

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

Petition Numbers:

Parcel Numbers:

19-002-07-1-5-00051	19-06-14-300-012.007-002
19-002-07-1-5-00051A	19-06-15-400-069.072-002
19-002-07-1-5-00051B	19-06-15-400-069.071-002
19-002-07-1-5-00051C	19-06-15-400-069.000-002
19-002-07-1-5-00052	19-06-14-300-012.004-002
19-002-07-1-5-00053	19-06-15-400-069.070-002
19-002-07-1-5-00054	19-06-14-300-012.008-002
19-002-07-1-5-00055	19-06-14-300-012.009-002
19-002-07-1-5-00056	19-06-14-300-012.005-002
19-002-07-1-5-00057	19-06-15-400-069.058-002
19-002-07-1-5-00058	19-06-15-400-069.055-002
19-002-07-1-5-00059	19-06-15-400-069.054-002
19-002-07-1-5-00060	19-06-15-400-069.056-002
19-002-07-1-5-00061	19-06-15-400-069.057-002
19-002-07-1-5-00062	19-06-15-400-070.067-002
19-002-07-1-5-00063	19-06-15-400-069.069-002
19-002-07-1-5-00064	19-06-14-300-012.006-002
19-002-07-1-5-00065	19-06-15-400-069.060-002
19-002-07-1-5-00066	19-06-15-400-069.053-002
19-002-08-1-5-00234	19-06-14-300-012.007-002
19-002-08-1-5-00234A	19-06-15-400-069.072-002
19-002-08-1-5-00234B	19-06-15-400-069.071-002
19-002-08-1-5-00234C	19-06-15-400-069.000-002
19-002-08-1-5-00235	19-06-14-300-012.004-002
19-002-08-1-5-00236	19-06-15-400-069.070-002
19-002-08-1-5-00237	19-06-14-300-012.008-002
19-002-08-1-5-00238	19-06-14-300-012.009-002
19-002-08-1-5-00239	19-06-14-300-012.005-002
19-002-08-1-5-00240	19-06-15-400-069.058-002
19-002-08-1-5-00241	19-06-15-400-069.055-002
19-002-08-1-5-00242	19-06-15-400-069.054-002
19-002-08-1-5-00243	19-06-15-400-069.056-002
19-002-08-1-5-00244	19-06-15-400-069.057-002
19-002-08-1-5-00245	19-06-15-400-070.067-002
19-002-08-1-5-00246	19-06-15-400-069.069-002
19-002-08-1-5-00247	19-06-14-300-012.006-002
19-002-08-1-5-00248	19-06-15-400-069.060-002
19-002-08-1-5-00249	19-06-15-400-069.053-002

Petitioner: Matthews Duplex Rentals, LLC
Respondent: Dubois County Assessor
Assessment Years: 2007 and 2008

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

PROCEDURAL HISTORY

1. The Petitioner's representative Duane R. Zishka of Uzelac & Associates, Inc., initiated assessment appeals for 2007 and 2008 with the Dubois County Property Tax Assessment Board of Appeals (the PTABOA) by written documents dated July 13, 2009.
2. The PTABOA issued notices of its decisions on April 1, 2010.¹
3. The Petitioner's representative filed Form 131 petitions with the Board on May 18, 2010. The Petitioner elected to have its cases heard according to the Board's small claims procedures.
4. The Board issued notices of hearing to the parties dated March 4, 2011.
5. The Board held an administrative hearing on April 14, 2011, before the duly appointed Administrative Law Judge (the ALJ) Rick Barter.
6. The following persons were present and sworn in at the hearing:²
 - a. For Petitioner: Mark A. Matthews, Petitioner
 - b. For Respondent: Gail Gramelspacher, Dubois County Assessor
Natalie Jenkins, Dubois Co. PTABOA
Marvin Mark Folkerts, Dubois Co. contractor

¹ Three of the Petitioner's parcels were not ruled upon by the PTABOA and no Form 115 notifications were issued for Parcel No. 19-06-25-400-069.072-002, located at 4185-4187 Pinehurst; Parcel No. 19-06-15-400-069.071-002, located at 4171-4173 Pinehurst; and Parcel No. 19-06-15-400-069.000-002, located at 4125-4127 Pinehurst. Mr. Zishka filed appeals with the Board for both 2007 and 2008 on the three parcels, exercising the Petitioner's right under Indiana Code § 6-1.1-15-1(o) which provides that if the PTABOA fails to hold a hearing within 180 days of the filing of an appeal or fails to give notice of its decision within 120 days after the hearing, a taxpayer may appeal to the Board.

² Duane R. Zishka of Uzelac & Associates, Inc., represented the Petitioner and Marilyn S. Meighen of Meighen & Associates, P.C., represented the Respondent at the hearing.

FACTS

7. The properties at issue are as follows:
1. Parcel No. 19-06-14-300-012.007-002 is a residential duplex located at 3733-3735 Harbor Court, Jasper, at issue in Petition No. 19-002-07-1-5-00051 and Petition No. 19-002-08-1-5-00234;
 2. Parcel No. 19-06-25-400-069.072-002 is a residential duplex located at 4185-4187 Pinehurst Drive, Jasper, at issue in Petition No. 19-002-07-1-5-00051A and Petition No. 19-002-08-1-5-00234A;
 3. Parcel No. 19-06-15-400-069.071-002 is a residential duplex located at 4171-4173 Pinehurst Drive, Jasper, at issue in Petition No. 19-002-07-1-5-00051B and Petition No. 19-002-08-1-5-00234B;
 4. Parcel No. 19-06-15-400-069-000-002 is a residential duplex located at 4125-4127 Pinehurst Drive, Jasper, at issue in Petition No. 19-002-07-1-5-00051C and Petition No. 19-002-08-1-5-00234C;
 5. Parcel No. 19-06-14-300-012.004-002 is a residential duplex located at 3750-3752 Kendall Court, Jasper, at issue in Petition No. 19-002-07-1-5-00052 and Petition No. 19-002-08-1-5-00235;
 6. Parcel No. 19-06-15-400-069.070-002 is a residential duplex located at 4128-4130 Westfall Court, Jasper, at issue in Petition No. 19-002-07-1-5-00053 and Petition No. 19-002-08-1-5-00236;
 7. Parcel No. 19-06-14-300-012.008-002 is a residential duplex located at 3740-3742 Harbor Court, Jasper, at issue in Petition No. 19-002-07-1-5-00054 and Petition No. 19-02-08-1-5-00237;
 8. Parcel No. 19-06-14-300-012.009-002 is a residential duplex located at 3760-3762 Harbor Court, Jasper, at issue in Petition No. 19-002-07-1-5-00055 and Petition No. 19-002-08-1-5-00238;
 9. Parcel No. 19-06-14-300-012.005-002 is a residential duplex located at 3760-3762 Kendall Court, Jasper, at issue in Petition No. 19-002-07-1-5-00056 and Petition No. 19-002-08-1-5-00239;
 10. Parcel No. 19-06-15-400-069.058-002 is a residential duplex located at 983-985 41st Street, Jasper, at issue in Petition No. 19-002-07-1-5-00057 and Petition No. 19-002-08-1-5-00240;
 11. Parcel No. 19-06-15-400-069.055-002 is a residential duplex located at 4073-4075 Pinehurst Drive, Jasper, at issue in Petition No. 19-002-07-1-5-00058 and Petition No. 19-002-08-1-5-00241;
 12. Parcel No. 19-06-15-400-069.054-002 is a residential duplex located at 938-940 41st Street, Jasper, at issue in Petition No. 19-002-07-1-5-00059 and Petition No. 19-002-08-1-5-00242;
 13. Parcel No. 19-06-15-400-069.056-002 is a residential duplex located at 4025-4027 Pinehurst Drive, Jasper, at issue in Petition No. 19-002-07-1-5-00060 and Petition No. 19-002-08-1-5-00243;
 14. Parcel No. 19-06-15-400-069.057-002 is a residential duplex located at 4005-4007 Pinehurst Drive, Jasper, at issue in Petition No. 19-002-07-1-5-00061 and Petition No. 19-002-08-1-5-00244;

