

REPRESENTATIVE FOR PETITIONER:

David P. Allen, Attorney

REPRESENTATIVE FOR RESPONDENT:

Brian A. Cusimano, Attorney

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

E. E. Martin,	)	Petition No.:	88-022-13-1-5-20094-13 ¹
)		
Petitioner,	)	Parcel No.:	88-24-07-444-042.000-022
)		
v.	)	County:	Washington
)		
Washington County Assessor,	)	Township:	Washington
)		
Respondent.	)	Assessment Year:	2013

Appeal from the Final Determination of the
Washington County Property Tax Assessment Board of Appeals

September 17, 2015

FINAL DETERMINATION

The Indiana Board of Tax Review (Board), having reviewed the facts and evidence, and having considered the issues, now finds and concludes the following:

¹ The petition number has been changed from 88-022-12-1-5-00037 to accurately reflect the correct year under appeal. According to a letter dated April 9, 2015, from the Petitioner's counsel to the Board, the Petitioner erroneously listed the assessment date under appeal on his Form 131 petition as March 1, 2012. That error appears to be the result of a similar typographical error on the PTABOA's determination. At the hearing, the parties agreed that the correct year under appeal is 2013. Based on that agreement, and the procedural history of this matter set forth below, the Board concludes that the assessment year under appeal is 2013.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

INTRODUCTION

1. The Respondent had the burden to prove that the subject property's March 1, 2013, assessment was correct. Did the Respondent prove the 2013 assessment was correct?

PROCEDURAL HISTORY

2. The Petitioner initiated its 2013 assessment appeal with the Washington County Assessor on May 14, 2013. On July 18, 2013, the Washington County Property Tax Assessment Board of Appeals (PTABOA) issued its determination denying the Petitioner any relief. On September 6, 2013, the Petitioner timely filed a Form 131 petition with the Board.
3. On April 27, 2015, the Board's administrative law judge (ALJ), Patti Kindler, held a hearing on the petition. Neither the Board nor the ALJ inspected the subject property.

HEARING FACTS AND OTHER MATTERS OF RECORD

4. The following people were sworn in and testified:

For the Petitioner: Margaret Ann Martin, taxpayer,²
Fred J. Ramoni, certified appraiser,
Ken Temple, construction, excavation, and paving
professional,
Mary M. Finkle, licensed real estate broker.

For the Respondent: Wayne F. Johnson II, certified appraiser,
Jason Cockerill, Washington County Assessor.

5. The Petitioner submitted the following exhibits:

Petitioner Exhibit 4: Affidavit of Ken R. Temple, dated April 14, 2015,
Petitioner Exhibit 5: "Broker's Price Opinion" prepared by Mary M. Finkle,
dated April 7, 2015,
Petitioner Exhibit 6: Affidavit of Mary M. Finkle, dated April 15, 2015,

² Margaret Ann Martin is also listed as the property owner on the PTABOA's determination.

Petitioner Exhibit 10: Appraisal of the subject property prepared by Fred J. Ramoni, with an effective date of April 2, 2015, (Ramoni Appraisal),
Petitioner Exhibit 12: “Residential Broker Price Opinion” prepared by Mary M. Finkle, dated July 9, 2013,
Petitioner Exhibit 20: “Land Records Search Document Detail” dated April 2, 2015.

6. The Respondent submitted the following exhibits:

Respondent Exhibit A: Appraisal of the subject property prepared by Wayne F. Johnson II, with an effective date of March 1, 2013, (Johnson Appraisal),
Respondent Exhibit B: Mr. Johnson’s “Certification,”
Respondent Exhibit C: Geographic Information System (GIS) map with the subject property highlighted in yellow, and “Owner and General Parcel Information” for the subject property,
Respondent Exhibit D: GIS map with the Petitioner’s home highlighted in yellow, and “Owner and General Parcel Information” for the Petitioner’s home.³

7. The following additional items are recognized as part of the record:

Board Exhibit A: Form 131 petition with attachments,
Board Exhibit B: Notice of Hearing, dated March 13, 2015,
Board Exhibit C: Hearing sign-in sheet,
Board Exhibit D: Notice of Appearance for David Allen,
Board Exhibit E: Notice of Appearance for Brian Cusimano.

