

REPRESENTATIVE FOR PETITIONER:

William Meyers, *Pro Se*

REPRESENTATIVE FOR RESPONDENT:

Laurie Renier, Kosciusko County Assessor

**BEFORE THE  
INDIANA BOARD OF TAX REVIEW**

Mary Ruth Meyers <i>et. al.</i> <sup>1</sup>	)	Petition No.: 43-027-07-1-5-00019
	)	
	)	
Petitioner,	)	
	)	Parcel No.: 027-713005-10
	)	
v.	)	
	)	
	)	County: Kosciusko
Kosciusko County Assessor,	)	
	)	Township: Van Buren
	)	
Respondent.	)	Assessment Year: 2007

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

**August 6, 2009**

**FINAL DETERMINATION**

The Indiana Board of Tax Review (“Board”), having reviewed the facts and evidence, and

<sup>1</sup> The Form 131 petition, which is signed by William Meyers, M.D., is a little unclear as to the identity of the property owners. Although the handwriting is not completely legible, the petition appears to list the following property owners: “Munn Natalie Kay & Emily Morse Meyers, Anna Monaghan % Wm. L. Meyers Le.” The Form 115 determination issued by the PTABOA and a Form 11 assessment notice, both of which are attached to the Form 131 petition, list Mary Ruth Meyers as the property owner. *See Board Ex. A.*

having considered the issues, now finds and concludes the following:

## **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

### **Introduction**

1. The Petitioners argued that both their property taxes and the subject property's assessment increased too much. The Board lacks jurisdiction to address the propriety of local tax rates. And the Petitioners offered no probative evidence to show that the subject property's assessment failed to accurately reflect its market value-in-use. The Petitioners therefore failed to make a prima facie case for relief.

### **Procedural History**

2. On May 22, 2008, the Petitioners filed notice with the Kosciusko County Assessor contesting the subject property's March 1, 2007, assessment. On October 9, 2008, the Kosciusko County Property Tax Assessment Board of Appeals ("PTABOA") issued its determination lowering the property's assessment, although not by as much as the Petitioners had requested. As a result, on November 5, 2008, the Petitioners filed a Form 131 petition with the Board. The Board has jurisdiction over this appeal under Ind. Code §§ 6-1.1-15 and 6-1.5-4-1.

### **Hearing Facts and Other Matters of Record**

3. On May 13, 2009, the Board's designated administrative law judge, Jennifer Bippus ("ALJ"), held a hearing on the Petitioners' appeal. Neither the Board nor the ALJ inspected the subject property.
4. The following people were sworn in as witnesses:

William Meyers, M.D., *pro se*

Mary Ruth Meyers, Etal, c/o William Meyers, M.D.  
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For the Respondent:

Laurie Renier, Kosciusko County Assessor  
John Beer, employee of the Kosciusko County Assessor

5. The Petitioners submitted the following exhibits:

Petitioners Exhibit 1 – A narrative of William Meyers’s testimony,  
Petitioners Exhibit 2 – Indiana Legislative Services Agency study on  
Kosciusko County property taxes for 2007-2008,  
Petitioners Exhibit 3 – Newspaper and magazine articles and Form 11 Notice of  
Assessment of Land and Structures.

6. The Respondent submitted the following exhibits:

Respondent Exhibit 1A – Form 130 petition,  
Respondent Exhibit 1B – Petitioners’ exhibits for PTABOA – Letter to Laurie  
Renier dated May 22, 2008, and letter to Rep. Wolkins,  
dated June 27, 2008,  
Respondent Exhibit 1C – Form 115 determination,  
Respondent Exhibit 1D – Letter to Rep. Peggy Welsh, dated August 19, 2008,  
Respondent Exhibit 1E – Letter to Laurie Renier dated October 7, 2008,  
Respondent Exhibit 1F – Letter to Laurie Renier, dated October 17, 2008,  
Respondent Exhibit 2A – Plat map,  
Respondent Exhibit 2B – Subject property’s property record card – both the  
original and after PTABOA changes,  
Respondent Exhibit 2C – Photograph of improvements,  
Respondent Exhibit 3A – Dewart Lake Land Sales,  
Respondent Exhibit 3B – Dewart Lake Home Sales,  
Respondent Exhibit 3C – Land sales with plat and sales disclosures,  
Respondent Exhibit 3D – 2001 sale with plat map and multiple listing service  
data,  
Respondent Exhibit 3E – Plat and property record card for 3715 E. 1000 N.

