

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

**Petition:** 32-002-07-1-5-00007  
**Petitioners:** Patrick & Lisa Purdue  
**Respondent:** Hendricks County Assessor  
**Parcel:** 01-1-22-71E362-011  
**Assessment Year:** 2007

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 Petitioners initiated the assessment appeal process with the Hendricks County Property Tax Assessment Board of Appeals (PTABOA) by filing a Form 130 petition dated October 27, 2008.
2. The PTABOA issued a decision via a Notification of Final Assessment Determination (Form 115) on August 11, 2009.
3. The Petitioners appealed to the Board by filing a Form 131 petition on August 28, 2009. They elected to have this case heard according to small claims procedures.
4. The Board issued a notice of hearing to the parties on March 9, 2010.
5. Administrative Law Judge Paul Stultz held an administrative hearing in Danville on May 13, 2010. He did not inspect the property.
6. Petitioner Patrick Purdue, PTABOA member Lester Need and County Assessor Gail Brown testified at the hearing.

**Facts**

7. The property is a single family residence located at 6727 Fenway Street in Pittsboro.
8. The PTABOA determined the assessed value for the subject property is \$54,400 for land and \$349,000 for improvements (total \$403,400).
9. The Petitioners claimed the total assessed value should be \$300,000.

## Record

10. The official record for this matter contains the following:
  - a. The Petition with attachments,
  - b. Digital recording of the hearing,
  - c. Petitioners Exhibit 1 – Chart showing the price per square foot of properties sold in Brown Township in 2005,  
Petitioners Exhibit 2 – Square foot measurements,  
Petitioners Exhibit 3 – Property tax record for 9394 Windmill Drive (Comparable #1),  
Petitioners Exhibit 4 – MLS data for Comparable #1,  
Petitioners Exhibit 5 – List of neighborhood properties and their 2007 assessed values,  
Petitioners Exhibit 6 – 2005 and 2006 MLS data for 6574 Fenway Street (Comparable #2),  
Petitioners Exhibit 7 – One page from a 1995 appraisal of the subject property,  
Petitioners Exhibit 8 – Comparison of the subject property and Comparable #1,  
Petitioners Exhibit 9 – Comparison of the subject property and Comparable #2,  
Petitioners Exhibit 10 – Comparison of the subject property and 9469 Windmill Drive (Comparable #3),  
Petitioners Exhibit 11 – Calculation of a value based on the 1995 purchase price,  
Respondent Exhibit 1 – Copy of presentation,  
Respondent Exhibit 2 – Front overhead photograph of the subject property,  
Respondent Exhibit 3 – Rear overhead photograph of the subject property,  
Respondent Exhibit 4 – Copy of Petitioners’ appeal to the PTABOA,  
Respondent Exhibit 5 – Petitioners’ attachment to Form 130,  
Respondent Exhibit 6 – Hendricks County recommendations,  
Board Exhibit A – Form 131 with attachments,  
Board Exhibit B – Notice of Hearing,  
Board Exhibit C – Hearing Sign In Sheet,
  - d. These Findings and Conclusions.

## Contentions

11. Summary of the Petitioners’ case:
  - a. Sale prices for all the homes in Brown Township that sold from 2005 through 2008 were compiled. Then the average square foot sale price (SFP) was determined for each month. The average monthly SFP in 2005 was \$82.00. The property’s total useable living area is 3,565 square feet (sq. ft.). Using the \$82.00 average price, the suggested market value for the subject property would be \$292,330 (\$82.00 x 3,565 sq. ft.). *Purdue testimony; Pet’r Ex. 1, 2.*

- b. The property located at 9394 Windmill Drive (Comparable #1) has a total of 5,243 sq. ft. The basement is only 75% finished, so 442 sq. ft. should be subtracted from the total square footage to determine the living area. The adjusted livable area for Comparable #1 is 4,801 sq. ft. Based on \$82.00 per square foot, the suggested market value of Comparable #1 would be \$393,682. The current assessment for Comparable #1 is \$337,500. In October 2006, Comparable #1 sold for \$392,500. *Purdue testimony; Pet'r Ex. 1-4, 8.*
- c. The property located at 6574 Fenway Street (Comparable #2) has a livable area of 3,121 sq. ft. Comparable #2 has 4 bedrooms and a full basement, but the subject property only has 3 bedrooms and partial basement. Comparable #2 was updated in 2006. Updates included a kitchen remodel, new flooring, and new paint. Comparable #2 sold in August 2005 for \$250,500 and again in September 2006 for \$285,000. Applying the \$82.00 SFP, the suggested market value of Comparable #2 would be \$255,922. Comparable #2 is assessed at \$275,200. While the subject property has 15% more finished square footage than Comparable #2, the assessed values should not have a 15% difference because of Comparable #2's 2006 renovation. The assessed value of \$292,330 for the subject property would result in only a 6% difference in values. *Purdue testimony; Pet'r Ex. 1, 2, 5, 6, 9.*
- d. The property located at 9469 Windmill Drive (Comparable #3) has the same floor plan as the subject property and was built by the same builder. Comparable #3 is assessed at \$227,800. The assessed value of Comparable #3 and the subject property should be different because the properties are not identical. The subject property has an addition valued at \$70,000, a swimming pool valued at \$5,000, a 3-car garage valued at \$5,000, and a deck valued at \$5,000. An adjustment of \$12,900 should be made for lot differences. Adding the value for the addition, swimming pool, garage, deck, and lot to Comparable #3's current assessment indicates that the assessment of the subject property should be approximately \$325,000. *Purdue testimony; Pet'r Ex. 5,10.*
- e. In March of 1995, the subject property was purchased for \$178,830. The purchase price should be trended by 2% per a year. After adding the value of the addition, the swimming pool, and deck to the time adjusted purchase price of \$221,749, the suggested assessed value for the subject property should be \$301,749. *Purdue testimony; Pet'r Ex. 7, 11.*

