

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

**Petition #:** 49-800-02-1-5-07533  
**Petitioner(s):** Richard F. Hahn  
**Respondent:** Washington Township Assessor (Marion County)  
**Parcel #:** 8052767  
**Assessment Year:** 2002

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 initiated an assessment appeal with the Marion County Property Tax Assessment Board of Appeals (PTABOA) by written document dated September 8, 2003.
2. The Petitioner received notice of the decision of the PTABOA on October 22, 2004.
3. The Petitioner filed an appeal to the Board by filing a Form 131 petition for review of assessment with the county assessor on November 18, 2004. The Petitioner elected to have this case heard in small claims.
4. The Board issued a notice of hearing to the parties dated December 13, 2004.
5. The Board held an administrative hearing on January 25, 2005, before the duly appointed Administrative Law Judge, David Pardo.
6. Persons present and sworn in at hearing:
  - a) For Petitioner: Richard F. Hahn, owner
  - b) For Respondent: Benjamin F. Buckles, Washington Township  
Chad Polak, Washington Township

**Facts**

7. The subject property is described by the Petitioner as a condominium, which consists of land and improvements and which is located at 3539 East 75<sup>th</sup> Place, Indianapolis,

Indiana. *Hahn testimony; Board Exhibit A.* The subject property is classified as residential. *Board Exhibit A.*

8. The Administrative Law Judge (ALJ) did not conduct an inspection of the property.

9. Assessed Value of subject property as determined by the Marion County PTABOA:

Land \$16,600                      Improvements \$137,800.

10. Assessed Value requested by the Petitioner:

Land \$16,600                      Improvements \$120,000.

### **Issues**

11. Summary of the Petitioner's contentions in support of alleged error in assessment:

- a) The Petitioner contends that several properties located on the same block as the subject property are assessed for amounts substantially less than the subject property. *Hahn testimony; Pet'r Exs. 1-8.*
- b) The Petitioner submitted assessment information for six properties in support of his contention. *Hahn testimony; Pet'r Exs. 1-6.* The Petitioner testified that the subject property is basically the same as the other properties. *Hahn testimony.* All of the dwellings were built in 1980 and are made of brick and wood. *Id.* All of the dwellings are either one (1) or two (2) stories and are within 200 square feet of each other in size. *Id.*
- c) The average assessment for the six properties identified by the Petitioner is \$129,333, as compared to subject property's assessment of \$154,400. *Id.*
- d) The Petitioner provided more detailed information with regard to two of the six properties he identified. The first property, which is located at 3523 E. 75<sup>th</sup> Place, is situated on a corner lot and is only one hundred and sixty six (166) square feet smaller than the subject property. *Id; Pet'r Ex. 8.* However the assessed value per square foot of that property is 12.3% lower than the assessment of the subject property. *Id.* The second property, located at 3537 E. 75<sup>th</sup> Place, is one hundred and eight two (182) square feet larger than the subject property, but it is assessed at a rate of only \$65.19 per square foot – almost 14% less than the \$74.20 per square foot rate at which the subject property is assessed. *Id.*
- e) The Petitioner further contends that the disparity in assessments will be exacerbated as a result of the PTABOA's decision to change the neighborhood rating for the neighborhood in which all of the properties are located from 137 to 111. *Hahn testimony; Pet'r Ex. 8.*

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

- a) The Respondent contends that the current assessed value is actually below the fair market value of the subject property. *Buckles testimony*. In support of this position, the Respondent submitted a data sheet indicating that the subject property was purchased on December 10, 1999 for \$220,900. *Id; Resp't Ex 1*. The Respondent also submitted a multiple listing service printout showing that the subject property sold for \$192,000 in 1996. *Buckles testimony; Resp't Ex. 2*.
- b) The Respondent acknowledges that there may be some disparity between the assessment of the subject property and the assessment of the neighboring properties identified by the Petitioner. *Buckles testimony*. However, the Respondent contends that the disparity may be due to numerous factors differentiating the subject property from the other properties, such as the number of plumbing fixtures. *Id*. Moreover, the Respondent contends that some disparity in assessment is inevitable in a mass appraisal system. *Id*.
- c) Regardless of the causes for the disparity in assessed values of the subject property and the neighboring properties, the Petitioner's purchase of the subject property for \$220,900 in December of 1999 demonstrates that its market value greatly exceeds its assessed value. *Id*. Therefore, the Respondent does not believe that a further reduction of the subject property's assessment is justified. *Id*.