8. The subject property is a 1.2-acre vacant lot located at West Side Angela Court in Salem.

9. The PTABOA determined that the March 1, 2013, total assessment is \$31,400.

10. On the Form 131, the Petitioner requested a total assessment of \$3,000.

OBJECTIONS

11. Mr. Allen objected to Respondent’s Exhibits A and B. He argued that the Respondent failed to establish a “solid foundation” for the exhibits. Further, he argued that the

³ The binder containing the Respondent’s exhibits also contains Respondent’s Exhibits E, F, G, H, and I. However, the Respondent did not offer these exhibits into evidence. Thus the Board will not consider these exhibits as part of the official record.

“sales-comparison technique” utilized by Mr. Johnson in his appraisal is not an approved method for valuing property under current statutes and guidelines.

12. Mr. Cusimano argued that a proper foundation had been established. Specifically, because Mr. Johnson was present to testify, certified that he is an expert, personally viewed the property, and estimated a value by using sales, a proper foundation had been established.
13. Further, Mr. Cusimano argued Mr. Allen’s objection regarding the “sales-comparison technique” goes to the weight of the evidence rather than its admissibility. The ALJ took the objections under advisement.
14. Mr. Allen’s objections are overruled. Mr. Johnson was present at the hearing to testify to the exhibits and the Petitioner had the opportunity to cross-exam Mr. Johnson on both his credentials and his methodology in completing the appraisal. Mr. Cusimano established a foundation for the exhibits though this questioning of Mr. Johnson. As to Mr. Allen’s objection regarding the approach utilized in Mr. Johnson’s appraisal, that objection goes the weight of the evidence rather than the admissibility. Thus, Respondent’s Exhibits A and B are admitted.

JURISDICTIONAL FRAMEWORK

15. The Board is charged with conducting an impartial review of all appeals concerning: (1) the assessed valuation of tangible property, (2) property tax deductions, (3) property tax exemptions, and (4) property tax credits that are made from a determination by an assessing official or a county property tax assessment board of appeals to the Board under any law. Ind. Code § 6-1.5-4-1(a). All such appeals are conducted under Ind. Code § 6-1.1-15. *See* Ind. Code § 6-1.5-4-1(b); Ind. Code § 6-1.1-15-4.

RESPONDENT’S CONTENTIONS

16. The subject property’s assessment should be \$23,500. The Respondent submitted an appraisal performed by Wayne F. Johnson II, a certified general appraiser. The appraisal

was performed in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP). Mr. Johnson estimated the value of the property was \$23,500 as of March 1, 2013. *Cusimano argument; Johnson testimony; Resp't Ex. A, B.*

17. Mr. Johnson viewed the property from the street to determine the depth and slope of the lot. In an effort to find comparable sales near Salem, he examined the Department of Local Government (DLGF) website for sales disclosures, and consulted the Multiple Listing Service (MLS). In selecting his comparable properties, Mr. Johnson considered size, location, and shape. *Johnson testimony.*
18. Mr. Johnson utilized the sales-comparison “technique” to estimate the subject property’s value.⁴ In developing his “technique” he selected five comparable sales. Due to the limited amount of sales, he utilized sales that occurred between July 2010 and May 2014. The unadjusted sale prices ranged from \$11,000 to \$32,500.⁵ Lot size adjustments were made on comparables one, three, and four. For other differences, such as sewer service, Mr. Johnson did not make an adjustment, but did note the differences as part of his “correlation process.” Further, even though Mr. Johnson’s third comparable sold after the assessment date under appeal, the sale occurred within a reasonable time frame, and “market conditions were similar.” *Johnson testimony; Resp't Ex. A.*
19. The median of the unadjusted sale prices per lot was \$24,900. The mean equated to \$23,180. On a per-acre basis, after adjustments were made, the median came out to \$15,635 per acre. And after adjustments, the mean equated to \$16,221 per acre. Considering the utility service and location variances, Mr. Johnson arrived at an estimated value of \$23,500 for the subject property as of March 1, 2013. *Johnson testimony; Resp't Ex. A.*

