

JAYESH NAIK AND BANSARI NAIK, Pro Se

MARILYN S. MEIGHEN, Attorney for Respondent

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**BEFORE THE  
INDIANA BOARD OF TAX REVIEW**

JAYESH NAIK AND BANSARI NAIK,	)	Petition No. 53-008-10-1-5-00021
	)	
Petitioners,	)	Parcel No. 53-08-14-200-043.000-008
	)	
v.	)	Monroe County
	)	
MONROE COUNTY ASSESSOR,	)	Perry Township
	)	
Respondent.	)	2010 Assessment Year

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

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**May 29, 2012**

**FINAL DETERMINATION**

The Indiana Board of Tax Review (“Board”) having reviewed the facts and evidence, and having considered the issues, now finds and concludes the following:

**ISSUE**

1. Did the Petitioners prove that the current assessment for 2010 is not an accurate market value-in-use for the subject property, and did the Petitioners prove what the correct assessed value should be for the year at issue?

**HEARING FACTS AND OTHER MATTERS OF RECORD**

2. The subject property is a single family residence located at 3466 East Terra Cove Court in Bloomington.

3. The Petitioners filed a Form 130 Petition for Review of Assessment with the Monroe County Assessor to contest the 2010 assessed value of the subject property. On October 6, 2010, the Monroe County Property Tax Assessment Board of Appeals (“PTABOA”) determined that the assessed values for 2010 were \$144,300 for land and \$489,500 for improvements (total \$633,800).
4. On October 21, 2010, the Petitioners filed a Form 131 Petition with the Board. The Form 131 stated the assessed values should be \$131,200 for land and \$425,000 for improvements (total \$556,200).
5. The Respondent exercised her right to transfer the administrative hearing from small claims procedures to standard plenary hearing procedures. In the Order dated January 4, 2013, which transferred the appeal to a plenary hearing, the Board also ordered Petitioners to provide responses to the Respondent’s discovery requests within 33 days from the date of the order.
6. A hearing was held on March 20, 2013, before Jaime S. Harris, the designated Administrative Law Judge (“ALJ”) authorized by the Board. Neither the Board nor the ALJ inspected the subject property.
7. Petitioners Jayesh and Bansari Naik, Monroe County Assessor Judith A. Sharp, and Vice President of Nexus Group Ken Surface were sworn as witnesses. Petitioner Bansari Naik and Assessor Judith A. Sharp did not testify during the hearing.
8. Petitioner submitted the following exhibits:
  - Petitioner Exhibit 1: PowerPoint slides,
  - Petitioner Exhibit 2: Property Assessment Detail Report for Parcel #: 53-08-14-200-060.000-008,
  - Petitioner Exhibit 3: Property Assessment Detail Report for Parcel #: 53-08-14-200-011.000-008,
  - Petitioner Exhibit 4: Property Assessment Detail Report for Parcel #: 53-08-14-200-046.000-008,
  - Petitioner Exhibit 5: Property Assessment Detail Report for Parcel #: 53-08-14-200-049.000-008
  - Petitioner Exhibit 6: Notification of Final Assessment Determination.

9. The Respondent submitted the following exhibits:
- Respondent Exhibit A: Property Record Card (PRC) for subject property,
  - Respondent Exhibit B: Change in Assessment Analysis,
  - Respondent Exhibit C: Sales Comparison grid,
  - Respondent Exhibit D: Map showing location of subject property and comparables,
  - Respondent Exhibit E: PRC, photo and Sales Disclosure Form for 3465 East Maritime Court (Comp 1),
  - Respondent Exhibit F: PRC, photo and Sales Disclosure Form for 3471 East Terra Cove Court (Comp 2),
  - Respondent Exhibit G: PRC, photo and Sales Listing for 3469 East Maritime Court (Comp 3),
  - Respondent Exhibit H: Sales Disclosure Form for the vacant land sale of the subject property,
  - Respondent Exhibit I: The November 2010 Monthly Indicator published by the Indiana Association of Realtors.
10. The Board recognizes the following additional items as part of the record of proceedings:
- Board Exhibit A: Form 131 petition and attachments,
  - Board Exhibit B: Notice of Hearing,
  - Board Exhibit C: Hearing Sign-in Sheet,
  - Board Exhibit D: Assessor's Written Request for Transfer from Small Claims Procedure to the Standard Hearing Procedure,
  - Board Exhibit E: Order Transferring Administrative Appeal from Small Claims Procedure to the Standard Hearing Procedure and Order Requiring Response to Discovery.