15. Parcel No. 19-06-15-400-070.067-002 is a residential duplex located at 3723-3725 Kendall Court, Jasper, at issue in Petition No. 19-002-07-1-5-00062 and Petition No. 19-002-08-1-5-00245;
 16. Parcel No. 19-06-15-400-069.069-002 is a residential duplex located at 4160-4162 Westfall Court, Jasper, at issue in Petition No. 19-002-07-1-5-00063 and Petition No. 19-002-08-1-5-00246;
 17. Parcel No. 19-06-14-300-012.006-002 is a residential duplex located at 3763-3765 Harbor Court, Jasper, at issue in Petition No. 19-002-07-1-5-00064 and Petition No. 19-002-08-1-5-00247;
 18. Parcel No. 19-06-15-400-069.060-002 is a residential duplex located at 4127-4129 Westfall Court, Jasper, at issue in Petition No. 19-002-07-1-5-00065 and Petition No. 19-002-08-1-5-00248;
 19. Parcel No. 19-06-15-400-069.053-002 is a residential duplex located at 918-920 41st Street, Jasper, at issue in Petition No. 19-002-07-1-5-00066 and Petition No. 19-002-08-1-5-00249.
8. The ALJ did not conduct an on-site visit of the properties.
 9. For 2007, the PTABOA determined the assessed values of the subject properties to be:
 1. \$26,100 for the land and \$100,800 for the improvements, for a total assessed value of \$126,900 for Parcel No. 19-06-14-300-012.007-002, located at 3733-3735 Harbor Court, Jasper, at issue in Petition No. 19-002-07-1-5-00051;
 2. \$22,800 for the land and \$103,200 for the improvements, for a total assessed value of \$126,000 for Parcel No. 19-06-15-400-069.072-002, located at 4185-4187 Pinehurst Drive, Jasper, at issue in Petition No. 19-002-07-1-5-00051A;
 3. \$17,800 for the land and \$108,400 for the improvements, for a total assessed value of \$126,200 for Parcel No. 19-06-15-400-069.071-002, located at 4171-4173 Pinehurst Drive, Jasper, at issue in Petition No. 19-002-07-1-5-00051B;
 4. \$16,400 for the land and \$114,700 for the improvements, for a total assessed value of \$131,100 for Parcel No. 19-06-15-400-069.000-002, located at 4125-4127 Pinehurst Drive, Jasper, at issue in Petition No. 19-002-07-1-5-00051C;
 5. \$12,000 for the land and \$114,500 for the improvements, for a total assessed value of \$126,500 for Parcel No. 19-06-14-300-012.004-002, located at 3750-3752 Kendall Court, Jasper, at issue in Petition No. 19-002-07-1-5-00052;
 6. \$17,600 for the land and \$108,400 for the improvements, for a total assessed value of \$126,000 for Parcel No. 19-06-15-400-069.070-002, located at 4128-4130 Westfall Court, Jasper, at issue in Petition No. 19-002-07-1-5-00053;
 7. \$24,400 for the land and \$102,600 for the improvements, for a total assessed value of \$127,000 for Parcel No. 19-06-14-300-012.008-002, located at 3740-3742 Harbor Court, Jasper, at issue in Petition No. 19-002-07-1-5-00054;
 8. \$18,800 for the land and \$108,100 for the improvements, for a total assessed value of \$126,900 for Parcel No. 19-06-14-300-012.009-002, located at 3760-3762 Harbor Court, Jasper, at issue in Petition No. 19-002-07-1-5-00055;