⁴ Mr. Johnson explained that the sales-comparison “technique” is used for appraising unimproved land. While the sales-comparison “approach” is used for appraising an “improved property, a house, [or] a commercial building.” *Johnson testimony.*

⁵ Mr. Johnson also testified that there was a sixth comparable, mentioned on page 28 of his appraisal, but he did not include this sale in his analysis. Mr. Johnson testified that while this particular property is in close proximity to the subject property, it is a smaller lot and the sale occurred in 2009.

20. As part of his analysis, Mr. Johnson attempted to gather information regarding the amount of stone and rock located on the subject property. The Assessor indicated that the property is buildable, although in some areas it would be prohibitive to put in a full basement. Mr. Johnson located the Indiana Geological Survey map for an area around Salem, where the subject property is located, to see if there was any indication of “bedrock.” However, the map was generalized, indicating only existing bedrock in Salem and surrounding Salem. The map did not show “any specific amount of bedrock in any certain area.” Because there has been a complete lack of testing or core drilling on the property, it is uncertain how much rock, if any, is located on the property. Ultimately, Mr. Johnson concluded that the property is a large lot, and while there may be some limitations and unknowns regarding the density of the rock, the property is buildable. *Cusimano argument; Johnson testimony; Resp’t Ex. A.*
21. The property is correctly classified as residential. It is zoned residential, has physical characteristics of a residential site, and while it is currently vacant, would have no other use but as residential. *Cusimano argument; Johnson testimony.*
22. Mr. Johnson’s appraisal is more complete and comprehensive than the appraisal submitted by the Petitioner. The Petitioner’s appraisal failed to use the correct valuation date. *Cusimano argument.*
23. Further, the report prepared by Mr. Temple is “merely a guess” as to how much excavating would be needed. Because of the lack of core drilling, it is impossible to determine how much rock is present. *Cusimano argument.*

PETITIONER’S CONTENTIONS

24. The subject property’s assessment is too high. To prove this, the Petitioner submitted a USPAP-compliant appraisal prepared by Fred J. Ramoni, a certified residential appraiser. Mr. Ramoni estimated the value of the property at \$11,000 as of April 2, 2015. Mr. Ramoni testified, though, that his indicated value would have been the same on the

March 1, 2013, valuation date because the market has been “stable.” *Allen argument; Ramoni testimony; Pet’r Ex. 10.*

25. In determining his estimate of value, Mr. Ramoni relied mainly on the sales-comparison approach. In doing so, he utilized five comparable sales of vacant lots, all located in Salem. Because of the limited sales of vacant lots, Mr. Ramoni selected sales that occurred between March 2006 and May 2014. The unadjusted sales price ranged from \$11,000 to \$32,000. Mr. Ramoni made several adjustments to the comparable properties for size, site, topography, frontage, and date of sale. According to Mr. Ramoni, there have been very few vacant lot sales in Salem during the valuation time frame. Mr. Ramoni determined that comparable one and comparable two were the best comparable properties. Mr. Ramoni did state that he “could not recall” why he made different time adjustments for comparable three and comparable four when both sales occurred at “about the same time.” *Ramoni testimony; Pet’r Ex. 10.*
26. The property was originally purchased to build a home on, but because of exigent circumstances, the Petitioner purchased a finished home directly behind the subject property. The property is solely used to “protect their view.” *Martin testimony.*
27. According to the report from Ken Temple, who identified himself as a construction, excavation, and paving professional, the property may have some rock formation just below grade that would require blasting and extensive site work prior to any construction attempts. Mr. Ramoni did not rely extensively on Mr. Temple’s report, and estimated the additional site prep, if required, would be approximately \$6,000. Mr. Ramoni valued the property as a buildable, vacant residential site. *Ramoni testimony (referencing Pet’r Ex. 4); Pet’r Ex. 10.*
28. Mr. Temple also testified as to the condition of the subject property. Mr. Temple did not complete a core drilling on the subject property, but in his opinion, the property contains “visible rock at the surface that mirrors the neighboring lot.” The neighboring lot had substantial excavation performed prior to constructing a home on the lot. He estimated

the cost to do this same type of excavation on the subject property to be roughly \$35,000. *Temple testimony; Pet'r Ex. 4.*

