

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

**Petition:** 91-010-06-1-5-00171  
**Petitioner:** Lawrence G. Newlin  
**Respondent:** White County Assessor  
**Parcel:** 007-00520-00  
**Assessment Year:** 2006

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

**Procedural History**

1. The Petitioner initiated an assessment appeal with the White County Property Tax Assessment Board of Appeals (PTABOA) by filing Form 130 dated January 10, 2007.
2. The PTABOA mailed the notice of its decision to the Petitioner on October 18, 2007.
3. The Petitioner appealed to the Board by filing a Form 131 with the Board on November 02, 2007, and elected small claims procedures.
4. The Board issued a notice of hearing to the parties dated February 14, 2008.
5. Administrative Law Judge Patti Kindler held the administrative hearing in Monticello on March 19, 2008.
6. The persons present and sworn as witnesses at the hearing were:  
For the Petitioner – Lawrence G Newlin, property owner,  
For the Respondent – Scott Potts, Authorized County Representative.

**Facts**

7. The property is a dwelling and land located at 7708 N. Barekman Court, Monticello, Indiana.
8. The Administrative Law Judge (ALJ) did not conduct an inspection of the property.
9. The PTABOA determined the assessed value is \$49,600 for land and \$39,900 for improvements (total \$89,500).
10. The Petitioner requested \$32,000 for land and \$35,000 for improvements (total \$67,000).

## Issue

### 11. Summary of the Petitioner's contentions:

- a) The assessment of the dwelling is excessive. It is a wood frame summer cottage over an unfinished basement built in 1956. It has no central heating and only a window air conditioner. The only improvement to the dwelling in the last ten years is a new roof. The basement walls are cracked and separated. Without lifting the house from its foundation to cure the defect, the basement cannot be finished to add more living area. *Newlin testimony.*
- b) The land assessment is excessive. The lot is small with only 50 feet of frontage and 80 feet of depth. Shafer and Freeman Lakes Environmental Conservation Corp. (SFLECC) controls the lakefront. The SFLECC requires a \$50 fee to access the lakefront. The current septic system hinders any construction on the lot. The septic does not drain well during heavy rains. *Newlin testimony.*
- c) While the Respondent's comparable dwelling at Sparrow Court is comparable in size, it differs from the subject dwelling in that it has both central air and heat. Furthermore, that purported comparable lot is about three times deeper than the subject lot. *Newlin testimony.*
- d) An appraisal was not obtained due to the cost. A property is only worth what a person is willing to pay for it. The sales of lakefront property were good in 2005, but over the last two years lakefront property sales have declined. There are properties that have been for sale on the lake for quite some time. One lakefront property has a list price of \$240,000, but it has not sold. *Newlin testimony.*

### 12. Summary of the Respondent's contentions:

- a) The property at 7852 N. Sparrow Court and the subject property are both lakefront properties. They are located within a quarter of a mile of each other. The Sparrow Court property and the subject property are subject to the SFLECC's ownership of the waterfront. They both have septic systems. There are some differences between the two properties. The Sparrow Court property has 260 more square feet than the subject property. The Sparrow Court property has a crawl space while the subject dwelling has a basement. The Sparrow Court property also has a detached garage while the subject does not have a garage. The fact that subject property's current assessment is 29% lower than the Sparrow Court property's sale price can account for some of the differences. *Potts testimony; Resp't Ex. 1.*
- b) The property record card for the Sparrow Court property shows that it sold for \$125,785 in 2005. Because the 2006 assessment utilized 2004 and 2005 sales,

that sale indicates the current assessment of the subject property is in the correct value range. *Potts testimony; Resp't Ex. 1.*

- c) The Petitioner has not submitted any credible evidence of value. Lake properties are scarce and demand increasing dollars to purchase. Someone who is not involved with the sales of lake property might not be aware of the value of those properties. *Potts testimony.*

### **Record**

- 13. The official record for this matter is made up of the following:
  - a) The Petition,
  - b) A digital recording of the hearing,
  - c) Petitioner Exhibits – None,  
Respondent Exhibit 1 – Property record card for 7852 N. Sparrow Court with a summary of the Respondent's position attached,  
Board Exhibit A – Form 131 petition with attachments,  
Board Exhibit B – Notice of Hearing,  
Board Exhibit C – Hearing Sign-In Sheet,  
Board Exhibit D – Notice of Appearance,
  - d) These Findings and Conclusions.

### **Analysis**

- 14. 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”).

15. The Petitioner did not make a prima facie case to support his contentions. The Board arrived at this conclusion because:
- a) Real property is assessed on the basis of its “true tax value,” which does not mean fair market value. It 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*. To that end, Indiana promulgated a series of 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, while presumed to be accurate, is merely a starting point. A taxpayer is permitted to offer evidence relevant to construction costs, sales information compiled in accordance with generally accepted appraisal principles. MANUAL at 5. The 2006 assessment is to reflect the value of the property as of January 1, 2005. Ind. Code § 6-1.1-4-4.5; 50 IAC 21-3-3.
  - b) The Petitioner established that the dwelling is used only as a summer cottage, which does not have central heat or air conditioning. He established that, except for a new roof, no improvements have been made to the dwelling in the last ten years. He established that the basement cannot be finished to add living area because the basement walls are cracked. He established that the lot is small and lacks room for additional improvements such as a garage. He established that the septic system has drainage issues during periods of heavy rain. He established that access to the water is controlled by SFLECC, who imposes a \$50 fee.
  - c) All these facts may impact market value-in-use, but the Petitioner failed to provide any probative evidence demonstrating a number that would be more accurate than the current assessment. Providing evidence showing the current assessment is incorrect and what the correct assessment should be is the Petitioner’s responsibility. *Meridian Towers*, 805 N.E.2d at 478.
  - d) The Petitioner’s conclusory statements that the current assessment is excessive and that the value should be only \$67,000 are not probative evidence. *See Whitley Products. v. State Bd. of Tax Comm’rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).
  - e) When a taxpayer fails to provide probative evidence supporting his position 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); *Whitley Products*, 704 N.E.2d at 1119.

**Conclusion**

16. The Petitioner failed to make a prima facie case. The Board finds in favor of the Respondent.

**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.

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

\_\_\_\_\_  
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>>