9. \$19,000 for the land and \$107,900 for the improvements, for a total assessed value of \$126,900 for Parcel No. 19-06-14-300-012.005-002, located at 3760-3762 Kendall Court, Jasper, at issue in Petition No. 19-002-07-1-5-00056;
 10. \$17,900 for the land and \$108,700 for the improvements, for a total assessed value of \$126,600 for Parcel No. 19-06-15-400-069.058-002, located at 983-985 41st Street, Jasper, at issue in Petition No. 19-002-07-1-5-00057;
 11. \$29,300 for the land and \$96,700 for the improvements, for a total assessed value of \$126,000 for Parcel No. 19-06-15-400-069.055-002, located at 4073-4075 Pinehurst Drive, Jasper, at issue in Petition No. 19-002-07-1-5-00058;
 12. \$28,100 for the land and \$97,900 for the improvements, for a total assessed value of \$126,000 for Parcel No. 19-06-15-400-069.054-002, located at 938-940 41st Street, Jasper, at issue in Petition No. 19-002-07-1-5-00059;
 13. \$14,600 for the land and \$112,400 for the improvements, for a total assessed value of \$127,000 for Parcel No. 19-06-15-400-069.056-002, located at 4025-4027 Pinehurst Drive, Jasper, at issue in Petition No. 19-002-07-1-5-00060;
 14. \$14,600 for the land and \$112,400 for the improvements, for a total assessed value of \$127,000 for Parcel No. 19-06-15-400-069.057-002, located at 4005-4007 Pinehurst Drive, Jasper, at issue in Petition No. 19-002-07-1-5-00061;
 15. \$20,200 for the land and \$106,300 for the improvements, for a total assessed value of \$125,900 for Parcel No. 19-06-15-400-070.067-002, located at 3723-3725 Kendall Court, Jasper, at issue in Petition No. 19-002-07-1-5-00062;
 16. \$28,400 for the land and \$97,800 for the improvements, for a total assessed value of \$126,200 for Parcel No. 19-06-15-400-069.069-002, located at 4160-4162 Westfall Court, Jasper, at issue in Petition No. 19-002-07-1-5-00063;
 17. \$19,000 for the land and \$107,400 for the improvements, for a total assessed value of \$126,400 for Parcel No. 19-06-14-300-012.006-002, located at 3763-3765 Harbor Court, Jasper, at issue in Petition No. 19-002-07-1-5-00064;
 18. \$17,600 for the land and \$108,400 for the improvements, for a total assessed value of \$126,000 for Parcel No. 19-06-15-400-069.060-002, located at 4127-4129 Westfall Court, Jasper, at issue in Petition No. 19-002-07-1-5-00065;
 19. \$18,900 for the land and \$107,300 for the improvements, for a total assessed value of \$126,200 for Parcel No. 19-06-15-400-069.053-002, located at 918-920 41st Street, Jasper, at issue in Petition No. 19-002-07-1-5-00066.
10. For 2008, the PTABOA determined the assessed values of the subject properties to be:
1. \$26,100 for the land and \$105,100 for the improvements, for a total assessed value of \$131,200 for Parcel No. 19-06-14-300-012.007-002, located at 3733-3735 Harbor Court, Jasper, at issue in Petition No. 19-002-07-1-5-00234;
 2. \$22,800 for the land and \$107,600 for the improvements, for a total assessed value of \$130,400 for Parcel No. 19-06-25-400-069.072-002, located at 4185-4187 Pinehurst Drive, Jasper, at issue in Petition No. 19-002-07-1-5-00234A;
 3. \$17,800 for the land and \$113,300 for the improvements, for a total assessed value of \$131,100 for Parcel No. 19-06-15-400-069.071-002, located at 4171-4173 Pinehurst Drive, Jasper, at issue in Petition No. 19-002-07-1-5-00234B;

4. \$16,400 for the land and \$114,700 for the improvements, for a total assessed value of \$131,100 for Parcel No. 19-06-15-400-069.000-002, located at 4125-4127 Pinehurst Drive, Jasper, at issue in Petition No. 19-002-07-1-5-00234C;
5. \$12,000 for the land and \$119,400 for the improvements, for a total assessed value of \$131,400 for Parcel No. 19-06-14-300-012.004-002, located at 3750-3752 Kendall Court, Jasper, at issue in Petition No. 19-002-07-1-5-00235;
6. \$17,600 for the land and \$113,300 for the improvements, for a total assessed value of \$130,900 for Parcel No. 19-06-15-400-069.070-002, located at 4128-4130 Westfall Court, Jasper, at issue in Petition No. 19-002-07-1-5-00236;
7. \$24,400 for the land and \$107,100 for the improvements, for a total assessed value of \$131,500 for Parcel No. 19-06-14-300-012.008-002, located at 3740-3742 Harbor Court, Jasper, at issue in Petition No. 19-002-07-1-5-00237;
8. \$18,800 for the land and \$112,700 for the improvements, for a total assessed value of \$131,500 for Parcel No. 19-06-14-300-012.009-002, located at 3760-3762 Harbor Court, Jasper, at issue in Petition No. 19-002-07-1-5-00238;
9. \$19,000 for the land and \$112,600 for the improvements, for a total assessed value of \$131,600 for Parcel No. 19-06-14-300-012.005-002, located at 3760-3762 Kendall Court, Jasper, at issue in Petition No. 19-002-07-1-5-00239;
10. \$17,900 for the land and \$113,500 for the improvements, for a total assessed value of \$131,400 for Parcel No. 19-06-15-400-069.058-002, located at 983-985 41st Street, Jasper, at issue in Petition No. 19-002-07-1-5-00240;
11. \$29,300 for the land and \$100,800 for the improvements, for a total assessed value of \$130,100 for Parcel No. 19-06-15-400-069.055-002, located at 4073-4075 Pinehurst Drive, Jasper, at issue in Petition No. 19-002-07-1-5-00241;
12. \$28,100 for the land and \$102,200 for the improvements, for a total assessed value of \$130,300 for Parcel No. 19-06-15-400-069.054-002, located at 938-940 41st Street, Jasper, at issue in Petition No. 19-002-07-1-5-00242;
13. \$14,600 for the land and \$117,400 for the improvements, for a total assessed value of \$132,000 for Parcel No. 19-06-15-400-069.056-002, located at 4025-4027 Pinehurst Drive, Jasper, at issue in Petition No. 19-002-07-1-5-00243;
14. \$14,600 for the land and \$117,400 for the improvements, for a total assessed value of \$132,000 for Parcel No. 19-06-15-400-069.057-002, located at 4005-4007 Pinehurst Drive, Jasper, at issue in Petition No. 19-002-07-1-5-00244;
15. \$20,200 for the land and \$110,900 for the improvements, for a total assessed value of \$131,100 for Parcel No. 19-06-15-400-070.067-002, located at 3723-3725 Kendall Court, Jasper, at issue in Petition No. 19-002-07-1-5-00245;
16. \$28,400 for the land and \$102,000 for the improvements, for a total assessed value of \$130,400 for Parcel No. 19-06-15-400-069.069-002, located at 4160-4162 Westfall Court, Jasper, at issue in Petition No. 19-002-07-1-5-00246;
17. \$19,000 for the land and \$112,100 for the improvements, for a total assessed value of \$131,100 for Parcel No. 19-06-14-300-012.006-002, located at 3763-3765 Harbor Court, Jasper, at issue in Petition No. 19-002-07-1-5-00247;
18. \$17,600 for the land and \$113,300 for the improvements, for a total assessed value of \$130,900 for Parcel No. 19-06-15-400-069.060-002, located at 4127-4129 Westfall Court, Jasper, at issue in Petition No. 19-002-07-1-5-00248;

19. \$18,900 for the land and \$112,000 for the improvements, for a total assessed value of \$130,900 for Parcel No. 19-06-15-400-069.053-002, located at 918-920 41st Street, Jasper, at issue in Petition No. 19-002-07-15-00249.