### **OBJECTIONS**

11. The Respondent objected to the admission of the Petitioner Exhibits 1-5 because the Petitioners did not provide copies of documentary evidence at least five business days before the hearing as specified by the rules and by the hearing notices. The Order that the Board entered on January 4, 2013, required these exhibits to be provided within 33 days of the date of the Order, which would have been February 7, 2013. Respondent contacted Petitioners prior to the hearing and suggested that if Petitioners wanted a continuance of the hearing in order to have more time to provide the requested documents, Respondent would not object. Petitioners had an obligation to provide the requested documents and Respondent attempted to work with them in an effort to avoid this issue.

12. The Petitioners did not rebut the facts that were the basis of the objection and offered no mitigating points. Petitioner Jayesh Naik simply asserted that he did not have the documentary evidence available to provide until the day of the hearing. He did not give any substantial reason for why he could not do so, just that he did not provide the documents by the required time. This conflicts with the procedural rule, 52 IAC 2-7-1(b), the Order Requiring Response to Discovery, as well as the hearing notice. The objection is sustained because Petitioner Exhibits 1-5 were not provided as required before the hearing. The Board will not consider these exhibits any further.
13. It should be noted that Petitioner basically read Exhibit 1 word for word during most of his direct testimony. While Respondent did correctly object to the use of the exhibits, she failed to object to the testimony that restated Exhibit 1. The testimony (which was merely read from Exhibit 1) stands as evidence that was offered without any objection.

#### **SUMMARY OF PETITIONER'S CASE**

14. The PTABOA decreased the improvement value of the subject property from \$542,700 to \$489,500 and increased the land value from \$131,200 to \$144,200. The property was originally assigned a dwelling grade of A in the 2010 Assessment. After the PTABOA Hearing, the dwelling grade was changed to B+2. This is still incorrect, however, as the property should be assigned a dwelling grade of B. The PTABOA added a positive influence factor of 10% to the land value in order to get closer to the purchase price. The PTABOA also added two decks. *Naik testimony; Pet. Ex. 6.*
15. Property values have been declining all over the United States, including Monroe County, since 2007. *Naik testimony.*
16. Petitioners contend it is unfair for the 10% influence factor to be added to only their property and no other properties located in the same neighborhood. Also, Petitioners believe that the 10% influence factor was only added to their property after their decision to appeal the assessment. *Naik testimony.*

17. According to the Real Property Guidelines, an assessor can use real construction costs to come up with assessment values. Petitioners paid \$146,000 for the subject property's land in May of 2007. The actual construction cost of the home was \$424,198.34. Therefore, the total cost of the land plus the improvements was \$570,198.34 as of March 2008. The construction cost of the subject was less than the construction cost of a similar property located at 3471 East Terra Cove Court in the same neighborhood. *Naik testimony.*

18. Petitioners compared the subject property's land value with the land values of two vacant properties located on the same street as the subject. The Property Assessment Detail Reports for these two lots show the following land values as compared to the subject:

	3470 East Terra Cove Court	3451 East Terra Cove Court	Subject Property
2008	\$122,100	\$118,900	\$131,200
2009	\$122,100	\$118,900	\$131,200
2010	\$122,100	\$118,900	\$144,300

The land values of the two comparables did not change from 2008 to 2010. The land value of the subject, however, changed from \$131,200 to \$144,300 from 2008 to 2010. Despite the fact that the two vacant lots have been for sale since 2007 and there is no sales data to support an increase for the subject, only the subject's land value was increased using the 10% influence factor. This inconsistency seems unfair. *Naik testimony.*

