

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

**Petition No.:** 35-005-07-1-4-00173  
**Petitioner:** Punky Doodle Enterprises, Inc.  
**Respondent:** Huntington County Assessor  
**Parcel No.:** 35-05-09-300-584.700-005  
**Assessment Year:** 2007

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

**Procedural History**

1. On February 14, 2008, Punky Doodle Enterprises, Inc. filed written notice contesting the subject property’s 2007 assessment. The PTABOA issued a determination denying Punky Doodle relief.
2. On December 28, 2009, Punky Doodle filed a Form 131 petition with the Board. It elected to have the appeal heard under the Board’s small claims procedures.
3. On July 28, 2010, the Board held an administrative hearing through its designated Administrative Law Judge, Patti Kindler (“ALJ”).
4. The following people were present and sworn in:
  - a) For Punky Doodle: C. Robert Rittman, Vice President, Punky Doodle Enterprises, Inc.  
Tom Carney, property manager
  - b) For the Assessor: Terri Boone, Huntington County Assessor  
Julie Newsome, deputy assessor

**Facts**

5. The subject property includes two mini-warehouses on a 1.196-acre tract located at 45 Commercial Road, Huntington, Indiana.
6. Neither the Board nor the ALJ inspected the subject property.

7. The PTABOA determined the following values for the subject property:  
Land: \$62,200      Improvements: \$90,100      Total: \$152,300
8. On its Form 131 petition, Punky Doodle requested the following values:  
Land: \$15,000      Improvements: \$80,000      Total: \$95,000

### **Parties' Contentions**

9. Summary of Punky Doodle's contentions:
- a) The subject property is assessed too high in light of the income that it generates. When Punky Doodle first bought the property in 1986, it was fully occupied and grossed \$18,000 per year. *Rittman testimony*. From 2007 through 2009, though, the property grossed only \$12,004.27, \$12,747.35, and \$12,389.88, respectively. *Id.*; *Pet'r Exs. 1-3*. Mr. Rittman determined those numbers by totaling all deposits into the subject property's operation account. Tom Carney and his wife actually run the warehouse, and they deposit all of the rent into that account. *Rittman testimony*; *Carney testimony*.
  - b) The subject property's income began to decrease when a new mini-warehouse was built at 325 Commerce Drive, just 300 yards from the subject property. The competing warehouse is newer, nicer, and bigger than the subject warehouses. It is built with cinder block, and it is entirely fenced with an electronic gate. It also has an on-site office. By contrast, the subject warehouses are pole barns that have neither plumbing nor an on-site office. Despite its superior construction, the new mini-warehouse has monthly rates that are comparable to, and in some instances less than, the subject property's rates. As the new mini-warehouse increases in size, the subject property's occupancy rate continues to decrease. Currently, it is about 70% occupied. *Rittman testimony*.
  - c) According to Mr. Rittman, the rule of thumb in the mini-warehouse industry is that a property's fair market value equals six times its annual revenue. Punky Doodle's purchase of the subject property illustrates that rule. The property grossed \$18,000 per year, which under the rule of thumb suggests a value of \$108,000. And Punky Doodle paid \$110,000. Applying that rule of thumb to the subject property's revenue from 2007-09 suggests a market value of approximately \$75,000 to \$80,000. *Rittman testimony*
  - d) Punky Doodle has tried to sell the subject property several times. Most recently, Mr. Rittman was approached privately by someone looking for an investment property. But their discussions did not lead to a sale. "A couple [of] years earlier," Punky

Doodle listed the property with a realtor. Although some people expressed interest, there were no firm offers. *Rittman testimony*. Mr. Rittman does not believe that anyone will buy the property in light of its taxes. *Id.*

- e) Mr. Rittman agreed with the Assessor that the income approach is the best way to value the subject property. But the Assessor used much higher income than the subject property actually generated. And the subject property has a higher vacancy rate than what the Assessor used. *Rittman testimony*.