11. For 2007 the Petitioner requested the following assessed values for the parcels:³
 1. A total assessed value of \$97,600 for Parcel No. 19-06-14-300-012.007-002, located at 3733-3735 Harbor Court, Jasper, at issue in Petition No. 19-002-07-1-5-00051;
 2. A total assessed value of \$25,700 for Parcel No. 19-06-15-400-069.072-002, located at 4185-4187 Pinehurst Drive, Jasper, at issue in Petition No. 19-002-07-1-5-00051A;
 3. A total assessed value of \$12,000 for Parcel No. 19-06-15-400-069.071-002, located at 4171-4173 Pinehurst Drive, Jasper, at issue in Petition No. 19-002-07-1-5-00051B;
 4. A total assessed value of \$99,400 for Parcel No. 19-06-15-400-069.000-002, located at 4125-4127 Pinehurst Drive, Jasper, at issue in Petition No. 19-002-07-1-5-00051C;
 5. A total assessed value of \$100,100 for Parcel No. 19-06-14-300-012.004-002, located at 3750-3752 Kendall Court, Jasper, at issue in Petition No. 19-002-07-1-5-00052;
 6. A total assessed value of \$95,000 for Parcel No. 19-06-15-400-069.070-002, located at 4128-4130 Westfall Court, Jasper, at issue in Petition No. 19-002-07-1-5-00053;
 7. A total assessed value of \$102,500 for Parcel No. 19-06-14-300-012.008-002, located at 3740-3742 Harbor Court, Jasper, at issue in Petition No. 19-002-07-1-5-00054;
 8. A total assessed value of \$102,100 for Parcel No. 19-06-14-300-012.009-002, located at 3760-3762 Harbor Court, Jasper, at issue in Petition No. 19-002-07-1-5-00055;
 9. A total assessed value of \$99,300 for Parcel No. 19-06-14-300-012.005-002, located at 3760-3762 Kendall Court, Jasper, at issue in Petition No. 19-002-07-1-5-00056;
 10. A total assessed value of \$100,800 for Parcel No. 19-06-15-400-069.058-002, located at 983-985 41st Street, Jasper, at issue in Petition No. 19-002-07-1-5-00057;
 11. A total assessed value of \$99,500 for Parcel No. 19-06-15-400-069.055-002, located at 4073-4075 Pinehurst Drive, Jasper, at issue in Petition No. 19-002-07-1-5-00058;
 12. A total assessed value of \$102,000 for Parcel No. 19-06-15-400-069.054-002, located at 938-940 41st Street, Jasper, at issue in Petition No. 19-002-07-1-5-00059;
 13. A total assessed value of \$101,500 for Parcel No. 19-06-15-400-069.056-002, located at 4025-4027 Pinehurst Drive, Jasper, at issue in Petition No. 19-002-07-1-5-00060;
 14. A total assessed value of \$103,000 for Parcel No. 19-06-15-400-069.057-002, located at 4005-4007 Pinehurst Drive, Jasper, at issue in Petition No. 19-002-07-1-5-00061;
 15. A total assessed value of \$94,000 for Parcel No. 19-06-15-400-070.067-002, located at 3723-3725 Kendall Court, Jasper, at issue in Petition No. 19-002-07-1-5-00062;
 16. A total assessed value of \$93,900 for Parcel No. 19-06-15-400-069.069-002, located at 4160-4162 Westfall Court, Jasper, at issue in Petition No. 19-002-07-1-5-00063;
 17. A total assessed value of \$98,700 for Parcel No. 19-06-14-300-012.006-002, located at 3763-3765 Harbor Court, Jasper, at issue in Petition No. 19-002-07-1-5-00064;
 18. A total assessed value of \$98,700 for Parcel No. 19-06-15-400-069.060-002, located at 4127-4129 Westfall Court, Jasper, at issue in Petition No. 19-002-07-1-5-00065;

³ In the Petitioner's Form 131 Petitions submitted by Mr. Zishka, the Petitioner requested values for each parcel using the PTABOA's assessed land values and improvement values based on his calculations. At the hearing Mr. Zishka submitted exhibits for each parcel for each year seeking a total assessed value but not breaking out a separate land value and a separate improvement value.

19. A total assessed value of \$100,800 for Parcel No. 19-06-15-400-069.053-002, located at 918-920 41st Street, Jasper, at issue in Petition No. 19-002-07-1-5-00066.

12. For 2008 the Petitioner requested the following assessed values for the parcels:
 1. A total assessed value of \$101,300 for Parcel No. 19-06-14-300-012.007-002, located at 3733-3735 Harbor Court, Jasper, at issue in Petition No. 19-002-07-1-5-00234;
 2. A total assessed value of \$42,500 for Parcel No. 19-06-25-400-069.072-002, located at 4185-4187 Pinehurst Drive, Jasper, at issue in Petition No. 19-002-07-1-5-00234A;
 3. A total assessed value of \$32,100 for Parcel No. 19-06-15-400-069.071-002, located at 4171-4173 Pinehurst Drive, Jasper, at issue in Petition No. 19-002-07-1-5-00234B;
 4. A total assessed value of \$104,000 for Parcel No. 19-06-15-400-069.000-002, located at 4125-4127 Pinehurst Drive, Jasper, at issue in Petition No. 19-002-07-1-5-00234C;
 5. A total assessed value of \$103,800 for Parcel No. 19-06-14-300-012.004-002, located at 3750-3752 Kendall Court, Jasper, at issue in Petition No. 19-002-07-1-5-00235;
 6. A total assessed value of \$101,900 for Parcel No. 19-06-15-400-069.070-002, located at 4128-4130 Westfall Court, Jasper, at issue in Petition No. 19-002-07-1-5-00236;
 7. A total assessed value of \$105,000 for Parcel No. 19-06-14-300-012.008-002, located at 3740-3742 Harbor Court, Jasper, at issue in Petition No. 19-002-07-1-5-00237;
 8. A total assessed value of \$104,400 for Parcel No. 19-06-14-300-012.009-002, located at 3760-3762 Harbor Court, Jasper, at issue in Petition No. 19-002-07-1-5-00238;
 9. A total assessed value of \$104,200 for Parcel No. 19-06-14-300-012.005-002, located at 3760-3762 Kendall Court, Jasper, at issue in Petition No. 19-002-07-1-5-00239;
 10. A total assessed value of \$105,100 for Parcel No. 19-06-15-400-069.058-002, located at 983-985 41st Street, Jasper, at issue in Petition No. 19-002-07-1-5-00240;
 11. A total assessed value of \$105,000 for Parcel No. 19-06-15-400-069.055-002, located at 4073-4075 Pinehurst Drive, Jasper, at issue in Petition No. 19-002-07-1-5-00241;
 12. A total assessed value of \$105,400 for Parcel No. 19-06-15-400-069.054-002, located at 938-940 41st Street, Jasper, at issue in Petition No. 19-002-07-1-5-00242;
 13. A total assessed value of \$106,400 for Parcel No. 19-06-15-400-069.056-002, located at 4025-4027 Pinehurst Drive, Jasper, at issue in Petition No. 19-002-07-1-5-00243;
 14. A total assessed value of \$105,600 for Parcel No. 19-06-15-400-069.057-002, located at 4005-4007 Pinehurst Drive, Jasper, at issue in Petition No. 19-002-07-1-5-00244;
 15. A total assessed value of \$99,400 for Parcel No. 19-06-15-400-070.067-002, located at 3723-3725 Kendall Court, Jasper, at issue in Petition No. 19-002-07-1-5-00245;
 16. A total assessed value of \$100,800 for Parcel No. 19-06-15-400-069.069-002, located at 4160-4162 Westfall Court, Jasper, at issue in Petition No. 19-002-07-1-5-00246;
 17. A total assessed value of \$102,500 for Parcel No. 19-06-14-300-012.006-002, located at 3763-3765 Harbor Court, Jasper, at issue in Petition No. 19-002-07-1-5-00247;
 18. A total assessed value of \$104,400 for Parcel No. 19-06-15-400-069.060-002, located at 4127-4129 Westfall Court, Jasper, at issue in Petition No. 19-002-07-1-5-00248;
 19. A total assessed value of \$104,900 for Parcel No. 19-06-15-400-069.053-002, located at 918-920 41st Street, Jasper, at issue in Petition No. 19-002-07-15-00249.