**Record**

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

- a) The Petition, and all subsequent pre-hearing submissions by either party.
- b) The tape recording of the hearing labeled BTR #6082.
- c) Exhibits:

Petitioner Exhibit 1: Data regarding assessment of 3526 E. 75<sup>th</sup> Place  
Petitioner Exhibit 2: Data regarding assessment of 3537 E. 75<sup>th</sup> Place  
Petitioner Exhibit 3: Data regarding assessment of 3527E. 75<sup>th</sup> Place  
Petitioner Exhibit 4: Data regarding assessment of 3523 E. 75<sup>th</sup> Place  
Petitioner Exhibit 5: Data regarding assessment of 3533 E. 75<sup>th</sup> Place  
Petitioner Exhibit 6: Data regarding assessment of 3525 E. 75<sup>th</sup> Place  
Petitioner Exhibit 7: Data regarding assessment of subject property  
Petitioner Exhibit 8: Form 131 petition

Respondent Exhibit 1: Data regarding the sale of the subject property  
Respondent Exhibit 2: Printout from the multiple listing service showing  
1996 and 1999 sales of the subject property

Board Exhibit A: Form 131 petition with attachments  
Board Exhibit B: Hearing notice  
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 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).
- 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 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”).
- 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 evidence. *Id.*; *Meridian Towers*, 805 N.E.2d at 479.

15. The Petitioner did not provide sufficient evidence to support his contentions. This conclusion was arrived at because:

- a) The Petitioner contends that the current assessment of the subject property is excessive, because the assessed value of the subject property exceeds the assessed values of neighboring properties, both in absolute terms and as a function of value per square foot. *Hahn testimony; Board Ex. A.*
- b) In making this argument, the Petitioner essentially relies on a methodology closely analogous to the sales comparison approach to establishing the market value-in-use of a property. *See 2002 REAL PROPERTY ASSESSMENT MANUAL 2* (incorporated by reference at 50 IAC 2.3-1-2)(stating that the 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 also, Long v. Wayne Township Assessor*, Cause No. 49T10-0404-TA-20, at 4 (Ind. Tax Ct. corrected original opinion dated January 28, 2005). The primary difference between the Petitioner’s methodology and the sales comparison approach is that

the Petitioner seeks to establish the value of the subject property by analyzing the *assessments* of purportedly comparable properties rather than the *sale prices* of those properties. Nevertheless, the requirements for assigning probative value to evidence derived from a sales comparison approach are equally applicable to the assessment comparison approach used by the Petitioner in this case.

- c) In order to effectively use the sales comparison approach as evidence in a property assessment appeal, 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 two properties. *Long*, Slip op. at 7. 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 8. Similarly, the proponent must explain how any differences between the properties affect their relative market values-in-use. *Id.*
- d) Here, the Petitioner testified that all of the dwellings were built at the same time, are constructed of brick and wood, have one (1) or two (2) stories, and vary in size by no more than two hundred (200) square feet. *Hahn testimony*. While the date of construction, the materials used in construction and the relative size of the improvements all are relevant, they are not, by themselves, adequate to establish comparability. Moreover, the Petitioner does not explain how significant differences between the properties affect their relative market values-in-use. The Petitioner’s failure to adjust for such differences is particularly significant in this case, because the subject dwelling appears to be the only one of the seven dwellings being compared that contains a second story of finished living area. *See Pet’r Exs. 1-7*.
- e) Based on the foregoing, the Petitioner failed to establish the comparability of the subject property to the other properties in question. Consequently, the Petitioner failed to establish a prima facie case for a reduction in assessment.
- f) Even if the Petitioner had demonstrated the comparability of the subject property to the other properties upon which he relies, the Respondent presented sufficient evidence to rebut the Petitioner’s evidence.
- g) The Respondent demonstrated that the Petitioner bought the subject property for \$220,900 on December 10, 1999. *Buckles testimony; Resp’t Exs. 1-2*. The sale price of the subject property is often the best evidence of its market value. That is particularly true in this case, where the sale occurred within less than one year of the relevant valuation date for the 2002 general reassessment. *See 2002 REAL PROPERTY ASSESSMENT MANUAL 4* (incorporated by reference at 50 IAC 2.3-1-2) (stating that for the 2002 general reassessment, a property’s assessment must reflect its value as of January 1, 1999).

- h) Thus, the strongest evidence of the market value-in-use of the subject property suggests that, if anything, the current assessment is too low.

### **Conclusion**

16. The Petitioner failed to make a prima facie case. 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: \_\_\_\_\_

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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. The action shall be taken to the Indiana Tax Court under Indiana Code § 4-21.5-5. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice.**