19. Petitioners next compared the subject property to another vacant lot in the same neighborhood in order to demonstrate the inconsistency in land values. The vacant lot is located at 3457 Maritime Court, which is at the southwest corner of the Petitioners' property. It is a one acre lot with a beautiful view of a pond in the back of the lot. Despite the sales disclosure form available for the vacant lot, the Monroe County Commissioner's Office did not use a 10% influence factor to increase the assessment of the land value to get closer to the purchase price of \$125,000. The land value of the lot

located at 3457 Maritime Court remained the same from 2008 to 2010 at a value of \$107,700, just like the two previously mentioned vacant lots. *Naik testimony.*

20. Petitioners compared the dwelling grades of the subject property and two other properties located on the same street in the same neighborhood. The dwelling grade for the property located at 3465 East Terra Cove Court is B+1. The dwelling grade for the property located at 3471 East Terra Cove Court is A-1. It should be noted that this property has a swimming pool in the backyard. As shown on the Form 115 Final Assessment Notification, the dwelling grade of the subject property is B+2. Although the PTABOA lowered the grade from A to B+2, the Petitioner believes that it should have been given a dwelling grade of B. Each dwelling grade is assigned a specific percentage which is referred to as a quality grade factor. This can be seen in Appendix A of the Real Property Assessment Guidelines on the Department of Local Government Finance website. Dwelling grade B+1 has a factor of 130%; A-1 has a factor of 150%; B+2 has a factor of 140%. Each dwelling grade has different specifications that are listed in the Guidelines. Below is a table that demonstrates the specifications for dwelling grades A and B:

Dwelling Grade A	Dwelling Grade B
Quality Grade Factor: 160%	Quality Grade Factor: 120%
Doors: Solid core wood or insulated steel doors, sidelights, high quality hardware	Doors: Solid core wood or insulated steel doors, sidelights
Design: Multi-gable; hip & high pitch	Design: Gable, hipped, or gambrel; moderate to high pitch
Built-Ins: Bookcases, mantels, entertainment centers, china cabinets	Built-Ins: Bookcases and mantels
Bathroom fixtures: High quality pedestal sink or vanity; high quality faucets and fixtures	Bathroom fixtures: Good quality pedestal sink or vanity; good quality faucets and fixtures
Design Characteristics: Individual custom design with attention to detail	Design Characteristics: Custom Built

Unlike the specifications above, the subject property does not have solid core wood or steel doors with high quality hardware, hip and high pitch design, or built-in china cabinets. Also, nothing is mentioned in the Guidelines regarding decks. Therefore, the grade of B+2 is incorrect for the subject property. The correct dwelling grade should be B, which has a quality grade factor of 120%. *Naik testimony.*

21. According to the grade factor and specification guidelines, Petitioners contend the assessed value of the subject property is \$538,198.34 for 2010. The land value is \$131,000 because the other land lots in the same neighborhood were not increased with the 10% influence factor. The improvement value is \$407,025.34 because the dwelling grade should be B and not B+2. Grade B reduces the quality grade factor by 20%. The difference between the PTABOA's assessed value and what Petitioners contend the correct value to be is \$95,601.66. *Naik testimony; Pet. Ex. 6.*

### SUMMARY OF RESPONDENT'S CASE

22. Petitioners have not met their burden of proof of making a prima facie case. First of all, while construction cost information can be a legitimate part of a property tax appeal, such information has to be more than speculative or conclusory. Under the 2002 Real Property Assessment Guidelines, there are a number of items that go into construction cost. The record does not indicate if all of those items were accounted for by the Petitioners. Secondly, Petitioners discussed dwelling grade. Under *Eckerling* and a number of other decisions from the Tax Court and this Board, a party must show what the property is actually worth, not just a perceived problem with a grade factor. *Eckerling v. Wayne Twp. Assessor*, 841 N.E.2d 674 (Ind. Tax Ct. 2006). Thirdly, one can legitimately compare one property to other properties in property tax appeals. But the evidence and analysis must include more than just an address and indicating whether a property is assessed higher or lower than the subject property. Conclusory statements alone do not prove comparability of the properties. For all of the above stated reasons, Respondent's burden should not be triggered because Petitioners failed to make a prima facie case. *Meighen argument.*
23. Property record cards and sales disclosure forms for comparable sales show that the assessed values for those properties and the subject are reasonable. Respondent submitted a grid and map that list the subject property along with three comparable properties that are in the same neighborhood as the subject. Comparable properties one