7. The Board recognizes the following additional items as part of the record of proceedings:

Board Exhibit A – Form 131 and attachments,  
Board Exhibit B – Letter to Indiana Board of Tax Review, dated January 27,  
2009,

Board Exhibit C – Letter to Indiana Board of Tax Review, dated March 23, 2009,<sup>2</sup>  
Board Exhibit D – Hearing Notice dated March 3, 2009,  
Board Exhibit E – Letter to Indiana Board of Tax Review, dated April 28, 2009,  
Board Exhibit F – Letter to Dr. Meyers from Indiana Board of Tax Review, dated  
May 5, 2009,  
Board Exhibit G – Hearing sign-in sheet

8. The subject property is a residential property located at 9726 North-300 East, Syracuse, Indiana. The property contains frontage on Dewart Lake.
9. The PTABOA determined that the subject property's assessment was \$227,300 for the land and \$65,900 for the improvements, for a total of \$293,200.
10. The Petitioners requested an assessment of approximately \$126,000.

#### **Administrative Review and the Parties' Burdens**

11. A taxpayer seeking review of an assessing official's determination must establish a prima facie case proving both that the current assessment is incorrect and 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).
12. In making its case, the taxpayer 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)
13. If the taxpayer establishes a prima facie case, the burden shifts to the respondent to offer evidence to rebut or impeach the taxpayer's evidence. *See American United Life Ins. Co.*

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<sup>2</sup> In the letters attached as Board Exhibits B and C, William Meyers included information relating to the merits of the Petitioners' claims. The letters do not indicate that Dr. Meyers served them on the Respondent as required by the Board's procedural rules. *See* 52 IAC 2-3-4(a) (requiring all documents filed with the Board to be served on all parties). The Board did not consider Dr. Meyers's letters in reaching its determination.

v. *Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2003); *Meridian Towers*, 805 N.E.2d at 479.

## **Analysis Parties' Contentions**

### **A. The Petitioners' Contentions**

14. The Petitioners mainly claim that their property taxes are too high. The taxes on the subject property have increased by 334%. *Meyer testimony*. Dr. Meyers's friends, who live in a more costly countryside home made of limestone masonry, did not see a similar increase in their taxes. *Id.*
  
15. According to the Petitioners, their tax bill flies in the face of the legislature's intent to cap property taxes at 1% of a property's value. *Meyers argument*. A Legislative Services Agency report on property taxes in Kosciusko County is misleading because it says that relatively few property owners saw their taxes increase by 20%. *Meyers argument; See Pet'rs Ex. 2.*
  
16. Regarding the subject property's assessment, Dr. Meyers testified that he bought the property for \$36,000 in 1975. In 1986, he spent \$20,000 to add a solarium, bringing his total cost to \$56,000. *Meyers testimony; Pet'rs Ex. 1.* The home's floor joists are made of tree trunks, and the property's lake frontage is largely muck and lily pads. *Id.* The neighbor to the south is a plumbing business. *Id.* Dr. Meyers suggested that taking the actual purchase price and applying an inflation factor would be a better way to assess the property. *Id.*
  
17. Despite the fact that property values have been decreasing, the subject property's assessment has increased \$168,900 since 2006. *Meyers testimony; Pet'rs Ex. 3.* Not only did the Respondent incorrectly compare the subject property to properties on another lake, she also discriminated against lake dwellers in general. *Meyers testimony, argument.*

