

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

**Petition Nos.:** 76-010-06-1-5-00049  
76-010-06-1-5-00050  
76-010-06-1-5-00051  
76-010-06-1-5-00052

**Petitioners:** Ryan & Lucy Matthews

**Respondent:** Steuben County Assessor

**Parcel Nos.:** 76-10-28-330-139.000-010  
76-10-28-330-140.000-010  
76-10-28-331-141.000-010  
76-10-28-331-142.000-010

**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. On September 6, 2007, the Petitioners filed written notices appealing the assessments for four vacant parcels of land. On October 27, 2008, the Steuben County Property Tax Assessment Board of Appeals (“PTABOA”) issued its determinations upholding the assessments.
2. The Petitioners then timely filed Form 131 petitions with the Board for all four parcels. They elected to have their appeals heard under the Board’s small claims procedures.
3. On April 23, 2009, the Board held a consolidated administrative hearing through its designated administrative law judge, Patti Kindler (“ALJ”).
4. The following people were sworn in and testified:
  - a) Ryan Matthews, *pro se*
  - b) For the Respondent: Larry May, Steuben County Assessor  
Jennifer Becker, representative

**Facts**

- 5. The appealed parcels are located near Hamilton Lake, on County Road 300 East, in Hamilton, Indiana. The Board refers to the parcels collectively as the “subject property.”
- 6. Three of the parcels are 20’ x 100’ but the record is unclear as to the fourth parcel’s size. The Petitioners offered a boundary survey that shows the parcel’s dimensions as 11.67’ x 120’. *Pet’rs Ex. 5*. By contrast, the property record card lists the parcel as being 12’ x 100’. *Resp’t Ex. 1c*. Thus, the subject property’s total area is between 7,200 square feet and roughly 7,400 square feet.
- 7. Neither the Board nor the ALJ inspected the subject property.
- 8. The PTABOA determined that the total March 1, 2006, assessment for all four parcels was \$31,300. It determined the following values for the individual parcels:

Parcel 76-10-28-330-139.000-010

Land: \$8,700            Improvements: \$0            Total: \$8,700

Parcel 76-10-28-330-140.000-010

Land: \$8,700            Improvements: \$0            Total: \$8,700

Parcel 76-10-28-330-141.000-010

Land: \$5,200            Improvements: \$0            Total: \$5,200

Parcel 76-10-28-330-142.000-010

Land: \$8,700            Improvements: \$0            Total: \$8,700

- 9. The Petitioners asked for a total assessment of \$18,160. They requested the following values for the individual parcels:<sup>1</sup>

Parcel 76-10-28-330-139.000-010

Land: \$5,040            Improvements: \$0            Total: \$5,040

Parcel 76-10-28-330-140.000-010

Land: \$5,040            Improvements: \$0            Total: \$5,040

Parcel 76-10-28-330-141.000-010

Land: \$3,040            Improvements: \$0            Total: \$3,040

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<sup>1</sup> These are the amount that the Petitioners requested on their Form 131 petitions. At hearing, Mr. Matthews asked for a slightly higher total assessment of \$18,648.