29. Mr. Temple also pointed out that because of the severe front downhill slope, the property would only be suitable for an unpopular “front walkout style basement.” As such, Mr. Temple would not recommend building a home on the property. *Temple testimony; Pet'r Ex. 4.*
30. Mary Ann Finkle, a licensed real estate broker, also provided testimony and a Broker’s Price Opinion. Ms. Finkle compared the subject property to various other lots in and around Salem. Some of her comparable lots were vacant, while some had structures on them. In addition, some lots were smaller and some were larger than the subject property. Even though her report does not contain adjustments to account for any differences, she did consider the differences when determining her final value. Ms. Finkle arrived at a value, based on the comparable sales, of \$4,000 per acre, thus arriving at a final estimated value of \$5,000 for the property. *Finkle testimony; Pet'r Ex. 12.*
31. Ms. Finkle also took into consideration the five uses for excess residential property.⁶ Based on Mr. Temple’s opinion that the property is not buildable, Ms. Finkle determined that only one of the five uses, or 20% of her previous final estimated value, are applicable. Consequently, her final value conclusion for the subject property is \$1,000.⁷ *Finkle testimony; Pet'r Ex. 12.*
32. The Respondent’s appraisal is flawed in several areas. First, Mr. Johnson’s sales-comparison “technique” is an inappropriate approach to value, and not supported by the Manual. Next, Mr. Johnson appraised the property at fair market value, not fair market value-in-use. He also failed to provide a detailed explanation as to why his comparables

⁶ Loosely based on Mr. Ramoni’s testimony, Mr. Allen proposed that the five uses of excess residential property are protection of privacy, protection of view, recreational use, location of accessory buildings, and landscaping. Accordingly, “each use holds 20% of the lot’s value.”

⁷ Ms. Finkle acknowledged that she is not a licensed appraiser and that her methodology does not conform to USPAP.

were like the subject property. Finally, the subject property should not be valued as a residence because it does not contain a residence. *Allen argument.*

BURDEN OF PROOF

33. Generally, the taxpayer has the burden to prove that an assessment is incorrect and to prove what the correct assessment should be. *See Meridian Towers East & West v. Washington Twp. Ass'r*, 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). The burden-shifting statute as recently amended by P.L. 97-2014 creates two exceptions to that rule.
34. First, Ind. Code § 6-1.1-15-17.2 “applies to any review or appeal of an assessment under this chapter if the assessment that is the subject of the review or appeal is an increase of more than five percent (5%) over the assessment for the same property for the prior year.” Ind. Code § 6-1.1-15-17.2(a). “Under this section, the county assessor or township assessor making the assessment has the burden of proving that the assessment is correct in any review or appeal under this chapter and in any appeals taken to the Indiana board of tax review or the Indiana tax court.” Ind. Code § 6-1.1-15-17.2(b).
35. Second, Ind. Code section 6-1.1-15-17.2(d) “applies to real property for which the gross assessed value of the real property was reduced by the assessing official or reviewing authority in an appeal conducted under IC 6-1.1-15.” Under those circumstances, “if the gross assessed value of real property for an assessment date that follows the latest assessment date that was the subject of an appeal described in this subsection is increased above the gross assessed value of the real property for the latest assessment date covered by the appeal, regardless of the amount of the increase, the county assessor or township assessor (if any) making the assessment has the burden of proving that the assessment is correct.” Ind. Code § 6-1.1-15-17.2(d). This change is effective March 25, 2014, and is applicable to all appeals pending before the Board.
36. Here, the parties agree that the 2013 assessed value increased by more than 5% over the 2012 assessed value. Thus, both parties agree that the burden rests with the Respondent.