10. Summary of the Assessor's contentions:

- a) The subject property contains two frame buildings on concrete slabs with a total of 6,900 square feet. The property is not gated and it has no on-site management. It is in a good location close to Wal-Mart and US 24. *Newsome testimony; Resp't Ex. 4D.*
- b) Given the lack of comparable-sales data, the income approach is the best way to value the subject property. Ms. Newsome tried to contact Punky Doodle for income information, but no one returned her calls. *Newsome testimony*. Without Punky Doodle's rental information, Ms. Newsome gathered information about market rents, vacancies, and expenses for 2004 through 2006. She chose those dates because the valuation date for March 1, 2007 assessments was January 1, 2006. *Id; Resp't Exs. 5-5C.*
- c) Based on that data, Ms. Newsome found that annual rents ranged from \$3.43 to \$5.82 per square foot and that annual expenses ranged from \$.69 to \$1.01 per square foot. She used rent and expenses from the low ends of those ranges (\$3.50 and \$.69, respectively) because the subject property does not retain an on-site manager and is not fenced. Ms. Newsome's market analysis also led her to use vacancy and collection losses equaling 25% of the property's potential income. Based on those numbers, Ms. Newsome estimated net operating income of \$13,251. *Newsome testimony; Resp't Ex. 5.* Ms. Newsome then capitalized that net income using a capitalization rate of 8.5%. To support that rate, Ms. Newsome pointed to conclusions from a self-storage investor survey published by Cushman & Wakefield. According to Cushman & Wakefield, overall capitalization rates were remaining stable at 7.19% nationwide. *Newsome testimony; Resp't Ex. 5E.*
- d) Based on her analysis, Ms. Newsome concluded that the subject property was worth \$155,900. Because that value closely supported the property's assessment of \$152,300, she did not believe that the assessment should be changed. *Newsome testimony; Resp't Ex. 5B.*

## 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:

- Petitioner Exhibit 1: 2009 Operation account statements
  - Petitioner Exhibit 2: 2008 Operation account statements
  - Petitioner Exhibit 3: 2007 Operation account statements

- Respondent Exhibit 1: Form 131 petition
  - Respondent Exhibit 1A: Form 115, Notification of Final Assessment Determination
  - Respondent Exhibit 2: Form 114, Notice of Hearing on Petition – Real Property
  - Respondent Exhibit 3: February 9, 2008 letter from Mr. Rittman requesting a review of the subject property's assessment
  - Respondent Exhibit 4: Assessment Analysis
  - Respondent Exhibit 4A: A plat map and a GIS map of the subject property
  - Respondent Exhibit 4B: Photographs of the subject property
  - Respondent Exhibit 4C: Description and Analysis of Subject Property
  - Respondent Exhibit 4D: Subject property record card
  - Respondent Exhibit 5: Explanation of valuation approaches
  - Respondent Exhibit 5B: Market Income Approach to Value and rents for comparable properties
  - Respondent Exhibit 5C: Data and value estimate for four comparable properties
  - Respondent Exhibit 5D: Value conclusions under cost and income approaches
  - Respondent Exhibit 5E: 2007 *Cushman & Wakefield Business Briefing, Self Storage Investor Survey*

- Board Exhibit A: Form 131 petition
  - Board Exhibit B: Hearing notice
  - Board Exhibit C: Hearing sign-in sheet
  - Board Exhibit D: Respondent Witness and Exhibit List dated July 7, 2010
  - Board Exhibit E: Corrected Respondent Witness and Exhibit List dated July 16, 2010

- d) These Findings and Conclusions.

