.E.2d at 479.

#### Discussion

15. The Lights failed to make a prima facie case for reducing their parcels’ assessments. The Board reaches this conclusion for the following reasons:
  - a) Indiana assesses real property based on its true tax value, which the 2002 Real Property Assessment Manual defines 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 traditionally have used three methods to determine a property’s value: the cost, sales-comparison, and income approaches. *Id.* at 3, 13-15. Indiana assessing officials generally use 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) *reh’g den. sub nom. P/A Builders & Developers, LLC*, 842 N.E.2d 899 (Ind. Tax Ct. 2006). But 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 or comparable properties, and any other information compiled according to generally accepted appraisal principles. MANUAL at 5.
  - c) The Lights did not offer any of the kinds of market-value-in-use evidence that the Manual describes. Instead, Mr. Light compared the assessments of the Lights’ parcels to the assessments of other properties around Lake George. Aside from simply offering property record cards, however, Mr. Light did little to explain how the properties compared to each other. He instead conclusorily asserted that, as a practical matter, the properties were comparable to each other. But those conclusory assertions do not suffice to show comparability. *See Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 470 (Ind. Tax Ct. 2005) (“[A] taxpayer’s statements that another property ‘is similar’ or ‘is comparable’ are nothing more than conclusions.”).
  - d) In any case, Mr. Light failed to explain how significant differences between the properties, such as differences between the size of the Lights’ home and the sizes of several of their purportedly comparable homes, affected the properties’ relative market values-in-use. *See id.* (holding that the taxpayers were responsible for

explaining how any differences in the characteristics of their property and purportedly comparable properties affected the properties' relevant values). Again, Mr. Light simply asserted that, as a practical matter, those differences did not affect the properties' relative values. But he offered no support for his opinion other than his general experience as a builder and broker. Mr. Light did at least highlight one specific way in which Lot 55 differs from several of the purportedly comparable properties'—Lot 55 has no lake frontage. According to Mr. Light, the difference in market value between Lot 55 and other lots with 13 feet of lake frontage is greater than the approximately \$14,000 to \$19,000 difference in the properties' land assessments. Again, though, Mr. Light offered no market-based evidence to support his assertion, much less to show what a more appropriate value for Lot 55 would be.

- e) Because the Lights offered little evidence other than Mr. Light's conclusory opinion that differences between the Lights' property and other properties around Lake George did not justify the disparity in their assessments, the Lights failed to make a prima facie case.

### **Conclusion**

- 16. The Lights failed to make a prima facie case for reducing their assessments. The Board finds for the Assessor.

### **Final Determination**

In accordance with the above findings and conclusions, the Indiana Board of Tax Review now affirms the assessments.

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

\_\_\_\_\_  
Chairman, Indiana Board of Tax Review

\_\_\_\_\_  
Commissioner, Indiana Board of Tax Review

\_\_\_\_\_  
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>.