

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

**Petition #:** 02-074-06-1-5-03219  
**Petitioners:** Christopher & Rachel Meek  
**Respondent:** Allen County Assessor  
**Parcel #:** 021211356018000074  
**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 April 24, 2007, Christopher & Rachel Meek appealed their property’s assessment to the Allen County Property Tax Assessment Board of Appeals (“PTABOA”). On February 7, 2008, the PTABOA issued its determination reducing that assessment, albeit not by as much as the Meeks had requested.
2. On March 25, 2008, the Meeks filed a Form 131 petition with the Board. They elected to have their appeal heard under the Board’s small-claims procedures.
3. The Board dismissed the Meeks’ Form 131 petition because the Meeks had failed to complete the section affirming that they had served the Allen County Assessor. The Meeks, however, requested a rehearing, which the Board granted on June 12, 2008. Thus, on July 31, 2008, the Board held an administrative hearing through its Administrative Law Judge, Jennifer Bippus (“ALJ”).
4. Persons present and sworn in at hearing:
  - a) For the Meeks: Kerry Kaufmann, property manager<sup>1</sup>
  - b) For the Wayne County Assessor: John Rogers, Allen County Attorney  
Sam Walker, Wayne Township Assessor

---

<sup>1</sup> The Meeks did not appear at the hearing personally. Instead, Ms. Meek “appoint[ed]” Mr. Kaufmann, who apparently manages the Meeks’ property, to represent the Meeks. *Board Ex. C*. Mr. Kaufmann is not an attorney or certified tax representative, nor does he appear to be a full-time employee of the Meeks. Thus, Mr. Kaufmann was not authorized to represent the Meeks in proceedings before the Board. *See* 52 IAC 1-1-6; 52 IAC 1-2-1; 52 IAC 3-1-4. Nonetheless, the ALJ continued with the hearing after noting that Mr. Kaufmann agreed to provide the Board with a written power of attorney authorizing him to represent the Meeks. And the Assessor’s counsel said that he did not object. Under those unique circumstances, the Board will address the evidence and arguments that Mr. Kaufmann offered on the Meeks’ behalf. The Board, however, strongly cautions Mr. Kaufmann against representing taxpayers before the Board in the future.

**Facts**

5. The property is a residential duplex located at 810 Huestis, Fort Wayne, Indiana.
6. Neither the Board nor the ALJ inspected the property.
7. The PTABOA valued the Meeks' land at \$4,500 and their improvements at \$41,100 for a total assessment of \$45,600.
8. The Meeks requested values of \$4,500 for their land and \$25,500 for their improvements for a total assessment of \$30,000.

**Parties' Contentions**

9. The Meeks offered the following evidence and arguments:
  - a) Sale prices for eight comparable properties, all of which are located within one mile of the Meeks' property, show that the Meeks' property is assessed too high. *Kaufmann testimony; Pet'rs Exs. 1 through 16.*
  - b) The first three properties contain duplexes that had been repossessed. Their sale prices ranged from \$14,000 to \$22,800. *Kaufmann testimony; Pet'rs Exs. 1-5.* Mr. Kaufmann was very familiar with one of those properties, located at 602 Pierce, because he had managed the property for five years. *Id.* The Meeks' property generated 22% more income than the Pierce property. *Kaufmann testimony; Pet'rs Exs. 4-8.* Simply adding 22% to the Pierce property's \$20,250 sale price should give an accurate value for the Meeks' property. *Kaufmann testimony.*
  - c) The fourth and fifth properties contain triplexes that sold for \$12,500 and \$17,000, respectively. All things being equal, a triplex should be worth more than a duplex. *Kaufmann testimony; Pet'rs Exs. 9-10.*
  - d) Properties six through eight contain duplexes that sold for \$24,000, \$23,500, and \$16,000, respectively. *Kaufmann testimony; Pet'rs Exs. 11-15.* Property six generated rent that was similar to what the Meeks' property generated once utilities were deducted. Property eight sits just one block away from the Meeks' property, but its duplex is in worse condition than the Meeks' duplex. *Kaufmann testimony.*
  - e) Finally, in 2007, the PTABOA assessed the Meeks' property for only \$37,800. The fact that the PTABOA lowered the property's assessment shows that its 2006 assessment was too high. *Kaufmann testimony; Pet'rs Ex. 16.*

