

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

**Petition:** 10-010-08-1-5-00005  
**Petitioner:** David McCartin  
**Respondent:** Clark County Assessor  
**Parcel:** 10-14-01-800-179.000-012  
**Assessment Year:** 2008

The Indiana Board of Tax Review (Board) issues this determination in the above matter, finding and concluding as follows:

**Procedural History**

1. The Petitioner initiated an assessment appeal with the Clark County Property Tax Assessment Board of Appeals (PTABOA) by filing a notice dated September 29, 2009.
2. The PTABOA mailed its decision, Form 115, on January 13, 2010.
3. The Petitioner appealed to the Board by filing a Form 131 Petition for Review of Assessment on January 29, 2010. He elected to have this case heard according to small claims procedures.
4. The Board issued a notice of hearing on November 4, 2010.
5. Administrative Law Judge Paul Stultz held the Board's administrative hearing on January 4, 2011. He did not inspect the property.
6. David McCartin, County Assessor Vicky Kent-Haire and Frank Kelly were sworn as witnesses.

**Facts**

7. The property is located at 524 Andalusia Avenue, Clarksville. It is a single family residence.
8. The PTABOA determined the assessed value is \$13,200 for land and \$61,600 for improvements (total \$74,800).
9. The Petitioner requested a total assessed value of \$62,500.

## **Record**

10. The official record for this matter contains the following:
  - a. Form 131 Petition,
  - b. Digital recording of the hearing,
  - c. Petitioner Exhibit 1 – Letter from the Respondent about the PTABOA hearing for the 2009 assessment,  
Petitioner Exhibit 2 – Form 114 notice for the PTABOA hearing for the 2008 assessment,  
Petitioner Exhibit 3 – Appraisal by David Francke as of September 22, 2009,  
Petitioner Exhibit 4 – Agent Detail Reports for six other properties,  
Petitioner Exhibit 5 – Notice of Final Assessment Determination, Form 115,  
Respondent Exhibit 1 – Property record card (PRC) for the subject property,  
Respondent Exhibit 2 – Aerial photograph with the subject property outlined in black,  
Respondent Exhibit 3 – Sales Disclosure Form (SDF) for the subject property dated March 19, 2007,  
Respondent Exhibit 4 – Copy of Francke’s Appraisal,  
Respondent Exhibit 5 – SDF for Francke’s Appraisal Sale #1,  
Respondent Exhibit 6 – SDF’s for Francke’s Appraisal Sale #2,  
Respondent Exhibit 7 – SDF for Francke’s Appraisal Sale #3,  
Respondent Exhibit 8 – Appraisal by Thomas Rohan as of September 22, 2009,  
Board Exhibit A – Form 131 Petition,  
Board Exhibit B – Notice of Hearing,  
Board Exhibit C – Hearing Sign In Sheet,
  - d. These Findings and Conclusions.

## **Objection**

11. The Petitioner objected to Respondent’s Exhibit 8 (Rohan’s Appraisal) because the PTABOA did not request the Respondent to obtain an appraisal—it purportedly requested only that the Respondent review Francke’s Appraisal. The Petitioner claimed the Respondent should not be allowed to present another appraisal.
12. What the PTABOA requested at its hearing, however, is irrelevant. When an assessment is appealed, either party can offer evidence that is relevant to the market value-in-use of the property under appeal. 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. MANUAL at 5. The Petitioner failed to present a legitimate reason for excluding this evidence. Therefore, the objection is overruled. Respondent’s Exhibit 8 is admitted as evidence.

## Contentions

13. Summary of the Petitioner's case:
- a. Francke's Appraisal establishes a market value of \$62,500 as of September 22, 2009. The property should be assessed for \$62,500 based on this appraisal. *McCartin testimony; Pet'r Ex.3.*
  - b. The Petitioner paid for the appraisal and assumes it was done correctly. *McCartin testimony.*
14. Summary of the Respondent's case:
- a. The Petitioner purchased the property for \$75,000 in March 2007.<sup>1</sup> That transaction was very close to the valuation date of January 1, 2007. And the purchase price is close to the current assessment of \$74,800. This is the best indication of the property's market value-in-use as of January 1, 2007. *Kelly testimony; Resp't Ex. 3.*
  - b. Both appraisals value the property as of September 22, 2009. They do not demonstrate the market value-in-use of the property as of January 1, 2007. *Kelly testimony, Resp't Ex. 4, 8.*
  - c. Comparable sale #1 and #2 used in Francke's Appraisal are sales resulting from foreclosures. They are not arm's length transactions and they are not good comparables. Comparable sale #3 is the only valid sale used in Francke's Appraisal. *Kelly testimony; Resp't Ex. 4, 5, 6.*

## Analysis

15. 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)
16. 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”).

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<sup>1</sup> There is no dispute about when the Petitioner bought the subject property or the amount he paid. The Petitioner admitted these facts.

17. The Petitioner did not make a case for any assessment change.
- a. Real property is assessed based on its "true tax value," which means "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." Ind. Code § 6-1.1-31-6(c); 2002 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.3-1-2). There are three generally accepted techniques to calculate market value-in-use: the cost approach, the sales comparison approach, and the income approach. The primary method for assessing officials to determine market value-in-use is the cost approach. *Id.* at 3. Indiana promulgated Guidelines that explain the application of the cost approach. REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002—VERSION A (incorporated by reference at 50 IAC 2.3-1-2). The value established by use of the Guidelines is presumed to be accurate, but it is merely a starting point. A taxpayer is permitted to offer evidence relevant to market value-in-use to rebut that presumption. 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. MANUAL at 5.
  - b. To be relevant, the record must somehow establish how such evidence relates to 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 a 2008 assessment, the valuation date was January 1, 2007. 50 IAC 21-3-3 (2009). Although the Petitioner presented Francke's Appraisal for \$62,500, that value was as of September 22, 2009, which is more than two years after the required valuation date. The Rohan Appraisal also estimates a value as of that same date. But nothing demonstrates how that evidence might relate to January 1, 2007. Therefore, both of those opinions are not probative and do not help to determine the property's market value-in-use as of the required valuation date.
  - c. The Petitioner presented Agent Detail Reports with information about six sales, but he failed to establish how this evidence might be relevant to the requested assessment. In fact, he did not elaborate on this evidence in any manner. It was the taxpayer's duty to explain the relevance of the evidence presented, but he did not do so. Without any meaningful explanation, that evidence lacks probative value and does nothing to help prove what the assessment should be.
  - d. Finally, undisputed evidence established that the property was purchased for \$75,000 in March 2007. This transaction deviates slightly from the valuation date, but it is close enough to reliably indicate the relevant market value-in-use for a 2008 assessment. Regardless of the other evidence that was offered, the purchase price of the subject property is the most credible and most probative evidence in this case. In these circumstances, the \$75,000 purchase price is substantial support for the existing 2008 assessment of \$74,800.

**Conclusion**

18. The Petitioner failed to make a case for a change in assessed value. The Board finds in favor of the Respondent.

**Final Determination**

In accordance with the above findings and conclusions, the assessment will not be changed.

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

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Commissioner, 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

**- 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>