

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

Petition Nos.:

45-016-06-1-5-00003	45-016-06-1-5-00003a	45-016-06-1-5-00004
45-016-06-1-5-00005	45-016-06-1-5-00006	45-016-06-1-5-00007
45-016-06-1-5-00007a	45-016-06-1-5-00008	45-016-06-1-5-00009
45-016-06-1-5-00009a	45-016-06-1-5-00010	45-016-06-1-5-00011
45-016-06-1-5-00011a	45-016-06-1-5-00012	45-016-06-1-5-00013
45-016-06-1-5-00013a	45-016-06-1-5-00014	45-016-06-1-5-00015
45-016-06-1-5-00015a	45-016-06-1-5-00016	45-016-06-1-5-00017
45-016-06-1-5-00017a	45-016-06-1-5-00018	45-016-06-1-5-00019
45-016-06-1-5-00019a	45-016-06-1-5-00020	45-016-06-1-5-00020a
45-016-06-1-5-00021	45-016-06-1-5-00021a	45-016-06-1-5-00022
45-016-06-1-5-00023	45-016-06-1-5-00023a	45-016-06-1-5-00024
45-016-06-1-5-00024a	45-016-06-1-5-00025	45-016-06-1-5-00026
45-016-06-1-5-00026a	45-016-06-1-5-00027	45-016-06-1-5-00027a
45-016-06-1-5-00028	45-016-06-1-5-00028a	45-016-06-1-5-00029
45-016-06-1-5-00029a	45-016-06-1-5-00030	45-016-06-1-5-00031
45-016-06-1-5-00031a	45-016-06-1-5-00032	45-016-06-1-5-00032a
45-016-06-1-5-00033	45-016-06-1-5-00034	45-016-06-1-5-00034a
45-016-06-1-5-00035	45-016-06-1-5-00036	45-016-06-1-5-00037
45-016-06-1-5-00038	45-016-06-1-5-00038a	45-016-06-1-5-00039
45-016-06-1-5-00040	45-016-06-1-5-00041	45-016-06-1-5-00041a

Petitioners:¹

2170 Warren, LLC	2220 Wells, LLC
2213 Warren, LLC	E. V. Miedl Six One, Inc.
S. E. Henry One Three, Inc.	2244 Wells, Inc.
2151 Wayne, LLC	E. W. Cooper Nine Three, Inc.
E. Sullivan Three Sixteen, Inc.	E. W. Ford Nine One, Inc.
2245 Wayne, LLC	E. W. Cox Nine Three, Inc.
U. E. Hendrix Four Nineteen, Inc.	E. U. Grasa Four Eight, Inc.
B. M. Kelley One Five, Inc.	E. X. Smock Four Four, Inc.
E. X. Maietta Three Six, Inc.	E. X. Clason Four Two, Inc.
2182 Warrick, LLC	2244 Warrick, LLC
R. E. Fravel One Five, Inc.	E. V. Frizzell Nine Seven, Inc.
2228 Wells, LLC	T.E. Davis Four Nine, Inc.
E. V. Phillipps Six Nine, Inc.	T. E. Moore Four Eleven, Inc.

¹ Mr. John Peyton is the President of each corporation and Manager of each limited liability company that owns the parcels at issue in this appeal.

E.X. Kuhnert Three Twenty, Inc.
2198 Warrick, LLC
E. U. Grasa Four Eight, Inc.
R. E. Gray One One, Inc.
2182 Wells, LLC
R. E. Disney One Seven, Inc.
E. U. Davis Two Twenty, Inc.

2134 Wells, LLC
2142 Wells, LLC
E. U. Bogdan Nine Nine, Inc.
S. E. Milligan One Five, Inc.
L.E. Meyers B Nine, Inc.
E. W. McDade Nine Five, Inc.

Respondent: Lake County Assessor

Parcel Nos.:

006-14-19-0104-0002	006-14-19-0104-0001	006-14-19-0101-0035
006-14-19-0102-0028	006-14-20-0074-0034	006-14-20-0075-0016
006-14-20-0075-0017	006-14-20-0077-0030	006-14-20-0076-0019
006-14-20-0076-0020	006-14-19-0101-0003	006-14-20-0075-0026
006-14-20-0075-0027	006-14-19-0101-0006	006-14-20-0073-0025
006-14-20-0073-0026	006-14-20-0077-0001	006-14-20-0078-0039
006-14-20-0078-0040	006-14-20-0077-0006	006-14-20-0078-0031
006-14-20-0078-0032	006-14-20-0077-0012	006-14-20-0081-0043
006-14-20-0081-0044	006-14-20-0081-0041	006-14-20-0081-0042
006-14-20-0081-0033	006-14-20-0081-0034	006-14-20-0076-0040
006-14-20-0076-0034	006-14-20-0076-0035	006-14-20-0076-0032
006-14-20-0076-0033	006-14-19-0101-0016	006-14-20-0081-0037
006-14-20-0081-0038	006-14-20-0076-0009	006-14-20-0076-0010
006-14-20-0076-0011	006-14-20-0076-0012	006-14-20-0075-0020
006-14-20-0075-0021	006-14-19-0101-0008	006-14-20-0076-0039
006-14-20-0076-0038	006-14-20-0073-0031	006-14-20-0073-0032
006-14-20-0074-0016	006-14-20-0073-0027	006-14-20-0073-0028
006-14-20-0074-0020	006-14-20-0074-0004	006-14-20-0074-0006
006-14-20-0081-0029	006-14-20-0081-0030	006-14-20-0073-0045
006-14-20-0102-0009	006-14-20-0081-0035	006-14-20-0081-0036

