

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

**Petition No.:** 46-023-06-1-5-00117  
**Petitioner:** RJK Trust  
**Respondent:** LaPorte County Assessor  
**Parcel No.:** 46-021-14-154-069-000-023 (45-01-14-154-069)  
**Assessment Year:** 2006

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

**Procedural History**

1. The Petitioner's representative, Robert Kuchler, appealed the assessment of the Petitioner's property for 2006 with the LaPorte County Property Tax Assessment Board of Appeals (the PTABOA) on April 29, 2011.
2. The PTABOA issued a notice of its decision on May 11, 2011.
3. The Petitioner's representative filed a Form 131 petition with the Board on June 23, 2011, and elected to have the case heard according to the Board's small claims procedures.
4. The Board issued a notice of hearing to the parties dated September 27, 2012.
5. The Board held an administrative hearing on December 19, 2012, before the duly appointed Administrative Law Judge (the ALJ) Dalene McMillen.
6. The following persons were present and sworn in at hearing:<sup>1</sup>
  - a. For Petitioner: Robert J. Kuchler, Trustee,  
Mark Kuchler, Petitioner's witness,
  - b. For Respondent: Michael R. Schultz, LaPorte County Assessor,  
Judith A. Anderson, LaPorte County Deputy Assessor,  
John Baumann, employee of the Assessor's office.

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<sup>1</sup> A member of the public, Philip Doran, observed the hearing.

## Facts

7. The property under appeal is a single-family home located at 2403 Lakeshore Drive, in Long Beach, Indiana.
8. The ALJ did not conduct an on-site inspection of the property under appeal.
9. For 2006, the PTABOA determined the assessed value of the property to be \$421,600 for the land and \$208,900 for the improvements, for a total assessed value of \$630,500.
10. At the hearing, the Petitioner's representative requested an assessed value of \$223,278 for the land and \$213,600 for the improvements, for a total assessed value of \$436,878.

## Issues

11. Summary of the Petitioner's contentions in support of an alleged error in its property's assessment:
  - a. The Petitioner's representative, Robert Kuchler, contends that the assessor made several errors on the Petitioner's 2006 property record card, leading to an incorrect assessment. *R. Kuchler testimony.* According to Mr. Kuchler, the property's 2006 property record card originally indicated a two-story home with an effective year of construction of 1980. *Id.; Petitioner Exhibits 4 and 5.* Mr. Kuchler argued that he gave a copy of the Board's Final Determination from an appeal of the property's 2003 assessment to the Michigan Township Assessor indicating that the effective year of construction of the house should be 1925, but the assessor's office "intentionally" defied the Board's order by not changing the effective age of the subject property. *R. Kuchler testimony; Petitioner Exhibits 15 and 16.*
  - b. As a result of the errors on the property record card, Mr. Kuchler testified that he filed an appeal of the property's 2006 assessment and then met with the Michigan Township Assessor's office. *R. Kuchler testimony.* Over the course of several meetings, the assessor changed the Petitioner's house to a one-story house and made other minor changes to the property. *Id.; Petitioner Exhibit 26.* The assessor did not agree to change the effective age of construction until 2008. *Id.* After the changes, the resulting value of the property was \$246,800 for the land and \$383,700 for the improvements, for a total assessed value of \$630,500 for 2006. *Id.*
  - c. Mr. Kuchler testified that on May 23, 2008, the Department of Local Government Finance (DLGF) issued the "LaPorte County – Reassessment Order" (Reassessment Order), whereby the DLGF found that Frank Kelly of the Nexus Group admitted "that in some neighborhoods, Nexus intentionally and without cause adjusts one or more factors such as age, grade, or condition to arrive at what Nexus Group believes to be