Parcel 76-10-28-330-142.000-010

Land: \$5,040

Improvements: \$0

Total: \$5,040

### **Parties' Contentions**

10. Summary of the Petitioners' contentions:

- a) The subject property is located in the Highlands Addition along County Road 300. *Matthews testimony*. It is near Hamilton Lake, which can be accessed through easements that are located every 300 yards along a road that runs parallel to the lake. *Id.* Compared to the sale price of vacant lots along County Road 300, the subject property's assessment is too high.
- b) In January 2000, the Petitioners bought a larger tract of land comprised of seven vacant lots, including the subject property. They paid \$35,500.<sup>2</sup> *Id.* That price matched the value estimated in an appraisal that Mel Diederich prepared around the time of the sale. *Pet'rs Ex. 1 at 4.* The seven individual lots each measured 20' x 100', making the tract as a whole 14,000 square feet. *Matthews testimony*. Thus, the sale price translated to \$2.50 per square foot. *Id.*
- c) That per-square-foot value closely aligns with the sale prices for the only other vacant lots that sold in the highland area along County Road 300. *See Matthews testimony*. Those lots sold in September 2006 and December 2006, respectively. The first lot was 80' x 200' (16,000 sq. ft.) and sold for \$43,000 or \$2.68 per square foot. *Matthews testimony; Pet'rs Ex. 3.* The second lot was 100' x 200' (20,000 sq. ft.) and sold for \$47,450, or \$2.37 per square foot. *Id.* Thus the two sales averaged to \$2.52 per square foot. *Id.* In a written analysis that he prepared on a "Land Appraisal Summary Report," Mr. Matthews made small adjustments to the sale prices for those two lots, but he did not explain what those adjustments were for nor did he use the adjusted sale prices in computing the price-per-square-foot for the properties. *See Pet'rs Ex. 3.*
- d) In September 2003, the Petitioners sold approximately 3 ½ of the seven lots contained in the larger tract that they had bought in January of 2000.<sup>3</sup> *Matthews testimony; Pet'rs Ex. 5.* The September 2003 sale also included two additional 20' x 100' lots containing a cottage that the Petitioners bought for \$70,000 in 1997. *Id.* The sale price for the 5 ½ lots and cottage was \$110,000. *Matthews testimony*.
- e) In Mr. Matthews's view, the September 2003 sale further supports the Petitioners' claims. They bought the two lots with the cottage for \$70,000 and they paid basically \$17,500 for the other 3 ½ lots when they bought the larger tract in

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<sup>2</sup> Mr. Matthews testified that the Petitioners bought the lots for \$35,000. But the appraisal indicates that the purchase price was actually \$35,500. *Pet'rs Ex. 1 at 4.*

<sup>3</sup> The parcel that was split was Parcel 76-10-28-330-141.000-010, which now measures 11.67' x 100'.

January 2000.<sup>4</sup> Thus, the Petitioners sold the property for only \$22,500 more than they had paid for its component parts. And they had spent \$15,000 to substantially remodel the cottage. *Matthews testimony*.

- f) The Petitioners disagreed with the Respondent's methodology for valuing land. The Respondent used front-foot values, while buyers look at the total size of the lot being sold. *Matthews testimony*. Also, the Respondent used the same front-foot rate across the board. While individual lots are all 20 x 100, there is a zoning ordinance that effectively requires a property to have 7,200 square feet in order to have any value. *Id.* And the Respondent used similar rates to value lots along a road that fronts Hamilton Lake as it used to value lots along County Road 300. But those other lots have lake views and their owners can access the lake by simply walking across a road. *Id.* Lots along County Road 300 do not have the same views and ease of access. *Id.*

11. Summary of the Respondent's contentions:

- a) The four parcels under appeal comprise a 72' x 100' lot that must be considered for assessment purposes as one property. *Becker testimony; See Resp't Ex. Id.* The total assessment for the four parcels is correct. *Becker argument*.
- b) The Petitioners mainly disagreed with the Respondent's decision to assess the subject property based on the amount of its frontage. But the Respondent followed the Real Property Assessment Guidelines for 2002 – Version A. If the typical lot in a neighborhood is a platted lot, the Guidelines instruct assessors to value the neighborhood's lots on a front-foot basis and to use the square-foot method only for irregularly shaped or atypical lots. *Id.* Here, the GIS plat map for the subject property's neighborhood shows that the entire neighborhood is platted. *Becker testimony; Resp't Ex. Id.*
- c) True, the Petitioners bought seven lots, including the subject property, for \$35,500. That equates to a front-foot rate of \$270,<sup>5</sup> which is less than the \$500 per-front-foot for which those lots are currently assessed. *Becker testimony*. But that was in 2000, and property values were not the same in 2007. *Becker argument*. The sale prices for the comparable properties that Mr. Matthews pointed to actually support a front-foot rate of \$500. *Becker testimony; Resp't Ex. If.*
- d) The Petitioners' argument that the Respondent overvalued properties on County Road 300 compared to properties with a better view of the lake is not supported by actual sales. *Becker argument*. Neither location has direct lake access, and

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<sup>4</sup> Mr. Matthews apparently referred to what he viewed as the value that those 3 ½ lots contributed to the total price that the Petitioners paid for the larger tract in January 2000.