Assessment Year: 2006

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

Procedural History

1. The Petitioners' representative initiated assessment appeals with the Lake County Property Tax Assessment Board of Appeals (the PTABOA) by written document dated July 24, 2007.

2. The PTABOA issued notice of its decision on each case between September 2, 2009, and September 28, 2009.
3. The Petitioners' representative initiated the above appeals to the Board by filing Form 131 petitions on October 13, 2009. The Petitioners elected to have their cases heard pursuant to the Board's small claims procedures.
4. The Board issued notices of hearing to the parties dated April 8, 2010.
5. The Board held a consolidated hearing on the Petitioners' appeals on May 18, 2010, before the duly appointed Administrative Law Judge (the ALJ) Ellen Yuhan.
6. Persons present and sworn in at hearing:

For Petitioners: John D. Peyton, President or Manager of each taxpayer,

For Respondent: Sheryl King, Deputy Assessor, Hobart Township.

Facts

7. The properties under appeal are 39 single-family, residential rental properties and 21 residential lots located in Lake Station, Hobart Township, in Lake County.
8. The ALJ did not conduct an on-site visit of the properties.
9. For 2006, the PTABOA determined the assessed value of the subject properties to be:

Petition No. 45-016-06-1-5-00003, 2170 Warren Street, \$9,000 for the land;
Petition No. 45-016-06-1-5-00003a, 2170 Warren Street, \$16,800 for the land and \$36,100 for the improvements, for a total assessed value of \$52,900;
Petition No. 45-016-06-1-5-00004, 2213 Warren Street, \$16,800 for the land and \$36,100 for the improvements, for a total assessed value of \$52,900;
Petition No. 45-016-06-1-5-00005, 2335 Warren Street, \$16,800 for the land and \$48,900 for the improvements, for a total assessed value of \$65,700;
Petition No. 45-016-06-1-5-00006, 2151 Wayne Street, \$16,900 for the land and \$31,600 for the improvements, for a total assessed value of \$48,500;
Petition No. 45-016-06-1-5-00007, 2198 Wayne Street, \$8,500 for the land and \$40,100 for the improvements, for a total assessed value of \$48,600;
Petition No. 45-016-06-1-5-00007a, 2198 Wayne Street, \$6,800 for the land;
Petition No. 45-016-06-1-5-00008, 2245 Wayne Street, \$16,900 for the land and \$34,600 for the improvements, for a total assessed value of \$51,500;
Petition No. 45-016-06-1-5-00009, 2276 Wayne Street, \$8,500 for the land and \$34,700 for the improvements, for a total assessed value of \$43,200;
Petition No. 45-016-06-1-5-00009a, 2276 Wayne Street, \$6,800 for the land;