- the correct market value-in-use.”<sup>2</sup> *R. Kuchler testimony; Petitioner Exhibit 2 at 13.* According to Mr. Kuchler, the Reassessment Order states “[T]he Department admonishes intentional and unjustifiable manipulation of elements of assessments, as such activities cast serious doubt on the uniformity, equity, accuracy, and justness of all real property assessments.” *Id.; Petitioner Exhibit 2 at 14.* The DLGF found that it is imperative that the physical characteristics, such as grade, age and condition and land values be established by the assessor as “accurately and honestly” as possible. *Id.* The Reassessment Order therefore ordered that “the 2006 pay 2007 assessed values previously determined shall be void.” *Id.; Petitioner Exhibit 2 at 20.*
- d. Mr. Kuchler testified that as a result of the Reassessment Order, the Petitioner received a Form 11 – Notice of Assessment of Land and Structures, showing a total assessed value of \$630,500 on February 10, 2009. *R. Kuchler testimony; Petitioner Exhibit 23.* Mr. Kuchler argued that the re-issued 2006 property record card again had several errors. *R. Kuchler testimony.*
- e. First, Mr. Kuchler argued that the Petitioner’s land’s base rate was too high. *R. Kuchler testimony.* According to Mr. Kuchler, at a PTBOA hearing conducted on June 22, 2011, Mike Conner, from the Michigan Township Assessor’s Office, indicated that he determined the land base rate for properties located in Long Beach to be \$5,970 per front foot at the “Steve & Connie Thate” appeal and the PTABOA agreed. *Id.; Petitioner Exhibit 21.* Mr. Kuchler argues that the Petitioner’s property is located in Long Beach and is in the same neighborhood as the “Thate property”; therefore, the Petitioner’s land base rate should be reduced from \$7,750 per front foot to \$5,970 per front foot.<sup>3</sup> *Id.; Petitioner Exhibit 3.*
- f. Second, Mr. Kuchler argued that the assessor erred in changing the negative influence factor applied to the Petitioner’s land. *R. Kuchler testimony.* According to Mr. Kuchler, the Petitioner’s property record cards printed from May 30, 2007, through April 21, 2011, all show that a 45% negative influence factor was applied to the Petitioner’s land assessment. *Id.; Petitioner Exhibit 4, 5, 26, and 29.* However, the Petitioner’s property record card that was printed on May 2, 2011, indicated the negative influence factor applied to the Petitioner’s land was reduced to 20% with no reason or cause stated. *Id.; Petitioner Exhibit 30.* Mr. Kuchler argues this is another example of the county manipulating the data to achieve what they believe is the market value-in-use of the property. *R. Kuchler testimony.*

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<sup>2</sup> Dr. Frank S. Kelly is the president of Nexus Group, the company that was hired by LaPorte County to perform the “2006 Laporte County Ratio Study.” *Petitioner Exhibit 2 at 3.*

<sup>3</sup> Mr. Kuchler testified that in another appeal to the PTABOA, which dealt with the Sheridan Beach area, Mr. Schultz warned the PTABOA that lowering land values “could influence the market adjustment negatively bringing the improvements below market, because market adjustments are part of the land.” *R. Kuchler testimony; Petitioner Exhibit 21.* Further, Mr. Schultz told the PTABOA that they had opened up the appeal process to every land owner to file an appeal. *Id.*

- g. Mr. Kuchler contends that the correct value of the Petitioner's land for the March 1, 2006, assessment year should be \$223,278, based on a \$5,970 per front foot base rate and a 45% influence factor. *R. Kuchler testimony; Petitioner Exhibit 1*. Similarly, Mr. Kuchler contends the assessed value of the house should be \$213,600, which reflects the house as one-story built in 1925, resulting in a total value of \$436,878 for the property for the March 1, 2006, assessment year. *Id.* Moreover, Mr. Kuchler argues that value should be carried forward to the property's 2007, 2008 and 2009 assessments.<sup>4</sup> *R. Kuchler testimony*.
- h. Finally, Mark Kuchler argues that the Respondent's appraisal is flawed and should not be given any weight. *M. Kuchler testimony*. According to Mr. Kuchler, the appraiser incorrectly appraised the Petitioner's property as a two-story home with four bedrooms; when the home is actually a one-story structure with two bedrooms. *Id.; Respondent Exhibit A*. Further, Mr. Kuchler testified that neither the appraiser nor the assessor provided documentation supporting the sale prices of the land sales or comparable properties that were used in the appraiser's sales comparison approach. *M. Kuchler testimony*. In addition, Mr. Kuchler argued that the appraiser and assessor both failed to address the impact of the "former" pumping station on the property's value. *Id.* And neither the appraiser, nor the assessor, addressed how the lack of a lakefront view impacts the value of the land. *Id.* Moreover, the appraiser relied on photographs taken in 2012 to determine the condition of the subject property in 2006, which Mr. Kuchler argues, in "no way reflects the condition [of the property] as of 2006." *Id.*
- i. In response to questioning, Robert Kuchler testified that the subject property has a walk-out basement with an integral garage that is level with the road. *R. Kuchler testimony*. Mark Kuchler also testified that the basement has an area that is finished with carpeting, drywall and ceiling, and another area that is used for storage with a concrete floor. *M. Kuchler testimony*.