ISSUES

13. Summary of the Petitioner's contentions in support of an alleged error in its properties' assessments:
- a. The Petitioner's representative contends that the Petitioner's properties are over-assessed for 2007 and 2008 based on an income approach analysis. *Zishka argument*. According to Mr. Zishka, income-producing properties of two units or less are typically valued by the Gross Rent Multiplier (GRM) method of assessment. *Id.* However, he argues, it is not a requirement. *Id.* Mr. Zishka contends that even though the nineteen parcels each contain a two-unit duplex, the Petitioner operates his investment properties as one large complex. *Id.* Because the Petitioner's properties are multiple unit properties, Mr. Zishka argues, the income capitalization approach is a more appropriate way to value the properties. *Id.*
 - b. In developing his income valuation analysis for the properties, Mr. Zishka testified that he used data he obtained from the Petitioner's records and statements. *Zishka testimony; Petitioner Exhibits 1 through 21 (2007) and 1 through 21 (2008)*. According to Mr. Zishka, he developed a potential gross income for the properties using a per-unit monthly rent of \$610 for 2007 and \$620 for 2008, which he contends are the average rents for all of the properties at issue in this appeal. *Id.* Mr. Zishka applied a two percent vacancy rate to the potential gross income for 2007 and 2008, based on his "judgment" and the low vacancy rate that the Petitioner's properties had experienced. *Id.* From that gross income, Mr. Zishka subtracted the properties' expenses. *Id.* According to Mr. Zishka, he calculated the properties' expenses based on the Petitioner's tax records for each unit and he calculated the value of the Petitioner's labor by using the U.S. Labor Department's Bureau of Labor statistics. *Id.* In addition, Mr. Zishka testified, he estimated the cost of "replacement reserves" based on the RealtyRates.com "Investor Survey" for 2006 and 2007. *Id.* Mr. Zishka then calculated an income capitalization rate from data he also obtained from the RealtyRates.com website. *Id.* Mr. Zishka applied his capitalization rate of 9.67%, loaded with the percentage of each unit's property taxes, to the net operating income of each property to estimate the value of the real estate and personal property contained in each unit. *Id.* Finally, Mr. Zishka subtracted \$800 for the personal property that he calculated from the Petitioner's personal property returns to estimate the value of the real estate for each property. *Id.*
 - c. In support of his income analysis, Mr. Zishka submitted a summary sheet showing the income, expenses and resulting value of each property; a copy of his capitalization rate calculation, a copy of the Petitioner's 2006 and 2007 Schedule E tax returns showing the income, loss and expenses for each unit for the 2007 year appeals; and the properties' 2006, 2007 and 2008 Schedule E's for the 2008 appeals. *Petitioner Exhibits 1 through 19 (2007) and 1 through 19 (2008)*. Mr. Zishka's exhibits also included documentation of Mr. Matthews' work in operating and maintaining the Petitioner's properties and an estimate of the value of his work based on U.S. Department of Labor's Bureau of Labor statistics. *Petitioner Exhibits 20 and 21*

- (2007) and 20 and 21 (2008). In response to questioning, Mr. Zishka admitted that he used national data in developing his income valuation, but, he argues, he did not have access to the local data that is available to the county. *Zishka testimony*. Further, he argues, his figures are based on a wide variety of areas including both large and small cities. *Zishka testimony*. In addition, Mr. Zishka acknowledged that the Petitioner's sales disclosures did not identify personal property, but he argues it is not uncommon for sales disclosure forms to be filled out inaccurately. *Zishka testimony*.
- d. In rebuttal, Mr. Zishka argued that the Respondent's GRM method was inapplicable to the Petitioner's properties because the Respondent's calculation involved new construction in some cases, and sales between relatives in others. *Id.*
14. Summary of the Respondent's contentions in support of the properties' assessments:
- a. The Respondent's counsel, Ms. Meighen, argues that the Petitioner failed to raise a prima facie case to support the values its representative calculated in his income capitalization analyses. *Meighen argument*. According to Ms. Meighen, it is not appropriate to use the actual income and expense data from the property under appeal without comparing the information to market data. *Meighen argument*. In support of her argument Ms. Meighen cited the Board's ruling in *Twyckenham Village v. Tippecanoe County Assessor*, issued on March 10, 2010, and its ruling on *Augusta Plaza Associates v. Marion County Assessor*, issued on July 23, 2003. *Id.* In addition, Ms. Meighen argues that the Petitioner's expenses and replacement reserves "double-dipped." *Meighen argument*. Moreover, she contends, that the deduction of \$800 for personal property on each parcel was not supported by any evidence. *Id.* To the contrary, Ms. Meighen contends, the sales disclosure forms filed on six of the units under appeal purchased by the Petitioner indicate that no personal property was included in the sales price. *Id.; Respondent Exhibits U, V and W.*
- b. Ms. Meighen further argues that the Petitioner's properties are not contiguous and should therefore not be treated as an apartment complex. *Meighen argument*. According to the Respondent's witness, Mr. Folkerts, the properties are each individual two-unit duplexes that should be valued using the GRM as required by Indiana Code § 6-1.1-4-39. *Folkerts testimony*. Thus, regardless of the way that the Petitioner runs his operation, Ms. Meighen argues, the properties are not an "apartment complex," but, in fact, are nineteen separate duplexes that should be valued by the GRM method. *Meighen argument*.
- c. Finally, Ms. Meighen argues that the Petitioner's properties were not over-valued by the assessor. *Meighen argument*. According to Ms. Meighen, the county developed a GRM value of 9.7 based on the sales of six of the units under appeal. *Id.; Respondent Exhibits U and W*. Mr. Folkerts testified that using the GRM to value the Petitioner's properties resulted in an assessment that was higher than the 2007 and 2008 assessed values under appeal for each unit. *Folkerts testimony; Respondent Exhibits A through W*. Mr. Folkerts testified, however, that the county assessor did not raise the Petitioner's properties' assessments to their GRM values because the office was still

in the process of comparing the data with more county-wide information to ensure that 9.7 was the proper GRM for the area. *Folkerts testimony.*