Petition No. 45-016-06-1-5-00010, 2166 Warrick Street, \$16,800 for the land and \$34,000 for the improvements, for a total assessed value of \$50,800;
Petition No. 45-016-06-1-5-00011, 2167 Warrick Street, \$8,500 for the land and \$30,800 for the improvements, for a total assessed value of \$39,400;
Petition No. 45-016-06-1-5-00011a, 2167 Warrick Street, \$8,500 for the land;
Petition No. 45-016-06-1-5-00012, 2182 Warrick Street, \$16,800 for the land and \$33,800 for the improvements, for a total assessed value of \$50,600;
Petition No. 45-016-06-1-5-00013, 2199 Wells Street, \$8,500 for the land and \$26,600 for the improvements, for a total assessed value of \$35,100;
Petition No. 45-016-06-1-5-00013a, 2199 Wells Street, \$8,500 for the land;
Petition No. 45-016-06-1-5-00014, 2204-2206 Wells Street, \$22,800 for the land and \$48,000 for the improvements, for a total assessed value of \$70,800;
Petition No. 45-016-06-1-5-00015, 2205 Wells Street, \$8,500 for the land and \$31,600 for the improvements, for a total assessed value of \$40,100;
Petition No. 45-016-06-1-5-00015a, 2205 Wells Street, \$8,500 for the land;
Petition No. 45-016-06-1-5-00016, 2220 Wells Street, \$16,900 for the land and \$28,600 for the improvements, for a total assessed value of \$45,500;
Petition No. 45-016-06-1-5-00017, 2237 Wells Street, \$8,500 for the land and \$26,600 for the improvements, for a total assessed value of \$35,100;
Petition No. 45-016-06-1-5-00017a, 2237 Wells Street, \$8,500 for the land;
Petition No. 45-016-06-1-5-00018, 2244 Wells Street, \$16,900 for the land and \$36,800 for the improvements, for a total assessed value of \$53,700;
Petition No. 45-016-06-1-5-00019, 2313 Warrick Street, \$8,500 for the land and \$30,800 for the improvements, for a total assessed value of \$39,300;
Petition No. 45-016-06-1-5-00019a, 2313 Warrick Street, \$8,500 for the land;
Petition No. 45-016-06-1-5-00020, 2321 Warrick Street, \$8,500 for the land and \$28,800 for the improvements, for a total assessed value of \$37,300;
Petition No. 45-016-06-1-5-00020a, 2321 Warrick Street, \$8,500 for the land;
Petition No. 45-016-06-1-5-00021, 2353 Warrick Street, \$8,500 for the land and \$34,600 for the improvements, for a total assessed value of \$43,100;
Petition No. 45-016-06-1-5-00021a, 2353 Warrick Street, \$8,500 for the land;
Petition No. 45-016-06-1-5-00022, 2213 Warrick Street, \$8,500 for the land and \$23,600 for the improvements, for a total assessed value of \$32,100;
Petition No. 45-016-06-1-5-00023, 2229 Warrick Street, \$8,500 for the land and \$28,900 for the improvements, for a total assessed value of \$37,400;
Petition No. 45-016-06-1-5-00023a, 2229 Warrick Street, \$8,500 for the land;
Petition No. 45-016-06-1-5-00024, 2237 Warrick Street, \$8,500 for the land and \$37,200 for the improvements, for a total assessed value of \$45,700;
Petition No. 45-016-06-1-5-00024a, 2237 Warrick Street, \$8,500 for the land;
Petition No. 45-016-06-1-5-00025, 2244 Warrick Street, \$16,800 for the land and \$33,900 for the improvements, for a total assessed value of \$50,700;
Petition No. 45-016-06-1-5-00026, 2337 Warrick Street, \$8,500 for the land and \$36,600 for the improvements, for a total assessed value of \$44,100;
Petition No. 45-016-06-1-5-00026a, 2337 Warrick Street, \$8,500 for the land;
Petition No. 45-016-06-1-5-00027, 2236 Wayne Street, \$8,500 for the land and \$37,200 for the improvements, for a total assessed value of \$45,700;

Petition No. 45-016-06-1-5-00027a, 2236 Wayne Street, \$8,500 for the land;
Petition No. 45-016-06-1-5-00028, 2244 Wayne Street, \$8,500 for the land and
\$34,600 for the improvements, for a total assessed value of \$43,100;
Petition No. 45-016-06-1-5-00028a, 2244 Wayne Street, \$8,500 for the land;
Petition No. 45-016-06-1-5-00029, 2191 Warrick Street, \$8,500 for the land and
\$37,600 for the improvements, for a total assessed value of \$46,100;
Petition No. 45-016-06-1-5-00029a, 2191 Warrick Street, \$8,500 for the land;
Petition No. 45-016-06-1-5-00030, 2198 Warrick Street, \$16,800 for the land and
\$33,800 for the improvements, for a total assessed value of \$50,600;
Petition No. 45-016-06-1-5-00031, 2205 Warrick Street, \$8,500 for the land and
\$22,900 for the improvements, for a total assessed value of \$31,400;
Petition No. 45-016-06-1-5-00031a, 2205 Warrick Street, \$8,500 for the land;
Petition No. 45-016-06-1-5-00032, 2175 Wells Street, \$8,500 for the land and
\$30,100 for the improvements, for a total assessed value of \$38,600;
Petition No. 45-016-06-1-5-00032a, 2175 Wells Street, \$8,500 for the land;
Petition No. 45-016-06-1-5-00033, 2182 Wells Street, \$16,900 for the land and
\$35,900 for the improvements, for a total assessed value of \$52,800;
Petition No. 45-016-06-1-5-00034, 2191 Wells Street, \$8,500 for the land and
\$30,100 for the improvements, for a total assessed value of \$38,600;
Petition No. 45-016-06-1-5-00034a, 2191 Wells Street, \$8,500 for the land;
Petition No. 45-016-06-1-5-00035, 2198 Wells Street, \$16,900 for the land and
\$28,900 for the improvements, for a total assessed value of \$45,800;
Petition No. 45-016-06-1-5-00036, 2134 Wells Street, \$16,900 for the land and
\$34,700 for the improvements, for a total assessed value of \$51,600;
Petition No. 45-016-06-1-5-00037, 2142 Wells Street, \$16,900 for the land and
\$28,100 for the improvements, for a total assessed value of \$45,000;
Petition No. 45-016-06-1-5-00038, 2369 Warrick Street, \$8,500 for the land and
\$29,900 for the improvements, for a total assessed value of \$38,400;
Petition No. 45-016-06-1-5-00038a, 2369 Warrick Street, \$8,500 for the land;
Petition No. 45-016-06-1-5-00039, 2119 Wells Street, \$22,600 for the land and
\$30,100 for the improvements, for a total assessed value of \$52,700;
Petition No. 45-016-06-1-5-00040, 2352 Warrick Street, \$16,800 for the land and
\$34,600 for the improvements, for a total assessed value of \$51,400;
Petition No. 45-016-06-1-5-00041, 2345 Warrick Street, \$8,500 for the land and
\$36,900 for the improvements, for a total assessed value of \$45,400;
Petition No. 45-016-06-1-5-00041a, 2345 Warrick Street, \$8,500 for the land.