12. Summary of the Respondent's contentions in support of its position:

- a. The Respondent contends that the property under appeal was under-valued at \$630,500 in 2006 based on the property's appraised value. *Schultz testimony*. In support of this position, Mr. Schultz submitted an appraisal report prepared by Frank D. Vince of Vince Associates LLC/Metro Appraisal. *Respondent Exhibit A*. Mr. Vince is an Indiana Certified Residential Appraiser, who certified that he prepared the appraisal in conformance with the Uniform Standards of Professional Appraisal Practices (USPAP). *Id.* In his appraisal report, the appraiser estimated the value of the Petitioner's property to be \$800,000 as of December 31, 2005, based on the sales

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<sup>4</sup> According to Mr. Kuchler, the Reassessment Order instructs the assessor to reassess properties for 2006 pay 2007, and then apply annual adjustment or trending factors in accordance with 50 IAC 21-5-2(b) to "2006 pay 2007 and 2007 pay 2008 assessed valuations." *R. Kuchler testimony; Petitioner Exhibit 2 at 22*.

comparison approach. *Id.* A note in the report stated that “[T]his assignment is an exterior-only appraisal. The room count and square footage was secured based on LaPorte County Assessor (public records).”<sup>5</sup> *Id.*

- b. Mr. Schultz testified that the appraiser used three comparable properties in his sales comparison approach. *Schultz testimony; Respondent Exhibit A.* The first comparable property is located at 2801 Lake Shore Drive, which is 0.45 miles northeast of the subject property. *Id.* This property is a “hill side” 1.5 story cape cod home with three bedrooms, 1.5 bathrooms and a finished basement. *Id.* It sold in an arm’s length transaction, with no seller concessions, on June 29, 2005, for \$735,000. *Id.* The second comparable property is located at 2827 Lake Shore Drive, which is 0.55 miles northeast of the subject property. *Id.* It is a two-story home with five bedrooms, 2.5 bathrooms and a finished basement. *Id.* It sold in an arm’s length transaction, with no seller concessions, on April 27, 2005, for \$877,000. *Id.* The third comparable property is located at 1819 Lake Shore Drive, which is 0.73 miles southwest of the subject property. *Id.* It is a two story home with four bedrooms, two bathrooms and a finished basement. *Id.* It sold in an arm’s length transaction, with no seller concessions, on October 28, 2005, for \$810,000. *Id.* The appraiser found all the comparable properties to be in average/good condition with no visible repairs noted. *Id.*
- c. Mr. Schultz testified that the appraiser adjusted the comparable properties for differences in the living area and ages of the houses and the sizes of the lots. *Schultz testimony; Respondent Exhibit A.* The appraiser also made adjustments for the size of each property’s basement, the finish of the basement rooms, the differences in the number of bedrooms and bathrooms, the existence of patios, porches, decks, balconies, fireplaces and pools, and the differences between garages and carports. *Id.* According to Mr. Schultz, after adjustments were made to the comparable properties, the appraiser concluded that comparable properties sold from \$736,400 to \$841,400 in 2005; whereas the Petitioner’s property’s value for the March 1, 2006, assessment date was only \$630,500. *Id.*
- d. Mr. Schultz testified that the appraiser also developed an opinion as to the value of the Petitioner’s land in his appraisal report. *Schultz testimony; Respondent Exhibit A.* According to Mr. Schultz, the appraiser used data from three lots that sold on Lake Shore Drive. *Id.* The first property was lot 33 Lake Shore Drive, which was 6,450 square feet of land that sold for \$255,000, or \$39.53 per square foot. *Id.* The second property was lot 31 Lake Shore Drive, which was 6,450 square feet of land that also sold for \$255,000, or \$39.53 per square foot. *Id.* The last property was 2305 Lake Shore Drive, which was 13,500 square feet of land that sold for \$540,000, or \$40.05 per square foot. *Id.* From these sales, the appraiser determined the average selling price of land was \$40.00 per square foot. *Id.* The appraiser then applied the \$40.00