## **B. The Respondent's Contentions**

18. The Petitioners' property taxes increased for two main reasons. First, the subject property was incorrectly assessed from 2001-2006. *Beer testimony*. During that time, the township assessor had been using an old land value. The Respondent corrected that error in 2007, resulting in an increased, but correct, assessment. *Id.*
19. Second, the legislative study that Dr. Meyers pointed to omits important information. *Renier argument*. It does not mention that local-government spending affects the tax rate. *Id.* The study similarly fails to mention the loss of the property-tax-replacement credit for 2009. *Id.* Assessed values have actually decreased. *Renier testimony*.
20. During the relevant period, unimproved land sales around Dewart Lake ranged from \$1,000 to \$4,619 per front foot. *Beer testimony; Resp't Ex. 3A*. The subject land is assessed using a base rate of \$1,824 per front foot. *Beer testimony*. The Respondent, however, reduced the property's assessment to account for excess frontage and for a low-lying portion of the lot. *Id.*
21. Dewart Lake properties have sold for as much as \$500,000. *Id.; Resp't Ex. 3B*. The subject property has more land than any of those properties. *Beer testimony*. And while property values may be decreasing nationally, values for off-lake properties in Kosciusko County held steady in 2006-2007. *Id.*
22. The Respondent denies comparing the subject property to properties on other lakes. *Renier testimony*. The subject property was compared to properties on Dewart Lake, although some of those properties were in another township. *Beer testimony*.

## Discussion

23. 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). Appraisers traditionally have 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 use a mass-appraisal version of the cost approach, as set forth in the Real Property Assessment Guidelines for 2002 - Version A.
24. 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 any other information compiled according to generally accepted appraisal principles. MANUAL at 5.
25. 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, 461 (Ind. Tax Ct. 2005). For March 1, 2007, assessments, that valuation date was January 1, 2006.
26. The Petitioners offered no probative evidence to show the subject property’s market value-in-use as of that valuation date. Instead, Dr. Meyers protested what he claimed was

a 334% increase in the Petitioners' taxes. To the extent that the Petitioners contest their taxes—as opposed to the subject property's assessment—the Board lacks jurisdiction to hear their claim. The Board is a creation of the legislature and has only those powers conferred by statute. *Whetzel v. Dep't of Local Gov't Fin.*, 761 N.E.2d 904, 908 (Ind. Tax Ct. 2001)(citing *Matonovich v. State Bd. of Tax Comm'rs*, 705 N.E.2d 1093, 1096 (Ind. Tax Ct. 1999)). The Board therefore must address appeals from determinations made by local assessing officials or county PTABOs that concern property valuations, property tax deductions, or property tax exemptions. Ind. Code § 6-1.5-4-1. By contrast, no statute authorizes the Board to review the propriety of local tax rates.

27. Also, while the Petitioners did attack the subject property's assessment, they did not really address the property's value. They instead pointed to the fact that the property's assessment had increased significantly. That increase, however, does nothing to show that the property's March 1, 2007, assessment failed to accurately reflect its market value-in-use. That is particularly true given the principle that each assessment and each tax year stands alone. *Fleet Supply, Inc. v. State Bd. of Tax Comm'rs*, 747 N.E.2d 645, 650 (Ind. Tax Ct. 2001) (citing *Glass Wholesalers, Inc. v. State Bd. of Tax Comm'rs*, 568 N.E.2d 1116, 1124 (Ind. Tax Ct. 1991)). Thus, evidence as to a property's assessment in one year does not prove its true tax value in a different year. *See id.*
28. Dr. Meyers did testify that he bought the subject property for \$36,000 in 1975 and spent \$20,000 to add a solarium. But the Petitioners offered no evidence to relate those amounts to the subject property's market value-in-use as of the relevant January 1, 2006, valuation date. Dr. Meyers's testimony about what he paid for the property therefore lacks probative value.

### **Conclusion**

29. The Petitioners failed to make a prima facie case. The Board finds for the Respondent.



## Summary of Final Determination

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

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

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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>>