However, as discussed below, both parties presented probative evidence. Therefore, this final determination depends on the weight of the evidence.

ANALYSIS

37. Real property is assessed based on its market value-in-use. Ind. Code § 6-1.1-31-6(c); 2011 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.4-1-2). The cost approach, the sales comparison approach, and the income approach are three generally accepted techniques to calculate market value-in-use. *Id.* Assessing officials primarily use the cost approach, but other evidence is permitted to prove an accurate valuation. Such evidence may include actual construction costs, sales information regarding the subject or comparable properties, appraisals, and any other information compiled in accordance with generally accepted appraisal principles. A market value-in-use appraisal prepared according to USPAP often will be probative. *Kooshtard Property VI v. White River Twp. Ass'r*, 836 N.E.2d 501, 506 n.6 (Ind. Tax Ct. 2005).
38. Regardless of the method used, a party must explain how the evidence relates to the relevant valuation date. *See 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. Ass'r*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). For a 2013 assessment, the valuation date was March 1, 2013. *See* Ind. Code § 6-1.1-4-4.5(f).
39. Before addressing the USPAP-compliant appraisal submitted by both parties, the Board will address the testimony and accompanying documents submitted by the Petitioner. The Board finds very little, if any, probative value in the affidavit and accompanying testimony of Ken Temple. Likewise, the Board finds little probative value in the Broker's Opinion and testimony of Mary Finkle. Mr. Temple testified that he failed to complete any drilling or testing on the subject property. Therefore, his opinion as to the amount and density of rock on the property, and whether it is buildable, is little more than mere speculation. As to Ms. Finkle, she admitted that she is not a licensed appraiser, and

that her opinion does not comply with USPAP. Moreover, her comparable sales do not contain adjustments for any differences that exist. Consequently, her opinion of value is less probative than that of a certified, licensed appraiser. And here, both parties offered valuation opinions from certified appraisers. Thus, the Board turns its attention to the certified appraisals submitted by both parties.

40. An appraisal performed in conformance with generally recognized appraisal principles is often enough to establish a prima facie case. *Meridian Towers*, 805 N.E.2d at 479. In this case, both parties offered USPAP-compliant appraisals that are probative evidence of the market value-in-use of the subject property. Because both parties presented probative evidence, the Board must weigh the evidence to determine a correct assessment.
41. Both appraisers relied exclusively on the sales-comparison approach to value. While Mr. Johnson used slightly different terminology, referring to his methodology as the sales-comparison “technique” due to the lack of improvements on the subject and his comparables, the Board sees little difference in the two appraisers’ methodologies other than Mr. Johnson’s adjustment to a “per-acre” basis, which the Board considers as part of his adjustment for size. Thus, despite the Petitioner’s claims to the contrary, Mr. Johnson’s valuation method seems to comply with generally accepted appraisal principles.
42. The sales-comparison approach “estimates the total value of the property directly by comparing it to similar, or comparable, properties that have sold in the market.” MANUAL at 3. Here, the appraisers’ sales-comparison approaches produced values that differ by \$12,500. Mr. Johnson estimated the property’s value at \$23,500 as of March 1, 2013. Mr. Ramoni, on the other hand, estimated the value at \$11,000 as of April 2, 2015. Granted Mr. Ramoni’s effective date is more than two years past the relevant valuation date, he did provide testimony that, in his opinion, the market had been “stable” from March 1, 2013, to April 2, 2015, and that he would have estimated the same \$11,000 value as of March 1, 2013. The Respondent failed to present any evidence or argument to rebut Mr. Ramoni’s testimony regarding the “stable” market. In fact, Mr. Johnson

selected a comparable sale that occurred after the assessment date under appeal and he stated “market conditions were similar.” Thus, the Board will accept Mr. Ramoni’s testimony as to the subject property also having an estimated value of \$11,000 as of March 1, 2013.