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<sup>5</sup> In response to questioning, Mr. Schultz testified that the appraiser obtained his room count and the size of the house and the size of the lot from the “Beacon” website. *Schultz testimony.*

per square foot to the subject property's land size of 7,000 square feet, and concluded that the value of the Petitioner's land was \$280,000. *Id.*

- e. In response to questioning, Mr. Schultz testified that the appraiser did not indicate in his appraisal report that the former pumping station located across street from the Petitioner's property affected the Petitioner's view of the lake or the value of the subject property. *Schultz testimony.*

### **Record**

13. The official record for this matter is made up of the following:

- a. The Form 131 petition and related attachments.
- b. The digital recording of the hearing.
- c. Exhibits:

Petitioner Exhibit 1 –	Petitioner's calculation of the property's 2006 value,
Petitioner Exhibit 2 –	LaPorte County – Reassessment Order, issued by the Department of Local Government Finance, dated May 23, 2008,
Petitioner Exhibit 3 –	Petitioner's appeal overview,
Petitioner Exhibit 4 –	2006 property record card for the subject property, printed on April 30, 2007,
Petitioner Exhibit 5 –	2006 property record card for the subject property, printed on May 4, 2007,
Petitioner Exhibit 6 –	2006 property record card for the subject property, printed on October 18, 2007,
Petitioner Exhibit 7 –	2006 property record card for the subject property, printed on October 18, 2007, <sup>6</sup>
Petitioner Exhibit 8 –	“ProVal Plus” summary of the subject property's assessed value, dated October 18, 2007,
Petitioner Exhibit 9 –	Form 115, Notification of Final Assessment Determination, dated December 7, 2007,
Petitioner Exhibit 10 –	“ProVal Plus” summary of the subject property's assessed values, dated December 13, 2007,
Petitioner Exhibit 11 –	2006 property record card for the subject property, printed on December 13, 2007,
Petitioner Exhibit 12 –	Form 115, Notification of Final Assessment Determination, dated December 13, 2007,

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<sup>6</sup> Petitioner Exhibit 7 appears to be a duplicate of Petitioner's Exhibit 6.

- Petitioner Exhibit 13 – Form 130, Petition to the Property Tax Assessment Board of Appeals for Review of Assessment, dated August 27, 2007, first and second pages,
- Petitioner Exhibit 14 – Remainder of the Petitioner’s Form 130, Petition to the Property Tax Assessment Board of Appeals for Review of Assessment,
- Petitioner Exhibit 15 – Final Determination cover sheet for Petition No. 46-023-03-1-5-00030 from Indiana Board of Tax Review to Robert J. and Joy Kuchler, dated October 23, 2006,
- Petitioner Exhibit 16 – Excerpt of the Board’s Final Determination, page five of eight,
- Petitioner Exhibit 17 – Form 114, Notice of County Property Tax Assessment Board of Appeals of Hearing on Petition, dated February 20, 2008,
- Petitioner Exhibit 18 – Form 115, Notification of Final Assessment Determination, dated May 19, 2008,
- Petitioner Exhibit 19 – 2006 property record card for the subject property, printed on August 1, 2008,
- Petitioner Exhibit 20 – PTABOA hearing business minutes, dated May 11, 2011,
- Petitioner Exhibit 21 – PTABOA hearing business minutes, dated June 22, 2011,
- Petitioner Exhibit 22 – Email correspondence between Robert Kuchler and Denise O’Neil, PTABOA secretary, dated July 6, 2011,
- Petitioner Exhibit 23 – Form 11, Notice of Assessment of Land and Structures, dated February 10, 2009,
- Petitioner Exhibit 24 – Letter from Barry Wood, Assessment Division Director, Department Local Government Finance, to Robert J. Kuchler, dated March 18, 2009; Department of Local Government Finance memorandum “Reassessment Appeal Clarification,” dated January 28, 2009; Page 21 of the LaPorte County – Reassessment Order; email correspondence between Terry Beckinger, LaPorte County, to Barry Wood, Department of Local Government Finance, dated February 18, 2009; and letter from Barry Wood, Department Local Government Finance, to Carol McDaniel, former LaPorte County Assessor, dated May 28, 2008,
- Petitioner Exhibit 25 – Petitioner’s outline of instructions from chapter 2, pages 127 and 128 of the REAL PROPERTY ASSESSMENT GUIDELINES,
- Petitioner Exhibit 26 – 2006 property record card for the subject property, printed on March 19, 2009,
- Petitioner Exhibit 27 – 2007 property record card for the subject property, printed on March 21, 2011,
- Petitioner Exhibit 28 – 2006 property record card for the subject property, printed on March 29, 2011,