RECORD

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

- a. The Petitions.
- b. The digital recording of the hearing labeled Matthews Duplex Rentals.
- c. Exhibits:

2007 Appeals:

- Petitioner Exhibit 1 - Summary sheet of income, expenses and calculated value of Parcel No. 19-06-14-300-012.009-002, located at 3760-3762 Harbor Court, Jasper,
- Petitioner Exhibit 2 - Summary sheet of income, expenses and calculated value of Parcel No. 19-06-14-300-012.005-002, located at 3760-3762 Kendall Court, Jasper,
- Petitioner Exhibit 3 - Summary sheet of income, expenses and calculated value of Parcel No. 19-06-14-300-012.006-002, located at 3763-3765 Harbor Court, Jasper,
- Petitioner Exhibit 4 - Summary sheet of income, expenses and calculated value of Parcel No. 19-06-14-300-012.007-002, located at 3733-3735 Harbor Court, Jasper,
- Petitioner Exhibit 5 - Summary sheet of income, expenses and calculated value of Parcel No. 19-06-14-300-012.008-002, located at 3740-3742 Harbor Court, Jasper,
- Petitioner Exhibit 6 - Summary sheet of income, expenses and calculated value of Parcel No. 19-06-15-400-069.070-002, located at 4128-4130 Westfall Court, Jasper,
- Petitioner Exhibit 7 - Summary sheet of income, expenses and calculated value of Parcel No. 19-06-14-300-012.004-002, located at 3750-3752 Kendall Court, Jasper,
- Petitioner Exhibit 8 - Summary sheet of income, expenses and calculated value of Parcel No. 19-06-15-400-069.000-002, located at 4125-4127 Pinehurst Drive, Jasper,
- Petitioner Exhibit 9 - Summary sheet of income, expenses and calculated value of Parcel No. 19-06-15-400-069.053-002, located at 918-920 41st Street, Jasper,
- Petitioner Exhibit 10 - Summary sheet of income, expenses and calculated value of Parcel No. 19-06-15-400-069.054-002, located at 938-940 41st Street, Jasper,

- Petitioner Exhibit 11 - Summary sheet of income, expenses and calculated value of Parcel No. 19-06-15-400-069.055-002, located at 4073-4075 Pinehurst Drive, Jasper,
- Petitioner Exhibit 12 - Summary sheet of income, expenses and calculated value of Parcel No. 19-06-15-400-069.056-002, located at 4025-4027 Pinehurst Drive, Jasper,
- Petitioner Exhibit 13 - Summary sheet of income, expenses and calculated value of Parcel No. 19-06-15-400-069.057-002, located at 4005-4007 Pinehurst Drive, Jasper,
- Petitioner Exhibit 14 - Summary sheet of income, expenses and calculated value of Parcel No. 19-06-15-400-069.058-002, located at 983-985 41st Street, Jasper,
- Petitioner Exhibit 15 - Summary sheet of income, expenses and calculated value of Parcel No. 19-06-15-400-069.060-002, located at 4127-4129 Westfall Court, Jasper,
- Petitioner Exhibit 16 - Summary sheet of income, expenses and calculated value of Parcel No. 19-06-15-400-069.069-002, located at 4160-4162 Westfall Court, Jasper,
- Petitioner Exhibit 17 - Summary sheet of income, expenses and calculated value of Parcel No. 19-06-15-400-069.071-002, located at 4171-4173 Pinehurst Drive, Jasper,
- Petitioner Exhibit 18 - Summary sheet of income, expenses and calculated value of Parcel No. 19-06-15-400-069.072-002, located at 4185-4187 Pinehurst Drive, Jasper,
- Petitioner Exhibit 19 - Summary sheet of income, expenses and calculated value of Parcel No. 19-06-15-400-070.067-002, located at 3723-3725 Kendall Court, Jasper,
- Petitioner Exhibit 20 - Breakdown of the estimated hours and compensation for Mr. Matthews' 2006 and 2007 labor,
- Petitioner Exhibit 21 - Summary of employee compensation costs,

2008 Appeals:

- Petitioner Exhibit 1 - Summary sheet of income, expenses and calculated value of Parcel No. 19-06-14-300-012.009-002, located at 3760-3762 Harbor Court, Jasper,
- Petitioner Exhibit 2 - Summary sheet of income, expenses and calculated value of Parcel No. 19-06-14-300-012.005-002, located at 3760-3762 Kendall Court, Jasper,
- Petitioner Exhibit 3 - Summary sheet of income, expenses and calculated value of Parcel No. 19-06-14-300-012.006-002, located at 3763-3765 Harbor Court, Jasper,
- Petitioner Exhibit 4 - Summary sheet of income, expenses and calculated value of Parcel No. 19-06-14-300-012.007-002, located at 3733-3735 Harbor Court, Jasper,