10. The Allen County Assessor offered the following evidence and arguments:
- a) Mr. Walker calculated the property's value using all three generally accepted approaches to value—the cost, sales-comparison, and income approaches. The results ranged from a low of \$45,600 to a high of \$56,400. *Walker testimony; Resp't Ex. C.* The property record card lists the high value, which was calculated using the cost approach. *Walker testimony; Resp't Ex. D.* The PTABOA determination reflects the lowest of those values, which was determined using the income approach. *Walker testimony.*
  - b) Mr. Walker performed two separate valuations under the income approach—one using the property's actual income and the other using market rent. To determine market rent, Mr. Walker used a "2006 calculator" that relied on several variables, including the house's size, age, and neighborhood. *See Walker testimony; Pet'rs Ex. G.* He then apparently applied a gross rent multiplier to that annual income (\$10,296) and arrived at a total value of \$54,363. *Pet'rs Ex. G.* When he used the property's actual income (\$8,640) he arrived at a value of \$45,600. *Walker testimony; Resp't Exs. C, G-J.*
  - c) Mr. Walker also performed two separate valuations under the sales comparison approach—one with adjustments to comparable properties' sale prices and one without adjustments. He used the same three sales for each calculation, which averaged \$30.57 per square foot. Using that average price, without any adjustments, the Meeks' property would be worth \$52,100. After adjusting the sale prices to reflect differences in condition, age, and grade, the average price per square foot was \$28.10. Using that lower value, the Meeks' property would be worth \$47,900. *Walker testimony; Resp't Ex. C, K-M.*
  - d) For the 2006 assessment, the Department of Local Government Finance's rules required assessors to determine values based upon sales from 2004 and 2005. The market for rental properties declined after 2005. The Meeks' assessment dropped between 2006 and 2007 because the 2007 assessment was based on later sales that reflected the rental market's decline. *Walker & Boltz testimony.*

### **Record**

11. The official record for this matter is made up of the following:
- a) The Form 131 petition,
  - b) A digital recording of the hearing,
  - c) Exhibits:

Petitioners' Exhibit 1: Listing for duplex at 2804 S. Wayne,  
Petitioners' Exhibit 2: Listing for duplex at 830 Grace,

Petitioners' Exhibits 3-5: Listing for property at 602 Pierce,  
Petitioners' Exhibits 6-8: Rent comparison of 602 Pierce and subject,  
Petitioners' Exhibit 9: Listing for triplex at 2030 Brookside,  
Petitioners' Exhibit 10: Listing for triplex at 2832 Broadway,  
Petitioners' Exhibits 11-13: Listing for duplex at 422 E. Pontiac,  
Petitioners' Exhibit 14: Listing for duplex at 2611 Warsaw,  
Petitioners' Exhibit 15: Listing for duplex at 809 Grace,  
Petitioners' Exhibit 16: Form 115 for 2007 assessment,

Respondent Exhibit A: Copy of Form 115,  
Respondent Exhibit B: Annual Trending IC & IAC,  
Respondent Exhibit C: Approaches to Value Calculation Summary,  
Respondent Exhibit D: 810 Huestis Avenue Property Record Card ("PRC"),  
Respondent Exhibit E: 471XXX and 472XXX NHBD 2004–2005 Valid Sales,  
Respondent Exhibit F: 471XXX and 471XXX NHBD 2004–2005 Foreclosure  
Sales,  
Respondent Exhibit G: 2006 Year Group Calculator (Market Rent),  
Respondent Exhibit H: 2006 Duplex Sales/Rents,  
Respondent Exhibit I: Schedule E Calculation,  
Respondent Exhibit J: Recommendation to PTABOA,  
Respondent Exhibit K: Petitioner Provided AV Appeal Worksheet,  
Respondent Exhibit L: 2004–2005 Duplex Sales Approach (per square foot),  
Respondent Exhibit M: 2004–2005 Duplex Adjusted Sales Approach (per square  
foot),  
Respondent Exhibit N: 1236 Swinney Avenue PRC,  
Respondent Exhibit O: 2502 Thompson Avenue PRC,  
Respondent Exhibit P: 1315 Swinney Avenue PRC,