and two sold within the time frame of 2007 and 2008.<sup>1</sup> Comparable three includes a current listing by the Multiple Listing Service (MLS) that is dated March 13, 2013. The 2002 Property Assessment Manual provides that the list price is a good indication of the value-in-use to the owner of that property because it is what they want to receive from the house. Throughout the grid, various adjustments are made, both negative and positive, to the comparables in relationship to the subject based upon year built, condition, the land, the dwelling, the size or square foot, room counts, whether it is a two or three car garage, and other components. The bottom of the grid has adjusted values as well as an explanation in terms of dollar amounts that were used to make the adjustments with regards to grade, attic size, square footage, and basement size. It then gives an overall value of what Respondent believes the subject's value is in relationship to the three comparables. The comparables indicate a value of \$655,000 for the subject property. Respondent's witness, Ken Surface, provided information concerning one of the three comparable properties and any adjustments that he made in order to relate the comparable to the subject property. Below is a breakdown of that information:

- a. Comparable one (Comp 1) is located at 3465 East Maritime Court. It is 1.05 acres, which is similar to the land size of the subject. No adjustments were made.
- b. Comp 1 is similar in site utility, even though the subject is somewhat larger. The two properties are on contiguous parcels. No adjustment was made.
- c. As far as dwelling design, a negative adjustment was given because Comp 1 is one and a half stories, while the subject is two stories.
- d. No adjustments were made for age, year built, and condition, because Comp 1 and the subject were built in relatively the same time frame. The subject was built in 2008. Comp 1 was built in 2002.
- e. The square footage of the subject is larger than Comp 1. Therefore, an upward adjustment was made to Comp 1.
- f. Room counts on the grid refer to the number of bathrooms. A negative adjustment was made from the sale price of the comparable because the subject has three bathrooms while Comp 1 has three and a half baths.
- g. The basement area is larger on Comp 1 than it is in the subject, both in terms of size and the finished portion size. A negative adjustment was made to the sale price of Comp 1 to account for this difference.

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<sup>1</sup> Petitioners objected to Respondent Exhibits C, D, E, and F, because the exhibits pertain to sales that occurred in 2007 and 2008. The assessment year at issue in this case is 2010. Petitioners argued that the market was doing much better during that time as opposed to 2010. Respondent successfully tied the values from 2007 and 2008 to the 2010 assessment year. Petitioners' objection was overruled at the hearing.



- h. A negative adjustment was made for the attic area, because Comp 1 has a finished attic while the subject does not have an attic.
- i. The overall dwelling utility for each property was the same, so no adjustment was made.
- j. As far as other components (decks, patios, etc.), they were considered to be the same and no adjustment was made.
- k. As a result of the comparison to the subject, Mr. Surface adjusted the purchase price of Comp 1 from \$699,900 down to a value of \$659,500.

Mr. Surface went through the above process in order to validate the values on the grid. The other two comparables were dealt with in the same manner on the grid. Also, Mr. Surface explained where he got the information for the grid. Almost all of the information on the grid was obtained from the PRCs, sales disclosure forms, and the MLS. Dwelling utility is an opinion that is not listed anywhere on the PRC or other documents. It is an observation made by the assessor or appraiser. The utility was “good” for both the subject and the comparables. This means good as far as overall construction and materials used for the residential property. The assessor or appraiser is basically saying that the property is better than the average home. The adjustments made on the grid were determined by Mr. Surface by looking at the market. He has likely seen thousands of appraisals. Appraisals generally provide the same information that is provided on the Respondent’s grid. *Surface testimony; Resp’t Ex. C, D, E, F, and G.*

24. Two of the above mentioned sales were outside of the typical timeframe at which an assessor would look. Comp 1 was March 2007 sale, and Comp 2 is a March 2008 sale. Respondent was to look at sales from a 2008 and 2009 timeframe to help establish values from this particular area. Looking outside that particular timeframe is acceptable if warranted or needed, which is what occurred here. Time adjustments should be made to account for sales that are outside the timeframe to be used. 50 IAC 21-3-3. In this particular case, Respondent has determined that property values in Monroe County have remained relatively flat as a whole during this timeframe. No time adjustment was used. *Surface testimony.*