10. The Petitioners requested the following assessed values:

Petition No. 45-016-06-1-5-00003, 2170 Warren Street, \$5,000 for the land;
Petition No. 45-016-06-1-5-00003a, 2170 Warren Street, \$13,000 for the land and
\$32,000 for the improvements, for a total assessed value of \$45,000;
Petition No. 45-016-06-1-5-00004, 2213 Warren Street, \$13,000 for the land and
\$30,000 for the improvements, for a total assessed value of \$45,000;
Petition No. 45-016-06-1-5-00005, 2335 Warren Street, \$13,000 for the land and
\$43,000 for the improvements, for a total assessed value of \$56,000;

Petition No. 45-016-06-1-5-00006, 2151 Wayne Street, \$13,000 for the land and \$30,000 for the improvements, for a total assessed value of \$45,000;
Petition No. 45-016-06-1-5-00007, 2198 Wayne Street, \$5,000 for the land and \$32,000 for the improvements, for a total assessed value of \$37,000;
Petition No. 45-016-06-1-5-00007a, 2198 Wayne Street, \$5,000 for the land;
Petition No. 45-016-06-1-5-00008, 2245 Wayne Street, \$13,000 for the land and \$30,000 for the improvements, for a total assessed value of \$45,000;
Petition No. 45-016-06-1-5-00009, 2276 Wayne Street, \$6,500 for the land and \$30,000 for the improvements, for a total assessed value of \$36,500;
Petition No. 45-016-06-1-5-00009a, 2276 Wayne Street, \$3,500 for the land;
Petition No. 45-016-06-1-5-00010, 2166 Warrick Street, \$13,000 for the land and \$28,000 for the improvements, for a total assessed value of \$41,000;
Petition No. 45-016-06-1-5-00011, 2167 Warrick Street, \$6,500 for the land and \$31,000 for the improvements, for a total assessed value of \$37,500;
Petition No. 45-016-06-1-5-00011a, 2167 Warrick Street, \$6,500 for the land;
Petition No. 45-016-06-1-5-00012, 2182 Warrick Street, \$13,000 for the land and \$27,000 for the improvements, for a total assessed value of \$40,000;
Petition No. 45-016-06-1-5-00013, 2199 Wells Street, \$6,500 for the land and \$27,000 for the improvements, for a total assessed value of \$33,500;
Petition No. 45-016-06-1-5-00013a, 2199 Wells Street, \$6,500 for the land;
Petition No. 45-016-06-1-5-00014, 2204-2206 Wells Street, \$17,000 for the land and \$48,000 for the improvements, for a total assessed value of \$65,000;
Petition No. 45-016-06-1-5-00015, 2205 Wells Street, \$6,500 for the land and \$30,000 for the improvements, for a total assessed value of \$36,500;
Petition No. 45-016-06-1-5-00015a, 2205 Wells Street, \$6,500 for the land;
Petition No. 45-016-06-1-5-00016, 2220 Wells Street, \$13,000 for the land and \$29,000 for the improvements, for a total assessed value of \$42,000;
Petition No. 45-016-06-1-5-00017, 2237 Wells Street, \$6,500 for the land and \$27,000 for the improvements, for a total assessed value of \$33,500;
Petition No. 45-016-06-1-5-00017a, 2237 Wells Street, \$6,500 for the land;
Petition No. 45-016-06-1-5-00018, 2244 Wells Street, \$13,000 for the land and \$29,000 for the improvements, for a total assessed value of \$42,000;
Petition No. 45-016-06-1-5-00019, 2313 Warrick Street, \$6,500 for the land and \$27,000 for the improvements, for a total assessed value of \$33,500;
Petition No. 45-016-06-1-5-00019a, 2313 Warrick Street, \$6,500 for the land;
Petition No. 45-016-06-1-5-00020, 2321 Warrick Street, \$6,500 for the land and \$27,000 for the improvements, for a total assessed value of \$33,500;
Petition No. 45-016-06-1-5-00020a, 2321 Warrick Street, \$6,500 for the land;
Petition No. 45-016-06-1-5-00021, 2353 Warrick Street, \$6,500 for the land and \$27,000 for the improvements, for a total assessed value of \$33,500;
Petition No. 45-016-06-1-5-00021a, 2353 Warrick Street, \$6,500 for the land;
Petition No. 45-016-06-1-5-00022, 2213 Warrick Street, \$6,500 for the land and \$22,250 for the improvements, for a total assessed value of \$28,750;
Petition No. 45-016-06-1-5-00023, 2229 Warrick Street, \$6,500 for the land and \$27,000 for the improvements, for a total assessed value of \$33,500;
Petition No. 45-016-06-1-5-00023a, 2229 Warrick Street, \$6,500 for the land;