- Petitioner Exhibit 29 – 2006 property record card for the subject property, printed on April 21, 2011,
- Petitioner Exhibit 30 – 2006 property record card for the subject property, printed on May 2, 2011,
- Petitioner Exhibit 31 – Letters from Robert Kuchler to Michael Schultz, LaPorte County Assessor, dated June 20, 2011, and November 26, 2012; and letters from Robert Kuchler to Scott Bell, Michigan Township Assessor, dated June 20, 2011, and November 26, 2012,
  
- Respondent Exhibit A – Restricted use appraisal report prepared by Frank D. Vince of Vince Associates LLC/Metro Appraisal, dated December 14, 2012, with an effective date of December 31, 2005,
- Respondent Exhibit B – 2006 property record card for the subject property, printed on May 23, 2011,
  
- Board Exhibit A – Form 131 petition with attachments,
- Board Exhibit B – Notice of Hearing,
- Board Exhibit C – Hearing sign-in sheet.

d. These Findings and Conclusions.

#### **Burden of Proof**

14. Generally, a taxpayer seeking review of an assessing official's determination has the burden of proving that its property's assessment was wrong 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). Pursuant to Indiana Code § 6-1.1-15-17.2, however, the burden of proof shifts to the assessor in cases where the assessment under appeal has increased by more than 5% over the previous year's assessment. Here, the Petitioner's representative and the Respondent agreed that the property's value increased from \$442,500 in 2005 to \$630,500 for the 2006 assessment. *Respondent Exhibit B*. Therefore, because the assessed value at issue for 2006 increased more than 5% over the property's assessed value in 2005, the assessor has the burden to prove the assessment was correct in 2006. *See Ind. Code § 6-1.1-15-17.2*.

#### **Analysis**

15. The Respondent provided sufficient evidence to establish a prima facie case that the Petitioner's property was worth \$800,000 in 2006. The Board reached this decision for the following reasons:

- a. In Indiana, assessors value real property based on the property's market value-in-use, 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." MANUAL at 2. Thus, a party's evidence in a tax appeal must be consistent with that standard. *Id.* A market-value-in-use appraisal prepared according to USPAP will often be probative. *Kooshtard Property VI v. White River Twp. Ass'r*, 836 N.E.2d 501,506 n. 6. (Ind. Tax Ct. 2005). A party may also offer actual construction costs, sales information for the subject property or comparable properties, and any other information compiled according to generally accepted appraisal principles. MANUAL at 5.
- b. Regardless of the method used to prove a property's true tax value, 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 Township Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). For the March 1, 2006, assessment date, the valuation date was January 1, 2005. 50 IAC 21-3-3.
- c. Here the Respondent argues that the property's value for the 2006 assessment date was \$800,000. *Schultz testimony*. In support of this contention, the Respondent presented an appraisal prepared by Frank Vince that estimated the value of the subject property to be \$800,000 as of December 31, 2005. *Respondent Exhibit A*. The appraiser attested that he prepared the appraisal in accordance with the Uniform Standards of Professional Appraisal Practices (USPAP). *Id.* The appraiser used the sales comparison approach, and used comparable properties that sold in 2005. *Id.* An appraisal performed in conformance with generally recognized appraisal principles is often enough to establish a prima facie case that a property is undervalued. *See Meridian Towers East & West v. Washington Township Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003).
- d. While generally the 2006 assessment is to reflect the value of the property as of January 1, 2005, pursuant to 50 IAC 21-3-3(a), local assessing officials "shall use sales of properties occurring between January 1, 2004, and December 31, 2005, in performing sales ratio studies for the March 1, 2006, assessment date." 50 IAC 21-3-3(a). Thus, an appraisal valuing the property as of December 31, 2005, using sales in 2005 must, therefore, also have some probative value. Therefore, the Board finds that the Respondent raised a prima facie case the property's value was \$800,000 for the March 1, 2006, assessment. *See Hubler Realty Co. v. Hendricks County Assessor*, 938 N.E.2d 311, 314 (Ind. Tax Ct. 2010) ("When a taxpayer elects to challenge its assessment, it assumes a certain degree of risk, as resolution of a property tax appeal may lead to an increase in assessment.")
- e. Once a party raises a prima facie case, the burden shifts to the opposing party to rebut or impeach the evidence. *See American United Life Insurance Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004).

