

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

**Petition #:** 53-009-02-1-5-00335  
**Petitioners:** Richard E. & Naomi R. Deckard  
**Respondent:** Perry Township Assessor (Monroe County)  
**Parcel #:** 015-59140-00  
**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 Petitioners initiated an assessment appeal with the Monroe County Property Tax Assessment Board of Appeals (PTABOA) by written document dated June 9, 2003.
2. Notice of the decision of the PTABOA was dated October 7, 2003.
3. The Petitioners filed an appeal to the Board by filing a Form 131 with the county assessor on October 22, 2003. The Petitioners elected to have the case heard in small claims.
4. The Board issued a notice of hearing notice to the parties dated January 7, 2003.
5. The Board held an administrative hearing on February 19, 2004 before the duly appointed Administrative Law Judge Rick Barter.
6. Persons present and sworn in at hearing:
  - a. For Petitioners: Richard E. Deckard, Taxpayer  
Marlene S. King, Certified appraiser
  - b. For Respondent: Judy Sharp, Monroe County Assessor  
Ken Surface, Monroe County Consultant  
Marilyn Meighen, Attorney

7. The parties agreed that the land assessment of \$12,200 was undisputed.

### **Facts**

8. The property is classified as residential rental property, as is shown on the property record card #015-59140-00. The parcel consists of land and two (2) residential dwellings. One of the dwellings is a 1,427 square foot single story, frame structure constructed prior to 1920 and converted for use as a two-family living unit. The second dwelling is an 872 square foot two-story brick and frame structure constructed in 1995 as a single-family living unit. The 1,427 square foot dwelling will be referred to as “the Older Structure” and the 827 square foot dwelling will be referred to as “the 1995 Structure.”
9. The Administrative Law Judge did not conduct an inspection of the property.
10. Assessed Value of subject property as determined by the Monroe County PTABOA: Land \$12,200; Improvements \$214,300. The Older Structure has an assigned true tax value of \$73,200 and the 1995 Structure has an assigned true tax value of \$141,100.
11. Assessed Value requested by Petitioners: Land \$12,200; Improvements: \$163,800.

### **Contentions**

12. Summary of Petitioners’ contentions in support of alleged error in assessment is:
  - a. The appraisal of the property and the assessment of a comparable property show that the improvements are overvalued at \$214,300 and would be more appropriately valued at \$176,000. *Petitioners’ Exhibit 2.*
  - b. The Petitioners asserted the Petitioners’ property is unique because two residential structures are built on one parcel. *King testimony.*
  - c. Although the structures are rental properties, the Petitioners’ appraiser did not consider the income approach to value due to time constraints. *King testimony.*
  - d. The appraiser is the sister of the Petitioner, Mr. Deckard. *King testimony; Petitioners’ Exhibit 2.*
13. Summary of Respondent’s contentions in support of the assessment is:
  - a. The value of the Older Structure was corroborated by sales from properties located on the same street. (*Respondent Exhibits 5 and 6*). The total improvement value of \$214,300 for the property is supported through the application of the income approach using an expense factor and capitalization rate appropriate for Monroe County. *Surface testimony.*

- b. Mr. Surface testified that, based on rental income data provided by the Petitioners at the hearing and using a 30% expense factor and a 8% capitalization rate, the indicated total value (land and improvements) for the property through the income approach is \$230,000. The current total assessed value of the property is \$226,500.
- c. The \$176,000 improvement value indicated by the appraisal submitted by the Petitioners did not include the income approach as a method of valuation, despite the fact that these are income-producing properties.
- d. The properties offered as comparable by the Petitioners should not be viewed as comparable because of differences in the neighborhood factors.<sup>1</sup> (The property under appeal has a neighborhood factor of 1.76; the purported comparable properties have a neighborhood factor of 1.00).  
*Sharp testimony.*
- e. The Respondent agreed with the Petitioners' assertion that the properties are unique because two structures are built on one parcel. *Surface testimony.*

### **Record**

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

- a. The Form 131 Petition.
- b. The tape recording of the hearing labeled BTR #5843.
- c. Exhibits:
  - Petitioners' Exhibit 1 – A letter from Vencel Appraisal Service corroborating the value for the property indicated by the fee appraisal.
  - Petitioners' Exhibit 2 – A fee appraisal for the property prepared for ad valorem purposes with an indicated value of \$176,000.
  - Petitioners' Exhibit 3 – A letter from Deckard Homes & Apartments outlining the Petitioners' contentions.
  - Petitioners' Exhibit 4 – Interior and exterior photographs of the Older Structure and the 1995 Structure.
  - Petitioners' Exhibit 5 – A Notice of Assessment, Form 11, for a property located at 1110 S. Park Ave., Bloomington, Indiana.
  - Petitioners' Exhibit 6 – A Notice of Assessment, Form 11, for a property located at 520 S. Washington, Bloomington, Indiana.
  - Respondent Exhibit 1 – The property record card for the property subject to this appeal.
  - Respondent Exhibit 2 – A copy of the underlying Form 130 petition.