43. Both appraisers admitted they had difficulty finding comparable sales due to the limited availability of vacant lots for sale or sold in the area. The disparity in the estimated values stems from the different purportedly comparable properties selected by the appraisers and the adjustments applied to those sales by the appraisers.
44. Selecting comparable properties and making adjustments are things that appraisers normally do. Appraisers identify the relevant characteristics of the property being appraised and select other properties that share as many of those characteristics as possible. After selecting comparables, appraisers make adjustments to account for any differences between the comparables’ characteristics and those of the subject property. The Board recognizes that this process requires appraisers to exercise their judgment and often involves issues that are purely a matter of opinion, rather than questions with a definitive answer. Consequently, the Board must determine which appraiser did a more credible job based on the evidence offered and how effectively the arguments were presented. Here, the Board’s analysis is limited to the facts of this particular case and is not intended to establish any general rules regarding selection of comparable properties or application of adjustments.
45. Mr. Johnson utilized five lots in the Salem area. One of them, located on Lacey Court, is in the subject property’s subdivision and similarly has sewer access. The four remaining lots are located in rural areas, and have septic systems. Due to the limited number of sales available, Mr. Johnson included sales between July 2010 and May 2014. All of his comparables have level topography, and four of the five are wooded. The unadjusted sale prices ranged from \$11,000 to \$32,500.

46. Mr. Ramoni also utilized five comparable sales. Mr. Ramoni, though, indicated that he utilized sales that are similar to the subject property and located in the same market. Only the Magnolia Court property is located in a different market. The Magnolia Court property (comparable 1) and the Lacey Court property (comparable 2) were also utilized by Mr. Johnson. Mr. Ramoni indicated that because of the limited market data he was forced to utilize sales that occurred between March 2006 and May 2014. All of the properties he selected are located within four miles of the subject property, with four located within one-half mile of the subject property. Three of the properties have level topography while the remaining two are sloping to the rear. The unadjusted sale prices of Mr. Ramoni's comparables ranged from \$11,000 to \$32,000.
47. While the appraisers' range of unadjusted sales price is almost identical, it appears they each emphasized somewhat different criteria in selecting comparable sales. However, it is important to note that neither appraiser necessarily selected "wrong" properties. Mr. Ramoni appears to have selected comparable properties with more of an emphasis on their location in relation to the subject property. While Mr. Johnson, on the other hand, appears to have selected properties by focusing more on demographic and market research and attempting to discern what a typical buyer is looking for. Although both parties seem to believe that the selection criteria significantly contributed to the disparity between the appraisals, much can be learned from examining and comparing the appraisers' adjustments to the two comparables they both utilized.
48. The first of those duplicates, located on Magnolia Court, sold for \$20,000 on May 8, 2014. This lot is twice the size of the subject property and located approximately three-and-a-half miles away. While much of the testimony indicated that the subject property is sloped, the Magnolia Court property is "level." Only Mr. Ramoni made an adjustment for topography, subtracting \$5,000. Mr. Ramoni also made two other adjustments, a \$1,000 adjustment for a difference in frontage, and a \$3,000 size adjustment. On the other hand, the only adjustment Mr. Johnson made was for size. Mr. Johnson's adjusted sale price for this property equated to \$13,279 (\$11,066 per acre multiplied by 1.2 acres) while Mr. Ramoni's adjusted sale price equated to \$11,000. While Mr. Johnson made a

larger total adjustment for size, the main reason for the difference in adjusted sale prices is Mr. Ramoni's adjustment for topography, which Mr. Johnson omitted.