25. While it would be ideal to provide the Board with ten or twenty sales in the immediate area of the subject property, Respondent was not able to do so in this case. Obviously the

larger the sample size, the better the results will be. In this particular case, however, we are dealing with a condensed neighborhood. There are approximately eighteen to twenty parcels assigned to the entire neighborhood. Respondent has three very comparable properties with the same proximity, same street, and same neighborhood. It is not so much about the number of sales, but the percentage you have in relationship to the subject. The two sales and the listing are adequate information. *Surface testimony; Resp't Ex. C, D, E, F and G.*

26. Respondent submitted a sales disclosure form for the subject property. Petitioners purchased the land in May of 2007 for \$146,000 prior to the construction of the home. For the tax year 2010, the land value is \$144,300, so it is assessed for a little bit less than the original sale price. Since Petitioners have \$146,000 invested in the property, they obviously believe that the land is worth that amount. The land value is not less today than the day Petitioners purchased the property. *Surface testimony; Resp't Ex. H.*
27. Publications directly related to Indiana and specifically Bloomington verify that the market was relatively static from the time of the comparable sales and listing that were used to the relevant valuation date. Forecastchart.com, which deals specifically with the Bloomington real estate market, breaks down the annual home price appreciation rates by year. It indicates that in 2007, there was a 2.24% increase in appreciation rates. In 2008, there was a 1% increase. In 2009, there was a .53% increase. In 2010, there was a 2.71% increase, and in 2011, there was a small decline of negative 1.10%. As a whole, the publication reports a slight gain in appreciation rates. The market has by no means decreased or depreciated as the Petitioners would have the Board believe. Due to the insignificant percentage trend, sales were not adjusted in the trending process. While part of the nation's economy may have been declining since 2007, Indiana is relatively stable and not losing values on properties. *Surface testimony; Resp't Ex. I.*
28. When a taxpayer files an appeal, the property's assessed value can increase, decrease, or stay the same. Petitioners should not be surprised that changes were made in the assessed value of their property due to filing the petition. *Meighen argument.*

## ANALYSIS

29. Generally, a taxpayer seeking review of an assessing official's determination has the burden of proving that a property's assessment is wrong and what its 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). Nevertheless, the Indiana General Assembly enacted a statute that in some cases shifts the burden of proof:

This section applies to any review or appeal of an assessment under this chapter if the assessment that is the subject of the review or appeal increased the assessed value of the assessed property by more than five percent (5%) over the assessed value determined by the county assessor or township assessor (if any) for the immediately preceding assessment date for the same property. The county assessor or township assessor making the assessment has the burden of proving that the assessment is correct in any review or appeal under this chapter and in any appeals taken to the Indiana board of tax review or to the Indiana tax court.

Ind. Code § 6-1.1-15-17.2.

30. In this case, the parties agreed that Petitioners had the burden.
31. 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”).
32. 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 set forth in the Real Property Assessment Guidelines for 2002 – Version A.

33. 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). 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 ("USPAP") often will suffice. *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.
34. Petitioners failed to make their case based on the evidence and arguments related to methodology. Petitioner Naik argued that Respondent should have assigned a dwelling grade of B and should not have added a 10% influence factor to the property. One cannot make a case based on whether the Guidelines were applied properly. *Eckerling v. Wayne Twp. Assessor*, 841 N.E.2d 674,677 (Ind. Tax Ct. 2006). Even if the grade of the subject property really was B on March 1, 2010, that point does not prove what a more accurate value is. To successfully make their case, Petitioners needed to show the assessment does not accurately reflect market value-in-use. *Id.*; see also *P/A Builders & Developers, LLC v. Jennings County Assessor*, 842 N.E.2d 899,900 (Ind. Tax Ct. 2006) (explaining that proper focus is not on methodology, but rather, on what the correct value actually is). They did not do so.
35. The Petitioner sought to use construction costs to show that the assessed value of the subject property is incorrect. Petitioner Naik testified that the original construction cost of the home he had built on the subject property was \$424,198.34, which when added to the purchase price of the land comes to an assessed value of \$570,198.34. Petitioner provided no direct evidence of the actual construction cost besides his own testimony.