- Petitioner Exhibit 5 - Summary sheet of income, expenses and calculated value of Parcel No. 19-06-14-300-012.008-002, located at 3740-3742 Harbor Court, Jasper,
- Petitioner Exhibit 6 - Summary sheet of income, expenses and calculated value of Parcel No. 19-06-15-400-069.070-002, located at 4128-4130 Westfall Court, Jasper,
- Petitioner Exhibit 7 - Summary sheet of income, expenses and calculated value of Parcel No. 19-06-14-300-012.004-002, located at 3750-3752 Kendall Court, Jasper,
- Petitioner Exhibit 8 - Summary sheet of income, expenses and calculated value of Parcel No. 19-06-15-400-069.000-002, located at 4125-4127 Pinehurst Drive, Jasper,
- Petitioner Exhibit 9 - Summary sheet of income, expenses and calculated value of Parcel No. 19-06-15-400-069.053-002, located at 918-920 41st Street, Jasper,
- Petitioner Exhibit 10 - Summary sheet of income, expenses and calculated value of Parcel No. 19-06-15-400-069.054-002, located at 938-940 41st Street, Jasper,
- Petitioner Exhibit 11 - Summary sheet of income, expenses and calculated value of Parcel No. 19-06-15-400-069.055-002, located at 4073-4075 Pinehurst Drive, Jasper,
- Petitioner Exhibit 12 - Summary sheet of income, expenses and calculated value of Parcel No. 19-06-15-400-069.056-002, located at 4025-4027 Pinehurst Drive, Jasper,
- Petitioner Exhibit 13 - Summary sheet of income, expenses and calculated value of Parcel No. 19-06-15-400-069.057-002, located at 4005-4007 Pinehurst Drive, Jasper,
- Petitioner Exhibit 14 - Summary sheet of income, expenses and calculated value of Parcel No. 19-06-15-400-069.058-002, located at 983-985 41st Street, Jasper,
- Petitioner Exhibit 15 - Summary sheet of income, expenses and calculated value of Parcel No. 19-06-15-400-069.060-002, located at 4127-4129 Westfall Court, Jasper,
- Petitioner Exhibit 16 - Summary sheet of income, expenses and calculated value of Parcel No. 19-06-15-400-069.069-002, located at 4160-4162 Westfall Court, Jasper,
- Petitioner Exhibit 17 - Summary sheet of income, expenses and calculated value of Parcel No. 19-06-15-400-069.071-002, located at 4171-4173 Pinehurst Drive, Jasper,
- Petitioner Exhibit 18 - Summary sheet of income, expenses and calculated value of Parcel No. 19-06-15-400-069.072-002, located at 4185-4187 Pinehurst Drive, Jasper,
- Petitioner Exhibit 19 - Summary sheet of income, expenses and calculated value of Parcel No. 19-06-15-400-070.067-002, located at 3723-3725 Kendall Court, Jasper,

Petitioner Exhibit 20 - Breakdown of the estimated hours and compensation for Mr. Matthews' 2006, 2007 and 2008 labor,
Petitioner Exhibit 21 - Summary of employee compensation costs,

Respondent Exhibit A – Property record card (PRC) and summary of income and expenses for 3733-3735 Harbor Court, Jasper,
Respondent Exhibit B – PRC for 4185-4187 Pinehurst Drive, Jasper,
Respondent Exhibit C – PRC for 4171-4172 Pinehurst Drive, Jasper,
Respondent Exhibit D – PRC for 4125-4127 Pinehurst Drive, Jasper,
Respondent Exhibit E – PRC and summary of income and expenses for 3750-3752 Kendall Court, Jasper,
Respondent Exhibit F – PRC and summary of income and expenses for 4128-4130 Westfall Court, Jasper,
Respondent Exhibit G – PRC and summary of income and expenses for 3740-3742 Harbor Court, Jasper,
Respondent Exhibit H – PRC and summary of income and expenses for 3760-3762 Harbor Court, Jasper,
Respondent Exhibit I – PRC for 3760-3762 Kendall Court, Jasper,
Respondent Exhibit J – PRC and summary of income and expenses for 983-985 41st Street, Jasper,
Respondent Exhibit K – PRC and summary of income and expenses for 4073-4075 Pinehurst Drive, Jasper,
Respondent Exhibit L – PRC and summary of income and expenses for 938-940 41st Street, Jasper,
Respondent Exhibit M – PRC and summary of income and expenses for 4025-4027 Pinehurst Drive, Jasper,
Respondent Exhibit N – PRC and summary of income and expenses for 4005-4007 Pinehurst Drive, Jasper,
Respondent Exhibit O – PRC and summary of income and expenses for 3723-3725 Kendall Court, Jasper,
Respondent Exhibit P – PRC and summary of income and expenses for 4160-4162 Westfall Court, Jasper,
Respondent Exhibit Q – PRC and summary of income and expenses for 3763-3765 Harbor Court, Jasper,
Respondent Exhibit R – PRC and summary of income and expenses for 4127-4129 Westfall Court, Jasper,
Respondent Exhibit S – PRC and summary of income and expenses for 918-920 41st Street, Jasper,
Respondent Exhibit T – Spreadsheet of all of the Petitioner's properties,
Respondent Exhibit U – Sales disclosure form dated September 21, 2007, for the purchase of 4171-4173 Pinehurst Drive, Jasper, and 4185-4187 Pinehurst Drive, Jasper,
Respondent Exhibit V – Sales disclosure form dated April 4, 2005, for the purchase of 4125-4127 Pinehurst Drive, Jasper,

Respondent Exhibit W – Sales disclosure form dated February 10, 2006, for the purchase of 4128-4130 Westfall Court, Jasper, and 4160-4162 Westfall Court, Jasper,

Board Exhibit A – Form 131 Petitions and related attachments,
Board Exhibit B – Notice of Hearing,
Board Exhibit C – Hearing sign-in sheet,
Board Exhibit D – Summary of the petitions, parcels, addresses, and assessed values at issue.

d. These Findings and Conclusions.

ANALYSIS

16. 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 case. *Id.*; *Meridian Towers*, 805 N.E.2d at 479.
17. The Petitioner failed to raise a prima facie case for a reduction in the assessed values of its properties. The Board reached this decision for the following reasons:
 - a. The 2002 Real Property Assessment Manual defines “true tax value” 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 market value: the cost approach, the sales comparison approach and the income approach to value. *Id.* at 3, 13-15. In Indiana, assessing officials generally assess real property using 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 Township Assessor*, 836 N.E.2d 501, 505 (Ind. Tax Ct. 2005); *P/A Builders & Developers, LLC*, 842 N.E.2d 899 (Ind. Tax Ct. 2006). A taxpayer may rebut the 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 505, 506 n.1. A taxpayer may also offer actual construction costs, sales information for the subject property or comparable properties, and any other information compiled according to generally accepted appraisal practices. MANUAL at 5.
- c. Regardless of the method used to rebut an assessment's presumption of accuracy, a party must explain how its evidence relates to the subject property's market value-in-use as of the relevant valuation date. *O'Donnell v. Department of Local Government Finance*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006); see also *Long v. Wayne Township Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). For the March 1, 2007, assessment date, the valuation date was January 1, 2006, and for the March 1, 2008, assessment date, the valuation date was January 1, 2007. 50 IAC 21-3-3.
- d. Here, the Petitioner contends that its properties should be valued pursuant to the income capitalization approach as developed by its representative.⁴ *Zishka testimony*. According to Mr. Zishka, he developed the income approach and used the properties' 2006, 2007 and 2008 rent and expenses to arrive at the value of each parcel for 2007 and 2008. *Zishka testimony*; *Petitioner Exhibits 1 through 21(2007) and 1 through 21 (2008)*.
- e. "The income approach to value is based on the assumption that potential buyers will pay no more for the subject property ... than it would cost them to purchase an equally desirable substitute investment that offers the same return and risk as the subject property." MANUAL at 14. The income approach, thus, focuses on the intrinsic value of the property, not upon the Petitioner's operation of the property because property-specific rents or expenses may reflect elements other than the value of the property, "such as quality of management, skill of work force, competition and the like." *Thorntown Telephone Company, Inc. v. State Board of Tax Commissioners*, 588 N.E.2d 613, 619 (Ind. Tax Ct. 1992). See also MANUAL at 5 ("[C]hallenges to assessments [must] be proven with aggregate data, rather than individual evidence of property wealth. ... [I]t is not permissible to use individual data without first establishing its comparability or lack thereof to the aggregate data").