- f. The Petitioner's witness, Mark Kuchler argued that the Respondent's appraisal is flawed because the appraiser valued the property as a two-story home with four bedrooms, when in fact the house is a one-story with two bedrooms. *M. Kuchler testimony*. But the appraisal report shows the home as a two-story with no basement, while the Petitioner's representative testified that the home is a one-story with a walk-out basement. *R. Kuchler testimony*. Further, in response to cross examination, Mr. Kuchler testified that at least part of the walk-out basement was finished with drywall and carpeting. Thus, the evidence suggests that the parties were simply describing the home in different terms; rather than that any significant valuation error was made in the appraisal.
- g. Mr. Kuchler also argued that the appraisal was prepared in 2011, implying that it was somehow unreliable because it was a retrospective appraisal. However, the Tax Court in *Millennium Real Estate Inv., LLC v. Assessor Benton County, Indiana*, 979 N.E.2d 192, 198 (Ind. Tax Ct. 2012) found that "absent a showing of some relevant physical change in a property, the date upon which a property inspection occurs has no bearing on the probative value of an appraisal."
- h. Further, Mr. Kuchler argued that the appraiser failed to address how the pumping station located across the street from the subject property, or the view of the lake being disrupted, affects the value of the Petitioner's property. *M. Kuchler testimony*. However, Mr. Kuchler failed to provide any evidence as to what effect, if any, the pumping station had on the value of the property. More importantly, the Petitioner's witness provided no evidence to show the Respondent's appraisal was not a reasonable valuation of the subject property.
- i. Ultimately, an appraiser's assumptions and observations are backed by his education, training, and experience. The appraiser also certifies that he complied with the Uniform Standards of Professional Appraisal Practice. 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. Thus, while Mr. Kuchler's arguments detract from the credibility of the Respondent's appraiser's valuation, the Petitioner's witness gave the Board insufficient evidence to reject the appraiser's value based on the assumptions and observations the appraiser made in reaching his value. Thus, the Petitioner failed to impeach the Respondent's evidence.
- j. The Petitioner's representative also contends that the subject property's land should have been assessed like another parcel in the vicinity of the Petitioner's property was valued and argues that the assessor improperly lowered the negative influence factor applied to the property. *R. Kuchler testimony*. But a Petitioner fails to prove its case by simply contesting the methodology used to compute his property's assessment. Instead, the Petitioner must show the assessment does not accurately reflect the subject property's market value-in-use. *See e.g. P/A Builders & Developers, LLC v.*

*Jennings County Assessor*, 842 N.E.2d 899, 900 (Ind. Tax Ct. 2006) (The focus is not on the methodology used by the assessor, but instead on determining whether the assessed value is actually correct. Therefore, the taxpayer may not rebut the presumption merely by showing an assessor's technical failure to comply strictly with the Guidelines).

- k. Here the Respondent presented market value evidence of the property's value for the 2006 assessment year. Because the Petitioner failed to present any evidence of the market value-in-use of the property, but instead directed its entire case to arguing that the assessor erred in assessing the subject property, the Petitioner failed to rebut or impeach the Respondent's evidence.

### **Conclusion**

- 16. The Petitioner's property's March 1, 2006, assessment increased by more than 5% over the property's 2005 value, therefore the assessor bore the burden of proving the property's March 1, 2006, assessment was correct. The Respondent raised a prima facie case that the property's value for the March 1, 2006, assessment date was \$800,000. The Petitioner failed to rebut or impeach this evidence. Therefore the Board finds in favor of the Respondent, and holds that the assessed value of the Petitioner's property is \$800,000 for the March 1, 2006, assessment.

### **Final Determination**

In accordance with the above findings of fact and conclusions of law, the Indiana Board of Tax Review determines that the assessed value of the Petitioner's property should be changed to \$800,000 for 2006.

Dated: March 11, 2013

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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 pursuant to 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 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/bills/2007/SE0287.1.html>.**