Board Exhibit A: Form 131 petition and attachments,  
Board Exhibit B: Notice of Hearing,  
Board Exhibit C: Notice of Representation for Kerry Kaufmann,  
Board Exhibit D: Appearance Notice for John Rogers as Counsel,  
Board Exhibit E: Appearance Notice of Township Assessor Representation,  
Board Exhibit F: Hearing Sign-In Sheet.

d) These Findings and Conclusions.

## **Analysis**

### **Burden of Proof**

12. A petitioner seeking review of an assessing official's determination must establish a prima facie case proving both that the current assessment is incorrect and specifically what the correct assessment should be. *See Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998).

13. In making its case, the petitioner must explain how each piece of evidence relates to its requested assessment. See *Indianapolis Racquet Club, Inc. v. Washington Twp. Assessor*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004) (“[I]t is the taxpayer's duty to walk the Indiana Board . . . through every element of the analysis”).
14. Once the petitioner establishes a prima facie case, the burden shifts to the respondent to impeach or rebut the petitioner’s evidence. See *American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004); *Meridian Towers*, 805 N.E.2d at 479.

#### The Meeks’ Case

15. The Meeks did not make a prima facie case rebutting their property’s assessment. 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). The appraisal profession traditionally has used three methods to determine a property’s market value: the cost, sales-comparison, and income approaches. *Id.* at 3, 13-15. Indiana assessing officials generally value 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 Twp. Assessor*, 836 N.E.2d 501, 505 (Ind. Tax Ct. 2005) *reh’g den. sub nom. P/A Builders & Developers, LLC*, 842 N.E.2d 899 (Ind. Tax Ct. 2006). But a taxpayer may rebut that presumption with evidence that is consistent with the Manual’s definition of true tax value. MANUAL at 5. A market value-in-use appraisal prepared according to the Uniform Standards of Professional Appraisal Practice often will suffice. *Id.*; *Kooshtard Property VI*, 836 N.E.2d at 506 n.6. A taxpayer may also offer actual construction costs, sales information for the subject or comparable properties and other information compiled according to generally accepted appraisal principles. MANUAL at 5.
  - c) Through Mr. Kaufmann, the Meeks tried to rebut their property’s 2006 assessment in two ways—by showing the sale prices for other properties from the same area and by pointing to their property’s 2007 assessment. As explained below, each approach suffers from problems that deprive it of probative value.
  - d) By looking to sale prices of other properties, Mr. Kaufmann recognized that one can estimate a property’s value by comparing it to similar properties that have sold in the market. MANUAL at 3. Indeed, that is precisely what the sales-comparison approach does. *Pet’rs Exs. 1-15*.

