

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

**Petition No.:** 18-003-06-1-4-00271  
**Petitioner:** PAR Group Partnership  
**Respondent:** Delaware County Assessor  
**Parcel No.:** 181113226008000003  
**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. The PAR Group Partnership appealed the subject property’s assessment to the Delaware County Property Tax Assessment Board of Appeals (“PTABOA”). On August 5, 2008, the PTABOA issued its determination denying PAR relief.
2. PAR timely filed its Form 131 petition with the Board on September 9, 2008. PAR elected to have this appeal heard under the Board’s small claims procedures.
3. On January 26, 2011, the Board held an administrative hearing through its designated Administrative Law Judge, Jennifer Bippus (“ALJ”).
4. The following people were sworn in and testified:
  - a) For PAR: Roy Garvin
  - b) For the Assessor: Kelly Hisle, Deputy County Assessor.

**Facts**

5. The subject property includes a 5,826 square foot building on a 1.0150 acre lot at 109 South Country Club Road, Muncie. It is used to operate an animal hospital.
6. Neither the Board nor the ALJ inspected the subject property.
7. The PTABOA determined the following values for the subject property:  
Land: \$132,000      Improvements: \$408,900      Total: \$540,900
8. On the Form 131 petition, PAR requested the following values:  
Land: \$30,000      Improvements: \$300,000      Total: \$330,000

## Parties' Contentions

9. PAR offered the following evidence and arguments:
- a) Mr. Garvin, who identified himself as the property's owner and presumably meant that he was one of the partners in PAR, researched land values in the area where the subject property is located. There is a storage facility located on State Road 32 (also called East Jackson Street) that is assessed at \$37,165 per acre for the building site and \$11,408 per acre for the rest of the land. Mr. Garvin believes those were 2008 values. Residential land right across the street from the subject property is assessed at \$4,103 per acre. Land on the corner of State Road 32 and Country Club Road is assessed at \$71,626 per acre, which is considerably less than the subject land's assessment of \$130,000 per acre. Mr. Garvin believes that the corner lot is considerably more valuable than the subject land. *Garvin testimony.*
  - b) Mr. Garvin also looked at other veterinary hospitals in the area. Boyce Animal Hospital, which is located on a street similar to the subject property's street, is assessed at \$10,625 per acre. Maplewood Animal Hospital, which is in the city, is assessed at \$29,000 per acre. Finally, a recently built animal hospital on State Road 67 in McCordsville, Indiana, which has higher traffic flow and is in a better socio-economic area than the subject property, is assessed at \$174,000 per acre. *Garvin testimony.*
  - c) When Mr. Garvin bought the subject land in 2000, he believed that the area was going to be developed with a major grocery store and additional shopping. Because the area has not been developed, the subject land should be assessed for considerably less than what Mr. Garvin actually paid for it. Mr. Garvin, however, did not offer any evidence to show what he originally paid for the land. *Garvin testimony.*
  - d) As to the improvements, the building's construction costs were less than \$400,000 when it was built in 2000. Mr. Garvin therefore does not understand why the building is assessed for more than that. Nonetheless, "looking at all the other properties" he could see that the subject building "probably is not over-assessed." *Garvin testimony.*
  - e) Although the Assessor pointed to a \$750,000 mortgage on the subject property, that mortgage does not show what the property is worth. The mortgage secures a loan that was given, in part, to buy approximately \$300,000 worth of equipment. Similarly, the sale price for one of the Assessor's purportedly comparable sales—Care Animal Hospital—could have included consideration for equipment or things other than real estate. *Garvin testimony.*
10. The Assessor offered the following evidence and arguments:
- a) The subject property is accurately assessed. *Hisle testimony.* The subject building was built in 2000, and is getting no allowance for depreciation. *Hisle testimony; Resp't Ex. 1.* Also, Mr. Garvin and his wife granted Bank One a mortgage that "shall not exceed at any one time \$750,000" to secure all obligations to Bank One. *Hisle*

*testimony; Resp't Exs. 2, 5.* That mortgage was recorded on February 2, 2002, and re-recorded on January 10, 2003. *Resp't Ex. 2.* The Garvins also granted Mutual Federal Savings Bank mortgages to secure debts of \$498,500 and \$83,000, respectively. Those mortgages were both recorded in 2000. *Hisle testimony; Resp't Exs. 3-4.*

- b) The Assessor's representative, Kelly Hisle, also pointed to the sales of three other properties to support the subject property's assessment:
- An Animal Care Hospital on Nebo Road sold for \$900,000 in 2005. The building is older than the subject property and therefore has some depreciation. It is also smaller than the subject building. The sales disclosure statement did not list any equipment as having been part of the sale. *Hisle testimony; Resp't Exs. 6, 7.*
  - Vacant land at 4505 E. Jackson (State Road 32) sold for \$350,000 on August 6, 2004. After the sale, the buyer paid to clear the land, run utilities, and cut the driveway to access State Road 32. That property is now used as a self-storage facility. *Hisle testimony; Resp't Exs. 8-13.*
  - Land just down the street from the subject property that has a new Dollar General Store sold for \$717,800 in 2008. *Hisle testimony; Resp't Exs. 14-15.*
  - A commercial property in Randolph County that is used to operate a veterinary facility sold for \$260,000 in 2008. The building has 2,762 square feet and was built in 1970. *Hisle testimony.*
- c) Mr. Garvin claimed that Boyce Animal Hospital is comparable to the subject property. But Boyce Animal Hospital is not on a main thoroughfare like the subject property. While the subject property does not have access to State Road 32, it is located just around the corner from State Road 32 and is very visible. *Hisle 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:

The Petitioner did not offer any exhibits,

Respondent Exhibit 1: Subject property record card ("PRC"),

- Respondent Exhibit 2: One page from mortgage granted by Roy and Peggy Garvin to Bank One, N.A.,
- Respondent Exhibit 3: Copy of printout from computer screen referencing mortgage granted by Roy and Peggy Garvin to Mutual Federal Savings Bank recorded on Mach 8, 2000,
- Respondent Exhibit 4: Copy of printout from computer screen referencing mortgage granted by Roy and Peggy Garvin to Mutual Federal Savings Bank recorded on August 30, 2000,
- Respondent Exhibit 5: Copy of printout from computer screen referring to mortgage granted by Roy and Peggy Garvin to Bank One recorded on January 10, 2003,
- Respondent Exhibit 6: PRC for Wildcat Investments, 3601 N Nebo Rd,
- Respondent Exhibit 7: Sales Disclosure for 3601 N Nebo Rd,
- Respondent Exhibit 8: PRC for 32 Nebo Business Park, LLC, 4505 E Jackson St,
- Respondent Exhibit 9: PRC for 32 Nebo Business Park, LLC, 4701 Blk. E Jackson St., 4800 E. Jackson St. pg. 1 of 4,
- Respondent Exhibit 10: PRC for 32 Nebo Business Park, LLC, 4701 Blk. E Jackson St., 4800 E. Jackson St. pg. 2 of 4,
- Respondent Exhibit 11: PRC for 32 Nebo Business Park, LLC, 4701 Blk. E Jackson St., 4800 E. Jackson St. pg. 3 of 4,
- Respondent Exhibit 12: PRC for 32 Nebo Business Park, LLC, 4701 Blk. E Jackson St., 4800 E. Jackson St. pg. 4 of 4,
- Respondent Exhibit 13: Sales Disclosure for 32 Nebo Business Park, LLC,
- Respondent Exhibit 14: PRC for Mer Car DG Corporation, 5350 E Jackson St,
- Respondent Exhibit 15: Sales Disclosure for Mer Car DG Corp.,
- Board Exhibit A: Form 131 petition,
- Board Exhibit B: Hearing notice dated November 30, 2010,
- Board Exhibit C: Letter granting Assessor's request for continuance,
- Board Exhibit D: Assessor's request for continuance,
- Board Exhibit E: Hearing notice dated September 29, 2010,
- Board Exhibit F: Hearing sign-in sheet,

d) These Findings and Conclusions.

## Analysis

### Burden of Proof

12. A taxpayer seeking review of an assessing official's determination must make 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).
13. 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) (“[I]t is the taxpayer’s duty to walk the Indiana Board ... through every element of the analysis”).

14. If the taxpayer makes 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. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004); *Meridian Towers*, 805 N.E.2d at 479.
15. PAR failed to make a prima facie case for reducing the subject 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 2 (incorporated by reference at 50 IAC 2.3-1-2). Appraisers traditionally have used three methods to determine a property’s 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.
  - 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). 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. *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.
  - c) Regardless of the method used to challenge an assessment’s presumed accuracy, a party must explain how its evidence relates to the subject 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, 471 (Ind. Tax Ct. 2005). Otherwise, that evidence lacks probative value. *Id.* For a March 1, 2006 assessment, the valuation date was January 1, 2005. 50 IAC 21-3-3 (2006).
  - d) PAR claims that the subject land was assessed too high in comparison to other land from the area and to land that is used for similar purposes. PAR did not specify whether it is claiming that the other assessments show that the subject property was assessed for more than its market value-in-use or that assessments were not uniform and equal. Either way, PAR’s evidence does not suffice to make a prima facie case. Even if one assumes that information about another property’s assessment (as opposed to its sale price) can demonstrate an appealed property’s market value-in-use, the party offering that evidence would need to show both that the properties are

generally comparable to each other and how any relevant differences affect the properties' relative values. *See Long*, 821 N.E.2d at 470-71 (holding that, in applying the sales-comparison approach, the taxpayers needed to explain how any differences between their property and the properties to which they sought to compare it affected the properties' relevant market values-in-use). The same is true for a claim that properties are not assessed in a uniform and equal manner.

- e) PAR did not make such a showing. Other than Mr. Garvin's testimony about the properties' locations, PAR did not offer any evidence by which to compare the subject property to the properties that PAR claims were more favorably assessed.
- f) On its Form 131 petition, PAR also took issue with the subject building's assessment. At the hearing, however, Mr. Garvin appears to have backed off of that claim, saying that after "looking at all the other properties" he could see that the subject building "probably is not over-assessed." *Garvin testimony*. In any event, the only evidence that PAR offered on that point was Mr. Garvin's testimony that it cost less than \$400,000 to construct the subject building in 2002. Mr. Garvin's testimony was too vague for the Board to infer that he was including all direct costs and indirect expenses required to construct the building. *See REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 – VERSION A*, intro. at 1 (explaining that the cost to be estimated by the assessor includes all direct costs, such as material and labor, and indirect expenses, such as building permits, fees, insurance, taxes, construction interest, overhead profit, and professional fees). In any case, Mr. Garvin failed to explain how the construction costs from 2000 relate to the subject building's market value-in-use as of January 1, 2005. Thus, his testimony lacks probative value.

### **Conclusion**

- 16. PAR failed to offer sufficient evidence to make a prima facie case. The Board therefore finds in favor of the Assessor.

### **Final Determination**

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

---

Chairman, 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>.