Petition No. 45-016-06-1-5-00024, 2237 Warrick Street, \$6,500 for the land and \$30,000 for the improvements, for a total assessed value of \$36,500;
Petition No. 45-016-06-1-5-00024a, 2237 Warrick Street, \$6,500 for the land;
Petition No. 45-016-06-1-5-00025, 2244 Warrick Street, \$13,000 for the land and \$27,000 for the improvements, for a total assessed value of \$40,000;
Petition No. 45-016-06-1-5-00026, 2237 Warrick Street, \$6,500 for the land and \$30,000 for the improvements, for a total assessed value of \$36,500;
Petition No. 45-016-06-1-5-00026a, 2237 Warrick Street, \$6,500 for the land;
Petition No. 45-016-06-1-5-00027, 2236 Wayne Street, \$6,500 for the land and \$30,000 for the improvements, for a total assessed value of \$36,500;
Petition No. 45-016-06-1-5-00027a, 2236 Wayne Street, \$6,500 for the land;
Petition No. 45-016-06-1-5-00028, 2244 Wayne Street, \$6,500 for the land and \$27,000 for the improvements, for a total assessed value of \$33,500;
Petition No. 45-016-06-1-5-00028a, 2244 Wayne Street, \$6,500 for the land;
Petition No. 45-016-06-1-5-00029, 2191 Warrick Street, \$6,500 for the land and \$31,000 for the improvements, for a total assessed value of \$37,500;
Petition No. 45-016-06-1-5-00029a, 2191 Warrick Street, \$6,500 for the land;
Petition No. 45-016-06-1-5-00030, 2198 Warrick Street, \$13,000 for the land and \$27,000 for the improvements, for a total assessed value of \$40,000;
Petition No. 45-016-06-1-5-00031, 2205 Warrick Street, \$6,500 for the land and \$22,250 for the improvements, for a total assessed value of \$28,750;
Petition No. 45-016-06-1-5-00031a, 2205 Warrick Street, \$6,500 for the land;
Petition No. 45-016-06-1-5-00032, 2175 Wells Street, \$6,500 for the land and \$28,000 for the improvements, for a total assessed value of \$34,500;
Petition No. 45-016-06-1-5-00032a, 2175 Wells Street, \$6,500 for the land;
Petition No. 45-016-06-1-5-00033, 2182 Wells Street, \$13,000 for the land and \$27,000 for the improvements, for a total assessed value of \$40,000;
Petition No. 45-016-06-1-5-00034, 2191 Wells Street, \$6,500 for the land and \$31,000 for the improvements, for a total assessed value of \$37,500;
Petition No. 45-016-06-1-5-00034a, 2191 Wells Street, \$6,500 for the land;
Petition No. 45-016-06-1-5-00035, 2198 Wells Street, \$13,000 for the land and \$27,000 for the improvements, for a total assessed value of \$40,000;
Petition No. 45-016-06-1-5-00036, 2134 Wells Street, \$13,000 for the land and \$26,000 for the improvements, for a total assessed value of \$39,000;
Petition No. 45-016-06-1-5-00037, 2142 Wells Street, \$13,000 for the land and \$27,000 for the improvements, for a total assessed value of \$40,000;
Petition No. 45-016-06-1-5-00038, 2369 Warrick Street, \$6,500 for the land and \$27,000 for the improvements, for a total assessed value of \$33,500;
Petition No. 45-016-06-1-5-00038a, 2369 Warrick Street, \$6,500 for the land;
Petition No. 45-016-06-1-5-00039, 2119 Wells Street, \$16,000 for the land and \$27,000 for the improvements, for a total assessed value of \$43,000;
Petition No. 45-016-06-1-5-00040, 2352 Warrick Street, \$13,000 for the land and \$27,000 for the improvements, for a total assessed value of \$40,000;
Petition No. 45-016-06-1-5-00041, 2345 Warrick Street, \$6,500 for the land and \$30,000 for the improvements, for a total assessed value of \$36,500;
Petition No. 45-016-06-1-5-00041a, 2345 Warrick Street, \$6,500 for the land.