<sup>5</sup> Ms. Becker's calculations were premised on the seven lots containing 13,200 square feet instead of 14,000 square feet as Mr. Matthews testified.

sale prices have not differed significantly between the two locations. *Becker testimony.*

### **Record**

12. The official record is made up of the following:

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

Petitioners' Exhibit 1 – Residential Appraisal Report, dated January 31, 2000,  
Petitioners' Exhibit 2 – GIS map of the neighborhood showing some neighboring assessments,

Petitioners' Exhibit 3 – GIS map showing the location of three land comparables and the appealed parcels, and an analysis prepared by Mr. Matthews with Multiple Listing Service data and property record cards,

Petitioners' Exhibit 4 – Notes from the PTABOA hearing regarding information provided by the Petitioners,

Petitioners' Exhibit 5 – 2002 survey of the subject parcels,

Respondent's Exhibit 1a – Power of Attorney for Jennifer Becker,

Respondent's Exhibit 1b – Power of Attorney Certification for Ms. Becker,

Respondent's Exhibit 1c – Property record cards for the appealed parcels,

Respondent's Exhibit 1d – GIS map showing the neighborhood and the appealed parcels,

Respondent's Exhibit 1e – GIS map showing the neighborhood and the appealed parcels highlighted in yellow and green,

Respondent's Exhibit 1f – Copy of the Matthews' Land Appraisal Summary Report,

Respondent's Exhibit 2 – Residential Appraisal Report, dated January 31, 2000,

Respondent's Exhibit 4 – Signature and Attestation Sheet for Jennifer Becker,<sup>6</sup>

Board Exhibit A – Form 131 petitions,

Board Exhibit B – Notices of hearing,

Board Exhibit C – Hearing sign-in sheet,

- d) These Findings and Conclusions.

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<sup>6</sup> The Respondent's exhibits were attached to a document entitled "Summary of Respondent Exhibits and Testimony." Ms. Becker did not offer that document as an exhibit. Ms. Becker also included a document titled "Respondent Signature and Attestation Sheet", which she apparently submitted, in part, to authenticate Respondent's Exhibits 1a – 1f. Ms. Becker did not offer Respondent's Exhibit 3, saying that she wanted to "rescind" that exhibit.

## **Analysis**

### Burden of Proof

12. A petitioner seeking review of an assessing official's determination 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).
13. In making its case, the petitioner 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”).
14. 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. But the burden of persuasion remains at all times with the taxpayer. *Thorntown Tel.Co. v. State Bd. of Tax Comm'rs*, 629 N.E.2d 962, 965 (Ind. Tax Ct. 1995).

### Discussion

15. The Petitioners did not prove that the subject property’s assessment should be reduced. 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).
  - b) Assessors typically use a mass-appraisal version of the cost approach to assess individual properties. The Real Property Assessment Guidelines for 2002 – Version A, detail that approach. But those Guidelines are merely a starting point for determining value. *Westfield Golf Practice Center, LLC v. Washington Twp. Assessor*, 859 N.E.2d 396, 399 (Ind. Tax Ct. 2007). Thus, while a property’s market value-in-use, as ascertained by applying those Guidelines, is presumed to be accurate, that presumption may be rebutted using relevant evidence that is consistent with the Manual’s definition of true tax value. *Eckerling v. Wayne Twp. Assessor*, 841 N.E.2d 674, 676 (Ind. Tax Ct. 2006); *see also* MANUAL at 5. That evidence includes market-value-in-use appraisals, actual construction costs, sales information regarding the appealed parcel or comparable properties, and other evidence compiled using generally accepted appraisal principles. *Id.*