49. The other duplicate purportedly comparable property, located on Lacey Court, sold for \$11,000 on December 2, 2012. Based on the lack of adjustments, both appraisers deemed it to be the most comparable to the subject property. This property is a sloping 0.89-acre lot located roughly a quarter of a mile from the subject property. Mr. Johnson made no adjustments to this sale, other than for price per acre. Mr. Ramoni made offsetting \$1,000 adjustments for size and frontage. Mr. Johnson's adjusted sale price equated to \$14,832 (\$12,360 per acre multiplied by 1.2 acres), and Mr. Ramoni's adjusted sale equated to \$11,000.
50. Mr. Johnson's size adjustment or lack thereof, appears to contradict his own assumption regarding lot size and unit value. In his appraisal, Mr. Johnson states: "[T]ypically a smaller site sells for a higher unit value and [a] larger site sell[s] for a smaller unit value, all else being equal." *Resp't Ex. A* at 27. For this purportedly comparable property, however, Mr. Johnson made an adjustment bringing the purportedly comparable property to same price per acre as the subject property, even though this property is less than 75% of the size of the subject property (0.89 acres vs. 1.2 acres). Given Mr. Johnson's statement regarding site sizes and unit values, he should have made an additional adjustment to account for the purportedly comparable property's smaller size.
51. Even before considering the issues with Mr. Johnson's adjustments, both appraisers' adjusted sale prices for the two duplicate comparables are much closer to Mr. Ramoni's estimated subject property value of \$11,000. Further, in looking at the appraisers' three other purportedly comparable sales, the Board finds similar adjustment issues. In particular, Mr. Johnson's lack of adjustments for topography. In fact, contrary to testimony from multiple witnesses that the subject property is sloping, Mr. Johnson's sales-comparison chart indicates that it is "level." Mr. Johnson failed to make any adjustments for topography to any of his five purportedly comparable sales. Thus, it is

unclear, at best, whether Mr. Johnson even considered the subject property's sloping topography in his valuation estimate.

52. Further, it is undisputed that at least "some rock" exists on the subject property. Neither party conclusively proved the amount, or the density, of the rock. Neither party offered anything beyond speculation about whether a home could be built anywhere on the subject property, particularly if a basement was included. The Respondent did acknowledge that the potential for rock could cause a building issue. Given that uncertainty, it is logical to assume, as several witnesses testified, that a potential buyer would have some trepidation and incur at least some cost to make sure a home could be built. The Board finds that Mr. Ramoni more reasonably accounted for the uncertainty created by the rock formation in his valuation estimate, a factor Mr. Johnson conceded that he virtually ignored.
53. That is not to say the Board finds Mr. Ramoni's appraisal to be perfect. Most notably, as stated above, Mr. Ramoni estimated the subject property's value as of April 2, 2015, while the valuation date is March 1, 2013. Nevertheless, Mr. Ramoni testified that the market had been steady from March 1, 2013, to April 2, 2015, and that he would have estimated the same \$11,000 value as of March 1, 2013. Lending further credence to Mr. Ramoni's opinion that the market was steady is the fact that neither appraiser made time adjustments to any purportedly comparable sale that occurred between 2010 and 2014. Thus, while Mr. Ramoni's appraisal valuation date is not precise, the Board finds that it provides probative evidence of the subject property's value on March 1, 2013.
54. Mr. Ramoni's appraisal utilized two sales that occurred roughly seven years before the valuation date. He noted in his appraisal that these sales are "more distant and dated than preferred." *Pet'r Ex. 10* at 4. But Mr. Ramoni adequately explained that he utilized these sales because relevant data was limited, a problem that Mr. Johnson also acknowledged. Moreover, for these two sales, Mr. Ramoni made, what appears to be, a reasonable adjustment for time.

55. The Board recognizes that there are strengths and weaknesses with both appraisals. However, the Board finds Mr. Ramoni's appraisal to be more persuasive. Although Mr. Johnson and Mr. Ramoni are both licensed appraisers that back their opinions with certifications, education, training and experience, the Board, for the reasons set forth, finds Mr. Ramoni's valuation opinion to be more probative of the subject property's value.

SUMMARY OF FINAL DETERMINATION

56. The Board finds for the Petitioner, and orders that the March 1, 2013, assessment be reduced to \$11,000.

This Final Determination of the above captioned matter is issued by the Indiana Board of Tax Review on the date first written above.

Chairman, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

- APPEAL RIGHTS -

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5 and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required not later than forty-five (45) days of the date of this notice. The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>. The Indiana Tax Court's rules are available at <<http://www.in.gov/judiciary/rules/tax/index.html>>.