---

<sup>1</sup> A neighborhood factor is "A factor determined by analyzing sales in each neighborhood. It adjusts the standard depreciation tables in this manual to meet market conditions within the neighborhood." The Real Property Assessment Manual, Version A Guidelines, Book One, Appendix B, page 5 (incorporated by reference at 50 IAC 2.3-1-2).

Respondent Exhibit 3 – A copy of the underlying Form 115, Notice of Final Assessment issued by the PTABOA.  
Respondent Exhibit 4 – Notice of Appearance on behalf of the Township filed by Marilyn Meighen.  
Respondent Exhibit 5 – A photograph and property record card for a property located at 724 S. Washington, Bloomington, Indiana.  
Respondent Exhibit 6 – A photograph and property record card for a property located at 608 S. Washington, Bloomington, Indiana.  
Respondent Exhibit 7 – Photographs and the property record card for the property subject to this appeal.  
Respondent Exhibit 8 – A letter authorizing the Monroe County Assessor and staff to act on behalf of the Perry Township Assessor.

d. These Findings and Conclusions.

### Analysis

15. The most applicable governing case law is:

- a. The Petitioner must sufficiently explain the connection between the evidence and petitioner's assertions in order for it to be considered material to the facts. *See generally, Heart City Chrysler v. State Bd. of Tax Comm'rs*, 714 N.E.2d 329, 333 (Ind. Tax Ct. 1999).
- b. The Board will not change the determination of the County Property Tax Assessment Board of Appeals (PTABOA) unless the Petitioner has established a prima facie case and, by a preponderance of the evidence proven, both the alleged errors in the assessment, and specifically what assessment is correct. *See Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998); *North Park Cinemas, Inc. v. State Bd. of Tax Comm'rs*, 689 N.E.2d 765 (Ind. Tax Ct. 1997).

16. The Petitioners did not provide sufficient evidence to support the Petitioners' contentions. This conclusion was arrived at because:

- a. The notice of assessment for the property located at 520 S. Washington used by the Petitioners, purporting to show that the assessment of the Older Structure is incorrect, indicates that the alleged comparable property is valued at \$81,800. *Petitioners' Exhibit 6*. Testimony indicated the Older Structure is inferior to the alleged comparable property in that the Older Structure has one less living unit than the alleged comparable property and lacks air conditioning that is present in the alleged comparable property. *Deckard testimony*. However, the Older Structure is currently valued at \$73,200, which is actually \$8,600 less than the value assigned to the alleged comparable property. *Respondent Exhibit 1 and Respondent Exhibit 7*. The Board cannot conclude that the Older Structure is incorrectly valued when the alleged comparable property

carries a greater value than the value currently assigned to the property under appeal.

- b. The appraisal for the Older Structure gives an indicated value of \$90,000 for the Older Structure based on the sales data of three (3) comparable properties. *Petitioners' Exhibit 2*. Again, the evidence does not show that the Older Structure is overvalued, because the appraisal indicates a value greater than the value currently assigned. Further, the verification letter assigns a value of \$73,200 to the Older Structure. *Petitioners' Exhibit 1*. This is the current assessed value of the structure. This evidence, rather than demonstrating the Older Structure is incorrectly valued, confirms the accuracy of the current value assigned to the Older Structure.
- c. The parties agreed the Petitioners' property is unique in the local market. Despite this fact, the Petitioners' appraisal is based primarily on a sales comparison approach.
- d. The appraisal estimated the value for the 1995 Structure at \$86,000 based on the sales data from properties alleged to be comparable properties. *Petitioners' Exhibit 2*. However, the features identified for each of the purported comparable properties in the appraisal show that the alleged comparable properties are, in fact, not comparable to the 1995 Structure for the following reasons:
  - i. The alleged comparable properties are single-story structures while the 1995 Structure is a two-story structure.
  - ii. The alleged comparable properties have three bedrooms while the 1995 Structure has four bedrooms.
  - iii. The age of the alleged comparable properties range from 12 to 23 years while the age of the 1995 Structure is 6 years.
  - iv. The alleged comparable properties have between 1,100 and 1,350 square feet while the 1995 Structure has 1,427 square feet.
- e. Further, the purported comparable properties are not located in the same neighborhoods. Different neighborhood factors that were applied to the properties have contributed to the differing assessed values.

### **Conclusion**

17. The Petitioner failed to make a prima facie case regarding the alleged valuation error. The Board finds in favor of the Respondent.

**IBTR 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: \_\_\_\_\_  
(date)

\_\_\_\_\_  
Commissioner

**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.**