## Analysis

12. A petitioner seeking review of an assessing official's determination must make a prima facie case proving both that the current assessment is incorrect, and specifically 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 petitioner 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 petitioner makes a prima facie case, the burden shifts to the respondent to rebut or impeach the petitioner’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. Punky Doodle 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 at 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 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. PA Builders & Developers, LLC*, 842 N.E.2d 899 (Ind. Tax Ct. 2006). A taxpayer, however, 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 rebut 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. *Long*, 821 N.E.2d at 471. For March 1, 2007 assessments, the relevant valuation date was January 1, 2006. 50 IAC 21-3-3 (2006).
- d) Punky Doodle relied solely on the property's gross income from 2007-09. But that raw data, by itself, does not show the property's value. The income approach to value assumes that an investor will pay no more for a property than it would cost to buy an equally valuable substitute investment with the same risk and return. MANUAL at 14. To determine what that amount is, a person applying the income approach converts anticipated future benefits, such as rent and reversion of the property, to present value. *See Lacy Diversified Indus. V. Dep't of Local Gov't Fin.*, 799 N.E.2d 1215, 1233 (Ind. Tax Ct. 2003)(explaining that, under the income approach, one divides a property's net operating income by an appropriate capitalization rate to convert that income to present value). There are different techniques for making that conversion. One very basic technique is to multiply a property's gross income by an appropriate factor, sometimes called a "gross rent multiplier" or "gross income multiplier."
- e) Even using that basic technique, the validity of one's ultimate value estimate hinges on choosing an appropriate multiplier. Here, Mr. Rittman testified that mini-warehouse investors generally apply a "rule of thumb" that a property's market value is roughly six times its gross income. *Rittman testimony*. Other than testifying that Punky Doodle operated another mini-warehouse in Marion and that he had been involved in the business since 1984, Mr. Rittman did not testify to any particular expertise in valuing mini-warehouses. In fact, he did not testify that he had bought a mini-warehouse since 1986. And he gave no other details about the origins of the "rule of thumb" or what that rule was based on. Under those circumstances, the Board gives Mr. Rittman's income-based estimate of the subject property's market value-in-use no weight.
- f) Even if Mr. Rittman's value estimate were otherwise probative, he did not relate that estimate to the subject property's market value-in-use as of January 1, 2006—the valuation date for the March 1, 2007 assessment at issue in this appeal. Indeed, Mr. Rittman relied on income data from 2007-09, all of which was between one and three years after the valuation date.
- g) Finally, Mr. Rittman testified that Punky Doodle had been unable to sell the subject property. While unsuccessful attempts to sell a property for a given asking price do not show the property's market value, they may at least tend to show that the

property is worth no more than that asking price. But the probative value of that evidence hinges on how long, widely and forcefully the property was marketed. *See* MANUAL at 10 (explaining that consummation of a sale under conditions whereby “reasonable time is allowed for exposure in the open market” is implicit in the definition of “market value.”). Here, Mr. Rittman offered only vague descriptions of Punky Doodle’s attempts to sell the property, testifying that “most recently” someone had privately inquired about the property and that Punky Doodle had listed the property with a realtor “a couple of years earlier.” *Rittman testimony*. In fact, Mr. Rittman did not even testify about Punky Doodle’s asking price, although he alleged in Punky Doodle’s Form 131 petition that the property had been listed for \$100,000. Without more, Mr. Rittman’s testimony did not suffice to show the subject property’s market value-in-use as of January 1, 2006.

### **Conclusion**

16. Because Punky Doodle did not offer probative evidence to show the subject property’s market value-in-use as of the relevant valuation date, it failed to meet its burden of proof. The Board therefore finds for the Assessor.

### **Final Determination**

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

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

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Chairman, Indiana Board of Tax Review

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Commissioner, Indiana Board of Tax Review

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Commissioner, Indiana Board of Tax Review

## IMPORTANT NOTICE

### - APPEAL RIGHTS -

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5, as amended effective July 1, 2007, by P.L. 219-2007, and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice. The Indiana Tax Court Rules are available on the Internet at <http://www.in.gov/judiciary/rules/tax/index.html>. The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code>. P.L. 219-2007 (SEA 287) is available on the Internet at <http://www.in.gov/legislative/bills/2007/SE/SE0287.1.html>.