Issues

11. Summary of the Petitioners' contentions in support of an error in their assessment:
 - a. The Petitioners' representative argues that the properties are over-assessed based on their market values.² *Peyton testimony*. In support of this contention, Mr. Peyton presented an appraisal prepared by Mr. Ronald J. Schultz, who estimated the value of 2353 Warrick Street to be \$40,000 as of July 27, 2007. *Petitioner Exhibit 4*. Mr. Peyton also submitted an appraisal by Mr. Schultz estimating the value of 2313 Warrick Street to be \$41,000 as of July 27, 2007. *Petitioner Exhibit 5*. According to Mr. Peyton, he commissioned the appraisals as soon as he received the increase in assessments and was not aware that he could specify a date for the appraisals. *Peyton testimony*.
 - b. Mr. Peyton further contends that the two appraisals he commissioned are representative of all of the two-bedroom and three-bedroom properties at issue in these appeals because the properties are so similar. *Peyton testimony; Petitioner Exhibits 4 and 5*. According to Mr. Peyton, National Homes Corporation built all of the houses in the 1950s. *Peyton testimony*. The houses were prefabricated structures brought in by truck and erected in one day. *Id.* Mr. Peyton testified that the houses have concrete floors, interior walls built with panels, durable plumbing, aluminum windows, wall furnaces, and 60 ampere electrical. *Id.* The houses have been re-roofed as necessary and if a fixture wore out, it was replaced in keeping with a reasonable rental, Mr. Peyton argues, but the properties do not appeal to the house-buying public. *Id.* Because the increase in assessments was due to a mass procedure of trending and did not account for the proper assessment of the properties, he argues that evidence on a couple of the houses should be considered evidence for all of them. *Id.*
 - c. Similarly, Mr. Peyton contends, a local broker's opinion of value supports his claim that the properties are over-assessed. *Peyton testimony*. In support of this contention, Mr. Peyton submitted a letter from Frank L. Ennis, of Ennis, Moore, and Associates, Inc. *Petitioner Exhibit 6*. In his letter dated November 9, 2007, Mr. Ennis stated that in his opinion the two-bedroom properties would be worth approximately \$42,000 and the three-bedroom houses would be worth \$45,000. *Id.* According to Mr. Ennis' letter, both types of properties would have been worth approximately \$1,000 less for the prior year. *Id.*

² The Petitioners' representative contends he originally requested that the assessor use the income approach to value the properties, if a lower assessment would result. *Peyton testimony; Petitioner Exhibit 1*. According to Mr. Peyton, however, he was told that the gross income method did not provide any relief. *Id.* Because Mr. Peyton did not provide the Board with an income approach calculation to value any of the properties, the Board need not rule on this issue.

- d. Mr. Peyton also contends the assessed values of the properties are too high based on sales in the neighborhood. *Peyton testimony*. In support of this contention, Mr. Peyton submitted an analysis of sales that occurred prior to the 2006 assessment. *Petitioner Exhibits 7 and 8*. According to Mr. Peyton, the sales are of similar two-bedroom and three-bedroom properties in the neighborhood. *Id.*; *Peyton testimony*. Mr. Peyton contends that in almost all cases the asking prices for the houses were considerably higher than the sales prices due to the neighborhood, the condition of the properties and the nature of the properties. *Id.*
 - e. Finally, Mr. Peyton contends, the properties' assessments were incorrect based on their trended values. *Peyton testimony*. In support of this contention, Mr. Peyton presented a list of the properties identifying each property's 2005 and 2006 assessments. *Petitioner Exhibit 2*. According to Mr. Peyton, the increase in value for each property was a result of trending and, because the properties were not inspected, differences in the quality of properties and their neighborhoods were not considered. *Peyton testimony*. Mr. Peyton further contends that better properties sell before houses of lower quality, such as the Petitioners' properties. *Id.* Further, the lower quality properties often require seller concessions, which do not show in the sales information collected. *Id.* Thus, Mr. Peyton contends, applying a 32% trending factor to the subject properties was in error. *Id.*
 - f. In response to the Respondent's case, Mr. Peyton admitted that there are some differences in the properties. *Peyton testimony*. According to Mr. Peyton, the previous owner-occupants who sold the properties to the Petitioners may have modified them. *Id.* For example, 2335 Warren Street has a room addition and a detached garage, but those changes were made before the Petitioners bought the property. *Id.* Mr. Peyton further contends that 2228 Wells Street was a property he bought for his parents a number of years ago. *Id.*; *Respondent Exhibit 1*. According to Mr. Peyton, they improved the property with aluminum siding and a better electrical system. *Peyton testimony*. Thus, he argues, the sale is not comparable to the properties at issue in these appeals. *Id.*
12. Summary of the Respondent's contentions in support of the assessments:
- a. The Assessor's representative, Ms. King, contends that the Petitioners' assessments are correct. *King testimony*. In support of this contention, Ms. King presented a spreadsheet with sales and assessment information for properties in the neighborhood of the Petitioners' properties. *Respondent Exhibit 3*. According to Ms. King, four properties sold between September of 2004 and May of 2006 for \$66,500, \$63,000, \$60,000 and \$62,000 respectively. *King testimony*. Ms. King also presented a sales disclosure for a property that the Petitioners sold in July 2006 for \$61,500. *Respondent Exhibit 1*.