- e) But Mr. Kaufmann did not follow the sales-comparison approach's basic requirements. The sales-comparison approach assumes that potential buyers will pay no more for a subject property than it would cost them to purchase an equally desirable substitute property that already exists in the market place. MANUAL at 13-14. A person applying the sales-comparison approach must first identify comparable improved properties that have sold. *Id.* He or she must then adjust those properties' sale prices to reflect the subject property's total value. *Id.* The adjustments reflect differences between the subject and comparable properties that affect value. *Id.*
- f) Thus, in order to use the sales-comparison approach as evidence in a property assessment appeal, the person who performed the analysis must explain how the properties at issue compare to the subject property. Conclusory statements that a property is "similar" or "comparable" to another property do not suffice. *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 470 (Ind. Tax Ct. 2005). Instead, the proponent of the analysis must identify relevant characteristics of the property under appeal and explain how those characteristics compare to the characteristics of the purportedly comparable properties. *Id.* at 471. He must also explain how any relevant differences between the properties affect their relative market values-in-use. *Long*, 821 N.E.2d at 470-71.
- g) Here, Mr. Kaufmann did little to explain how the eight purportedly comparable properties compared to the Meeks' property. At best, he testified that the purportedly comparable properties all contained either duplexes or triplexes and that they were located within a mile of the Meeks' property. That falls well short of the type of comparison envisioned by the sales-comparison analysis. Similarly, Mr. Kaufmann did not adjust the purportedly comparable properties' sale prices to reflect any relevant differences between those properties and the Meeks' property.
- h) In a related argument, Mr. Kaufmann claimed that the Meeks' property should be worth only 22% more than the \$20,250 sale price for the property located at 602 Pierce. He based that argument on his testimony that the Meeks' property generated 22% more income than the Pierce property.
- i) Once again, Mr. Kaufmann did not show that he followed generally accepted appraisal principles. Mr. Kaufmann correctly sensed that an investment property's value can be estimated based on its potential to generate income. That is what the income approach contemplates. *See* MANUAL at 13 ("[The income approach] considers the subject property as an investment and, to that end[] its value is based on the rent it will produce for the owner."). But that approach requires one to capitalize a property's net income, or in some cases, to multiply the property's income by a gross rent multiplier. *See id;* *see also*, Ind. Code § 6-1.1-4-39(b)(1) (stating that the gross rent multiplier is the preferred method for valuing rental properties with between one and four units). An appropriate gross rent multiplier can be derived from the market. Thus, Mr. Kaufmann could have calculated a gross rent multiplier by looking at incomes and sale prices for comparable properties. Mr. Kaufmann,

however, did not show that the Pierce property—the property upon which he based his claim—was comparable to the Meeks’ property.

- j) The Board therefore gives no weight to the eight sale prices identified by Mr. Kaufmann. Even if the Board were to accept Mr. Kaufmann’s claim that those sales generally show that the Meeks’ assessment was too high, Mr. Kaufmann did not explain how they support the Meeks’ requested assessment of \$30,000. In fact, other than arguing that the Meeks’ property should be assessed for 22% more than the Pierce property’s sale price, he did not explain how those eight sale prices supported an assessment for any particular amount.
- k) Finally, Mr. Kaufmann argued that the 2007 assessment for the Meeks’ property, which is \$7,800 less than its 2006 assessment, shows that the 2006 assessment is too high. But in Indiana, each tax year stands alone. *Quality Farm & Fleet, Inc. v. State Bd. of Tax Comm'rs*, 747 N.E.2d 88, 93 (Ind. Tax 2001). Thus, an assessment for one year does little to show a property’s value for a different assessment year. That is particularly true given that, beginning with the 2006 assessment date, assessments must be annually adjusted to account for changes in value. Ind. Code § 6-1.1-4-4.5. According to Mr. Walker, sales data showed that rental-property values declined between the 2006 assessment (which was based on January 1, 2005 values) and the 2007 assessment (which was based on 2006 values).<sup>2</sup> Mr. Kaufmann did not believe the decline could have been so stark. But that is not the issue. The Meeks needed to show that their property’s market value-in-use as of January 1, 2005, and simply pointing to an assessment that was based on values from later years does not do that.

### **Conclusion**

- 16. The Meeks failed to make a prima facie case. The Board finds in favor of the Allen County Assessor.

### **Final Determination**

In accordance with the above findings and conclusions, the Indiana Board of Tax Review now determines that the assessment should not be changed.

---

<sup>2</sup> For 2006 assessments forward, properties are valued as of January 1 of the calendar year preceding the assessment date. 50 IAC 21-3-3(b).

ISSUED:

---

Commissioner, Indiana Board of Tax Review

---

Commissioner, Indiana Board of Tax Review

---

Commissioner, Indiana Board of Tax Review

**IMPORTANT NOTICE**

- Appeal Rights -

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5, as amended effective July 1, 2007, by P.L. 219-2007, and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice. The Indiana Tax Court Rules are available on the Internet at <http://www.in.gov/judiciary/rules/tax/index.html>. The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code>. P.L. 219-2007 (SEA 287) is available on the Internet at <http://www.in.gov/legislative/bills/2007/SE/SE0287.1.html>