36. According to the 2002 REAL PROPERTY ASSESSMENT GUIDELINES (GUIDELINES), “[t]he cost to be estimated by the assessor is made up of all the direct labor and material costs plus the indirect expenses required to construct an improvement. Examples of direct costs include labor, materials, supervision, utilities used during construction, and equipment rental. Indirect cost examples are building permits, fees, insurance, taxes, and construction interest, overhead, profit, and professional fees such as those charged by architects, engineers, consultants, and attorneys. The cost tables contain both direct and indirect costs.” GUIDELINES, intro. at 1. It is critical that the actual construction costs represent all costs (direct and indirect) regardless of whether or not they were realized, as in the case of do-it-yourself construction. *Id.* Thus, while a taxpayer may establish a prima facie case based upon construction cost information, that information must include all costs. For example, the cost of purchasing the property and utilities used during construction are part of the costs of constructing the subject property. Further, if the Petitioner acted as his own contractor, a “contractor fee” would need to be added to the construction costs to accurately reflect market value-in-use.
37. The Board finds that the Petitioner’s testimony regarding construction costs was insufficiently detailed to be probative of the structure’s value. The Petitioner’s testimony did not include information regarding administrative and permit costs for the construction. Further, no evidence was offered as to contractor costs, labor, mark-up or other costs that would reflect the market value of the property. Finally, there was no complete accounting of the Petitioner’s costs. Petitioner merely stated the amount of the final construction cost. Such conclusory statements without substantially more supportive detail are not probative evidence. *Whitley Products, Inc. v. State Bd. of Tax Comm’rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998) (stating that conclusory statements do not qualify as probative evidence). This falls short of the type of detailed facts and analysis that might support a legitimate conclusion about building costs for the subject property. *See Long v. Wayne Township Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). Finally, assuming *arguendo* that the Petitioner had provided an acceptable cost approach analysis, he failed to explain how the purported construction costs from March 2008 are relevant to the March 1, 2010, valuation date pursuant to *Long*.

38. Comparing assessments without relating those amounts to actual market value-in-use is not probative. Petitioner argued that the subject property's land was assessed in excess of the assessed values of neighboring properties, because unlike the subject, the land values of the neighboring properties were not increased with a 10% influence factor. This argument, however, is insufficient to show an error in an assessment. *Westfield Golf Practice Center, LLC v. Washington Township Assessor*, 859 N.E.2d 396 (Ind. Tax Ct. 2007). In *Westfield Golf*, the Tax Court held that it is not enough for a taxpayer to show that its property is assessed higher than other comparable properties. *Id.* Instead, the taxpayer must present probative evidence to show that the property's assessed value does not accurately reflect the property's market value-in-use. *Id.* Petitioner failed to do so.
39. Furthermore, Petitioner did not explain how the land at each of the other properties was comparable other than being located in the same neighborhood. He presented no comparison of lot sizes or shapes, no comparison of topography or geographical features, and no comparison of lot accessibility and uses. Rather, the Petitioner merely asserted that the land was comparable. Conclusory statements regarding the comparability of properties do not constitute probative evidence. *Blackbird Farms Apts., LP v. Dep't of Local Gov't Fin.*, 765 N.E.2d 711 (Ind. Tax Ct. 2002).
40. Petitioner's opinion that market values have declined since 2007 is an unsupported conclusion that does not constitute probative evidence. *See Heart City Chrysler v. State Bd. of Tax Comm'rs*, 714 N.E.2d 239 (Ind. Tax Ct. 1999); *Whitley Products*, 704 N.E.2d at 1119 (Ind. Tax Ct. 1998). Furthermore, because each tax year and each assessment year stands alone, evidence of a property's assessed value for one year does not necessarily show its true tax value for a different assessment year. *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)).
41. The Petitioners failed to establish a prima facie case. The burden did not shift to the assessing official to rebut the Petitioners' 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.

## SUMMARY OF FINAL DETERMINATION

42. The Petitioners failed to prove that the PTABOA assessment should be changed.

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

### **- 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>>.