⁴ As an initial matter, the Respondent argues that because the properties are nineteen duplexes that are not located contiguous to each other, they are individual properties with "at least one (1) and not more than four (4) rental units" and therefore the gross rent multiplier is the preferred method of valuation. See Indiana Code §6-1.1-4-39. To the extent that the Respondent can be seen as arguing that the Petitioner failed to raise a prima facie case because it did not present a gross rent multiplier valuation, the Board rejects this argument. While the GRM may be the "preferred" method of valuation, nothing in that statute prohibits a taxpayer from presenting other valuation evidence to prove its property's assessment was in error.

- f. Here the Petitioner offered 2006, 2007 and 2008 rent and expense information from the subject properties. The Petitioner, however, provided no evidence to demonstrate whether its income and expenses were typical for comparable properties in the local market. Thus, any influence on the value of each parcel may be attributable to the Petitioner's management of the property as opposed to the property's market value. *See Thorntown*, 588 N.E.2d at 619. *See also, Lake County Trust Co. No. 1163 v. State Board of Tax Commissioners*, 694 N.E.2d 1253, 1257-58 (Ind. Tax Ct. 1998) (economic obsolescence was not warranted where taxpayer executed unfavorable leases resulting in a failure to realize as much net income from the subject property as possible). The Petitioner's representative also admitted that he did not know if any of the expenses he used in his income analysis "overlapped" with the costs included in the "replacement reserves." *Zishka testimony*.
- g. Additionally, the Petitioner did not adequately support his capitalization rate. A capitalization rate "reflects the annual rate of return necessary to attract investment capital and is influenced by such factors as apparent risk, market attitudes toward future inflation, the prospective rates of return for alternative investments, the rates of return earned by comparable properties in the past, the supply of and demand for mortgage funds, and the availability of tax shelters." *See Hometowne Associates, L.P. v. Maley*, 839 N.E.2d 269, 275 (Ind. Tax Ct. 2005). Here the Petitioner's representative based his capitalization rate on data he collected from the website RealtyRates.com. In his testimony, Mr. Zishka admitted that the data was nationwide and was not specific to Dubois County or even to Indiana. Thus, there was no evidence that the capitalization rate determined by the Petitioner's representative represented the rate of return earned by comparable properties or the apparent risk, rate of return for alternative investments or the supply and demand for mortgage funds in the county or in the state. *Hometowne Associates*, 839 N.E.2d at 275. While the rules of evidence generally do not apply in the Board's hearings, the Board requires some evidence of the accuracy and credibility of the evidence. Statements that are unsupported by probative evidence are conclusory and of no value to the Board in making its determination. *Whitley Products, Inc. v. State Board of Tax Commissioners*, 704 N.E.2d 1113, 1118 (Ind. Tax Ct. 1998); and *Herb v. State Board of Tax Commissioners*, 656 N.E.2d 890, 893 (Ind. Tax Ct. 1995).
- h. Similarly, there is no evidence that any property contained \$800 worth of personal property. Mr. Zishka contends that he divided the amount of personal property in the Petitioner's personal property returns by nineteen to determine the amount of personal property in each unit. *Zishka testimony*. However, Mr. Zishka failed to submit the returns he purportedly relied upon. Similarly, he provided no inventory or identification of the personal property at issue. Moreover, the sales disclosure forms for the purchase of six of the properties – signed under penalties of perjury by Mr. Matthews – do not indicate that any personal property was involved in the sales. In fact, one sales disclosure, for the purchase of 4171-4173 Pinehurst Drive and 4185-4187 Pinehurst Drive, affirmatively indicates that the value of the "personal property

included in [the] transfer” was \$0. Thus, the evidence in the record does not support a deduction of \$800 per unit for personal property.

- i. Most importantly, the Petitioner’s representative failed to show that his income approach methodology conformed to the Uniform Standards of Professional Appraisal Practice (USPAP) or any other generally accepted standards. Consequently, the Petitioner’s income approach calculation lacks probative value in this case. *See Inland Steel Co. v. State Board of Tax Commissioners*, 739 N.E.2d 201, 220 (Ind. Tax Ct. 2000) (holding that an appraiser’s opinion lacked probative value where the appraiser failed to explain what a producer price index was, how it was calculated or that its use as a deflator was a generally accepted appraisal technique). Ultimately, Mr. Zishka’s assertions may not differ significantly from those made by a certified appraiser in an appraisal report. But the appraiser’s assertions are backed by his education, training, and experience. The appraiser also typically certifies that he complied with USPAP. Thus, the Board, as the trier-of-fact, can infer that the appraiser used objective data, where available, to quantify his adjustments. And where objective data was not available, the Board can infer that the appraiser relied on his education, training and experience to estimate a reliable quantification. Mr. Zishka, however, is not a certified appraiser, he did not establish that he has any particular expertise in applying generally accepted appraisal principles, and he did not certify that he complied with USPAP in performing his valuation analysis. The Board therefore will not simply defer to Mr. Zishka’s experience, judgment or market observations without evidence showing the data upon which he grounded his opinions.
- j. Where a Petitioner fails to provide probative evidence that an assessment should be changed, the Respondent’s duty to support the assessment with substantial evidence is not triggered. *See Lacy Diversified Indus. v. Dep’t of Local Gov’t Fin.*, 799 N.E.2d 1215, 1221-1222 (Ind. Tax Ct. 2003).

CONCLUSION

18. The Petitioner failed to raise a prima facie case that its properties were over-valued for the 2007 and 2008 assessment years. The Board finds in favor of the Respondent.

FINAL DETERMINATION

In accordance with the findings of fact and conclusions of law above, the Indiana Board of Tax Review determines that the Petitioner’s properties’ assessments should not be changed.

ISSUED: _____

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, 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>.