12. Summary of the Respondent's case:

- a. The Petitioners measurements of the subject property are inside room by room measurements. Assessors are required to use outside measurements. *Need testimony; Resp't Ex. 1.*
- b. The Respondent visited the subject property and re-measured the dwelling. Changes were made to each level except the attic. *Need testimony; Resp't Ex. 1.*

- c. The Petitioners are mistaken about value being based on only finished area. Several other items should be considered. They include land size, porches, garages, swimming pools. *Need testimony; Ex. 1.* Multiplying the livable square footage by \$82 would increase the assessed value of the subject property to \$379,700 without considering those other factors. *Need testimony; Resp't Ex. 1.*
- d. Petitioners' comparables are on average 20% smaller than the subject property. Additionally, the comparables are of a lesser construction quality than the subject property. On average, the comparable properties' assessments are 72% of the subject property's assessment. *Need testimony; Resp't Ex. 1.*
- e. Comparable #1 sold on November 17, 2006, for \$392,500 and is assessed at \$366,200. It has a sale to assessment ratio of .93. Comparable #2 sold on September 29, 2006, for \$285,000 and is assessed at \$276,400. It has a sale to assessment ratio of .96. These ratios indicate those comparables were assessed slightly below their market value. *Need testimony; Resp't Ex. 1.*

### Analysis

- 13. 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).
- 14. 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 Petitioners did not make a prima facie case for any assessment change for the following reasons:
  - a. Real property is assessed based on 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). Indiana promulgated Guidelines for assessing officials that are based on 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 those Guidelines, while presumed to be accurate, is merely a starting point. A taxpayer is permitted to offer evidence relevant to market value-in-use to rebut that presumption. Such evidence may include actual construction costs, sales information regarding the

subject or comparable properties, appraisals, and any other information compiled in accordance with generally accepted appraisal principles. MANUAL at 5.

- b. The valuation date for a 2007 assessment is January 1, 2006. Ind. Code § 6-1.1-4-4.5; 50 IAC 21-3-3. Any evidence of value relating to a different date must have an explanation about how it demonstrates, or is relevant to, the value as of the required valuation date. *See Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005).
- c. The Petitioners attempted to prove their assessment is excessive by multiplying the interior room square footage by a 2005 average SPF of \$82. They failed, however, to establish that this kind of calculation conforms to generally accepted appraisal principles. And the Petitioners failed to explain how or why a value based on a 2005 average SPF for the entire township is relevant to their 2007 assessment. Therefore, the calculations based on square footage of the subject property and average selling price per square foot are not probative evidence. They do not help to prove that the assessment must be changed.
- d. One of the problems with the attempted comparisons of assessments is that it assumes the assessments of the other properties accurately reflect market value-in-use, but no substantial, market based evidence was offered to support that assumption, which may not be accurate—perhaps the other assessments should be changed to more accurately reflect market value-in-use.<sup>1</sup> The Petitioners’ comparison argument also fails because it is based on conclusions and lacks supporting probative evidence about how the differences affect the relative market value-in-use of the subject property and the comparables. The Petitioners merely noted some differences such as square footage, a renovation, or exterior features. Such conclusory comparisons are short of the detail necessary to meaningfully evaluate the relative values of the properties. Consequently, the comparisons do not prove the assessment must be changed. *See Lacy Diversified Indus. v. Dep’t of Local Gov’t Fin.*, 799 N.E.2d 1215, 1221 (Ind. Tax Ct. 2003); *Whitley Products 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).
- e. The Petitioners’ attempt to use their 1995 purchase price as a basis for calculating an assessment valuation for 2007 is also based on unsupported conclusions. They propose only 2% annual appreciation for that period, but provided no substantial market-based evidence to support that rate. Their calculation added conclusory values that apparently are attributed to changes they made after buying the property. The Petitioners failed to establish that this kind of calculation has any

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<sup>1</sup> In making this statement, the Board makes no determination about the accuracy of those other assessments. Rather, it is merely pointing out an inherent weakness with an assessment to assessment comparison of properties such as those the Petitioner attempted without offering substantial market-based evidence of a comparable’s value. Even if it is true that two properties are so similar that they have the same market value-in-use and should have the same assessment, where one is assessed for more than the other, that fact alone does not establish which value might be accurate (or that either value is).

probative value. It does not help to prove that their assessment must be changed.  
*See Id.*

16. When taxpayers fail to provide probative evidence supporting their position that an assessment should be changed, the Respondent's duty to support the assessment with substantial evidence is not triggered. *See Id.*

### **Conclusion**

17. The Petitioners failed to make a prima facie case for a lower assessed value. The Board finds in favor of the Respondent.

### **Final Determination**

In accordance with the above findings and conclusions, the assessment will not be changed.

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

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Commissioner, 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>