- c) Regardless of the method used to rebut an assessment's presumption of accuracy, a party must explain how its evidence relates to the appealed property's market value-in-use as of the relevant valuation date. *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. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). For March 1, 2006, assessments, that valuation date was January 1, 2005. 50 IAC 21-3-3.
- d) Here, the Petitioners offered the following four items to support their claim: (1) Diederich's appraisal report; (2) the Petitioners' January 2000 purchase of the larger tract that included the subject property; (3) the Petitioners' September 2003 sale of their home and of the 3 ½ lots from that larger tract; and (4) the 2006 sale prices for two vacant lots along County Road 300.
- e) On its face, none of that evidence relates to the relevant January 1, 2005, valuation date. Diederich's appraisal and the Petitioners' purchase of the larger tract occurred almost five years before that valuation date. And the other sales were all more than a year removed from the valuation date.
- f) The Petitioners, however, argued that from 2000, when they bought the larger tract containing the subject property, through the end of 2006, when the two purportedly comparable lots sold, vacant lots along County Road 300 consistently sold for roughly \$2.50 per square foot. For that argument to succeed, however, the Petitioners needed to show that they were comparing apples to apples. Thus, they needed to explain how the relevant characteristics of the various properties compared to each other and how any differences affected the properties' relative values. *See Long*, 821 N.E.2d at 471. Mr. Matthews did explain at least some ways in which the subject property, the larger lot bought by the Petitioners in 2000, and the two vacant lots that sold in 2006 were comparable to each other. For example, the lots were all located in the Highlands Addition along County Road 300 and they were similarly shaped. On the other hand, the lots were different sizes—the subject property is approximately 7,200 square feet, the larger lot from 2000 was 14,000 square feet, and the vacant lots that sold in 2006 were 16,000 and 20,000 square feet, respectively. Mr. Matthews did not make any allowance for those size differences; instead, he simply used price-per-square-foot as a unit of comparison without making any size-based adjustments.
- g) Mr. Matthews, however, did not offer any support for his decision to forego accounting for size differences. At most, he simply asserted that his price-per-square-foot method reflected how buyers price land. But the Guidelines recognize that, at least for residential lots that are less than one acre, a lot's value does not necessarily increase in direct proportion to its size. *See GUIDELINES*, ch. 2 at 72-73. Instead, small lots are worth proportionally more per square foot than larger lots. *See id.* That does not automatically hold true in all cases. But the Petitioners needed to offer something beyond Mr. Matthews's bald assertion that an unadjusted price-per-square-foot necessarily was an accurate way to value the lots at issue in this case.

- h) In fact, the Respondent disputed that price-per-square foot was the most accurate way to value platted residential lots. Instead, the Guidelines instruct assessors to value those lots based on their amount of frontage. And, based on the Petitioners' own evidence, front-foot values have increased since 2000. That year, the Petitioners bought the larger lot containing the subject property for roughly \$250 per front foot, while the purportedly comparable vacant lots that sold in 2006 sold for prices much closer to the \$500-per-front-foot rate currently used to assess the subject property.
- i) Of course the Respondent did not offer any more evidence to show that price-per-front-foot necessarily offers a better unit of comparison for determining land values along County Road 300 than does Mr. Matthews's price-per-square-foot method. But the Petitioners, not the Respondent, had the burden of persuasion. And because the Petitioners failed to adequately explain how size differences affected the relative values of the lots that they sought to compare to each other, they did not show that values remained steady from 2000 to 2006. Consequently, they did not adequately explain how any of the sales in question related to the subject property's market value-in-use as of the relevant January 1, 2005, valuation date.
- j) The Board reaches that conclusion despite Ms. Becker's testimony that subject parcels' assessments had not changed since 2002. While that somewhat impeaches the Respondent's claim that values had increased over time, it was not sufficient to relate the various vacant land sales at issue to January 1, 2005, values.
- k) Even if the Board viewed Ms. Becker's testimony as a concession that values had remained steady, it would still find that the Petitioners failed to prove that the subject property's assessment was inaccurate. Mr. Matthews used the same comparable properties to estimate the subject property's market value that he used in his attempt to show that land values remained steady from 2000 through 2006. Because he failed to adequately account for size differences between the subject property and the purportedly comparable lots, the sale prices for those lots have little or no probative value.
- l) Finally, the Petitioners argued that land assessments along County Road 300 are excessive, and that lots without a lake view should not be valued the same as those with a full view of the lake. But the Petitioners failed to support those claims with any actual sales data.

### **Conclusion**

16. The Petitioners failed to meet their burden of proof. The Board therefore finds for the Respondent.



## Final Determination

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

ISSUED: July 16, 2009

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Chairman, Indiana Board of Tax Review

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Commissioner, Indiana Board of Tax Review

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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>>