- b. Ms. King further argues that the Petitioners' properties are assessed correctly based on their income approach valuation. *King testimony*. According to Ms. King, the assessor calculated the gross rent multiplier to be approximately ten. *Id.* Applying the GRM to the Petitioners' properties' annual rent, Ms. King argues, results in a higher value than the properties' assessed values for every property at issue in the Petitioners' appeals. *Id.*
- c. Finally, the Respondent's witness argues that the Petitioners' appraisals and broker's opinion of value are for 2007; whereas the assessment date is March 1, 2006. *King testimony*. According to Ms. King, because the market has been going down, there can be big differences in values from 2006 to 2007. *Id.* Moreover, the properties are not all identical. *King testimony*. According to Ms. King, some of the properties have wood decks, detached garages, cement pads, and even sheds, which create a difference in the final assessed value. *Id.* Thus, Ms. King argues, the appraisal and broker's opinion of value should not be applied to the Petitioners' other properties. *Id.*

Record

- 13. The official record for this matter is made up of the following:
 - a. The Petition,
 - b. The compact disk recording of the hearing labeled 45-016-06-1-5-00003 John Peyton Hearings,
 - c. Exhibits:
 - Petitioner Exhibit 1 – Letter to the Hobart Township Assessor, dated December 19, 2007
 - Petitioner Exhibit 2 – List showing the percentage of increase on the assessments,
 - Petitioner Exhibit 3 – Petitioners' estimates of value for each property,
 - Petitioner Exhibit 4 – Appraisal for 2353 Warrick Street,
 - Petitioner Exhibit 5 – Appraisal for 2313 Warrick Street,
 - Petitioner Exhibit 6 – Opinion of value from Frank L. Ennis, Broker,
 - Petitioner Exhibit 7 – Comparable sales for three-bedroom houses,
 - Petitioner Exhibit 8 – Comparable sales for two-bedroom houses,
 - Petitioner Exhibit 9 – Photographs of 2369 Warrick Street,
 - Petitioner Exhibit 10 – Photographs of all the properties,
 - Respondent Exhibit 1 – Sales disclosure for 2228 Wells Street,
 - Respondent Exhibit 2 – Rental income for the subject properties,
 - Respondent Exhibit 3 – Comparable sales and assessment information,

Board Exhibit A – Form 131 petitions,
Board Exhibit B – Notices of Hearing, dated April 8, 2010,
Board Exhibit C – Hearing sign-in sheet,

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 Township Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also, Clark v. State Board of Tax Commissioners*, 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 Township 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”).
 - c. Once the Petitioner establishes a prima facie case, the burden shifts to the assessing official to rebut the Petitioner's evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). The assessing official must offer evidence that impeaches or rebuts the Petitioner's case. *Id.*; *Meridian Towers*, 805 N.E.2d at 479.
15. The Petitioners failed to provide sufficient evidence to establish an error in their assessments. The Board reached this decision for the following reasons:
- a. The 2002 Real Property Assessment Manual defines “true tax value” 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 have traditionally used three methods to determine a property’s market value: the cost approach, the sales comparison approach and the income approach to value. *Id.* at 3, 13-15. Indiana assessing officials generally assess 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); *P/A*

Builders & Developers, LLC, 842 N.E.2d 899 (Ind. Tax Ct. 2006). A taxpayer may rebut that assumption 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. See *Kooshtard Property VI*, 836 N.E.2d at 505, 506 n.1. A taxpayer may also offer sales information for the subject property or comparable properties and other information compiled according to generally accepted appraisal principles. MANUAL at 5.

- c. Regardless of the method used to rebut an assessment's presumption of accuracy, a party must explain how its evidence relates to the property's market value-in-use as of the relevant valuation date. *O'Donnell v. Department of Local Government Finance*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006); see also *Long v. Wayne Township Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). For the March 1, 2006, assessment, the valuation date was January 1, 2005. 50 IAC 21-3-3.
- d. Here, the Petitioners offered appraisal reports prepared by an Indiana certified appraiser in which the appraiser valued two of the Petitioners' properties as of July 27, 2007. The appraiser certified that his report conformed to the Uniform Standards of Professional Appraisal Practice (USPAP). Although an appraisal is the type of market-based evidence that could be relevant and probative to determining a property's market value-in-use, in this case it fails to do so. The appraisals estimate the properties' values more than two and a half years after the relevant valuation date of January 1, 2005. Because Mr. Peyton did not relate the properties' July 27, 2007, appraised values to the properties' values as of the January 1, 2005, valuation date, the appraisals lack probative value. See *Long*, 821 N.E.2d at 471 (holding that an appraisal indicating a property's value for December 10, 2003, lacked probative value in an appeal from a 2002 assessment because the taxpayer did not explain how it related to the relevant valuation date.)
- e. The Petitioners' representative also argues that because the increase in assessments was due to a mass procedure of trending and did not account for the assessments of the individual properties, the appraisals should be considered representative of the values of all the properties. However, the Petitioners failed to identify which properties were two-bedroom homes and which properties were three-bedroom homes. In fact, the Petitioners provided no property-specific information on any of the other houses. Mr. Peyton merely made vague arguments that the properties were similar. See *Indianapolis Racquet Club, Inc. v. Washington Township 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”). Further, Mr. Peyton admitted there were differences in the properties, such as detached garages, different lot sizes, and a difference in the size of the duplex properties. Thus, even if the appraisals were timely, the Board finds that there

is insufficient evidence to apply the appraised values to any property other than the specific houses appraised in the two reports.

- f. Similarly, the Petitioners presented a comparable sales analysis for 2205 Wells Street and 2276 Wayne Street. *Petitioner Exhibits 7 and 8*. A sales comparison approach “estimates the total value of the property directly by comparing it to similar, or comparable, properties that have sold in the market.” See MANUAL at 3. In order to effectively use the sales comparison approach as evidence in a property assessment appeal, however, the proponent must establish the comparability of the properties being examined. Conclusory statements that a property is “similar” or “comparable” to another property do not constitute probative evidence of the comparability of the properties. *Long*, 821 N.E.2d at 470. Instead, the proponent must identify the characteristics of the subject property and explain how those characteristics compare to the characteristics of the purportedly comparable properties. *Id.* at 471. Similarly, the proponent must explain how any differences between the properties affect their relative market values-in-use. *Id.*
- g. In the Petitioners’ analyses, the real estate broker compared each of the two properties with the same three comparable sales. While the analyses do not value the properties as of any specific date, the broker’s comparable sales were from 2004 and 2005. The broker adjusted those sales for the size of the lots, the number of bedrooms, the living area of the homes and the age and condition of the houses. While his adjustments may not differ significantly from those made by a certified appraiser in an appraisal report, the appraiser’s assertions are backed by his education, training, and experience. The appraiser also typically certifies that he complied with USPAP. Thus, the Board as the trier-of-fact can infer that the appraiser used objective data, where available, to quantify his adjustments. And where objective data was not available, the Board can infer that the appraiser relied on his education, training and experience to estimate a reliable quantification. Here, however, there is no evidence that the Petitioners’ broker is a licensed appraiser in Indiana. Further, he did not certify that the analyses he prepared for the Petitioners complied with USPAP. The broker did not appear to testify as to the basis for his adjustments. Nor did his report identify the data upon which such adjustments were made. The Board therefore finds that the Petitioners’ sales comparable analyses are insufficiently reliable to be probative of the properties’ market value-in-use.³

³ To the extent the Petitioners’ comparable analyses could be seen as minimally sufficient to raise a prima facie case that 2276 Wayne Street and 2205 Wells Street are over-valued, the Board finds that the analyses are rebutted by the Respondent’s sales information. The Petitioners’ broker used properties that were as small as 543 sq. foot of living area and built in the 1920s and 1930s. Ms. King presented four sales – three of which were 875 sq.ft. and one of which was 840 sq.ft. All four homes were built in the 1950s, like the Petitioners’ properties, and all four homes sold for more than \$60,000. Moreover, even if the market analyses were sufficient to value the two properties analyzed, the Board has no basis to apply those same values to the other properties in these appeals.

- h. Mr. Ennis also prepared a letter that purports to value the two-bedroom and three-bedroom properties *en mass*. Like the Petitioners' appraisals, however, the opinion of value fails to show there is an error in the properties' assessments. *Petitioner Exhibit 6*. Again, the Petitioners failed to identify which properties were two-bedroom homes and which properties were three-bedroom homes. In addition, Mr. Peyton admitted that there were differences between the properties that the broker's letter fails to value. Moreover, the Petitioners failed to relate the 2007 opinion of value to the relevant valuation date. Therefore, the Petitioners failed to raise a prima facie case that the properties are over-valued.
- i. Finally, the Petitioners claim that the properties' assessed values increased too much from 2005 to 2006. The properties' assessed values in 2005, however, were based on a January 1, 1999, valuation date. Starting in 2006, assessments were annually adjusted to reflect changes in value between general reassessment years. *See* Ind. Code § 6-1.1-4-4.5; 50 IAC 21-3-3. Under the trending rules, the property's 2006 assessment was based on a January 1, 2005, valuation date, rather than the January 1, 1999, valuation date of the 2005 assessments. *See* MANUAL at 2, 4, 8 (making January 1, 1999, the valuation date for 2002 through 2005 assessments); and 50 IAC 21-3-3(b) (making January 1 of the calendar year preceding the assessment date the valuation date for annually adjusted assessments beginning with March 1, 2006, assessments). The Petitioners presented no evidence to show that a 32% increase in value was unreasonable for a six year period. Moreover, the Petitioners failed to show that their 2006 assessments did not reflect the properties' market value-in-use. *See also 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) (evidence as to a property's assessment in one tax year is not probative of its true tax value in a different tax year).
- j. The Board therefore finds that the Petitioners failed to raise a prima facie case. Where the Petitioners have not supported their claim with probative evidence, the Respondent's duty to support the assessment with substantial evidence is not triggered. *Lacy Diversified Indus. LTD v. Department of Local Government Finance*, 799 N.E.2d 1215, 1221-1222 (Ind. Tax Ct. 2003).

Conclusion

- 16. The Petitioners failed to establish a prima facie case that their properties are over-valued. 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: _____

Chairman, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

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>.