

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

**Petition #:** 18-003-02-1-5-00944  
**Petitioners:** Rick and Wendy Bellar  
**Respondent:** Center Township Assessor (Delaware County)  
**Parcel #:** 18-11-09-411-001.000-003  
**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 Delaware County Property Tax Assessment Board of Appeals (PTABOA) by written document dated August 4, 2003.
2. The determination of the PTABOA is dated November 21, 2003.
3. The Petitioners filed an appeal to the Board by filing a Form 131 with the Delaware County Assessor on December 17, 2003.
4. The Board issued a notice of hearing to the parties dated February 26, 2004.
5. The Board held an administrative hearing on May 19, 2004, before the duly appointed Administrative Law Judge Patti Kindler.
6. Persons present and sworn in at hearing:
  - a) For Petitioners: Rick and Wendy Bellar, Taxpayers
  - b) For Respondent: Charles Ward, Authorized County PTABOA and Center Township Representative

**Facts**

7. The property is classified as residential with two dwellings on one parcel located at 509-513 West Ashland Avenue, Muncie, as shown on the property record card (PRC) for parcel #18-11-09-411-001.000-003.

8. The Administrative Law Judge did not conduct an inspection of the property.
9. Assessed Value of subject property as determined by the Delaware County PTABOA: Land \$10,200, Improvements \$66,200, Total \$76,400.
10. Assessed Value requested by Petitioners: Total \$65,000.<sup>1</sup>

### **Issue**

11. Summary of Petitioners' contentions in support of alleged error in assessment:
  - a) Petitioners contend the assessment is overstated and incorrect. A real estate appraisal obtained for mortgage purposes shows the value of the subject property to be \$65,000 as of September 15, 1998. *Attachment to Board Exhibit A.*
  - b) The subject property includes a two-story dwelling and a one-story dwelling located on a 50' x 125' corner lot. Both of the dwellings serve as student rentals containing one unit each. The subject appraisal reports a gross monthly rent of \$1450 for both rental units in 1998. However, the current monthly rent for both units is \$1140, which does not include utilities. The owners pay utilities. *Wendy Bellar Testimony.*
  - c) The property description provided by the Respondent is incorrect. The windows in the two-story property are not new, but rather over one hundred years old; the windows in the ranch home are twenty to thirty years old. The item identified as a carport on the PRC has a cement floor but does not have the space for a car.
  - d) Petitioners contend that the purported comparable properties utilized by the Respondent for its income and sales approach are located in superior, more desirable neighborhoods, such as University Avenue and West Main. The subject's location on West Alameda is less desirable and less valuable compared to those neighborhoods, which are closer to the local university. *Wendy Bellar Testimony.* The Petitioners submitted five PRCs of neighborhood properties located on North Alameda Street, all within three blocks of the subject parcel. *Petitioners' Exhibits 2, 3, 4, 5 & 6.*
  - e) A real estate advertisement dated February 1, 2004, for the property located at 410 Alameda describes a two-unit investment property for sale for \$39,900. *Petitioners' Exhibit 7.*
12. Summary of Respondent's contentions in support of the assessment:
  - a) Respondent contends the five PRCs submitted by the Petitioners as an indication of the subject's correct assessed value (*Petitioners' Exhibits 2-6*) each contain only one dwelling, while the subject parcel has two dwellings located on it. In addition, the comparable assessments submitted by the Petitioners refer to improvement values from the PRCs, not total assessed values. *Ward Testimony.*

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<sup>1</sup> The Petitioners did not break down the total requested Assessed Value into land and improvement categories.

- b) Respondent asserts the subject assessment at \$76,400 is reasonable based upon the following evidence submitted: 1) county neighborhood equalization studies; 2) Respondent's comparable sales grid; and, 3) Respondent's income approach to value using gross rent multipliers from sold rental properties. *Respondent's Exhibits 5, 7 & 14.*
- c) The equalization study for subject neighborhood #131070 shows sales that range from \$45,000 to \$105,000, with a median sale of \$64,500 and a mean sale of \$69,112. The equalization study assists assessors in determining values within a neighborhood. *Ward Testimony; Respondent's Exhibit 5.*
- d) For its comparable sales grid, the Respondent chose three sales of two-unit student rental properties, located in the area, which sold between the dates of April 1999 and December 1999. *Respondent's Exhibits 8, 9 & 10.* The sale prices of the three comparable properties range from \$63,500 to \$75,000 before adjustments, or \$33.90 to \$41.71 per square foot. After adjustments were made for differences between the comparable properties and the subject property, the value range is from \$35 to \$39 per square foot for the three sold properties. *Respondent's Exhibit 7.* The subject property is assessed at \$39.34 a square foot, which is considered an indication of reasonable value. *Ward Testimony.*
- e) The rental income of the three neighborhood student rental properties ranged from \$950 to \$1500 per month at the time of their sale in 1999, 2001, and 2002. *Respondent's Exhibits 11, 12, & 14.* Respondent was unable to ascertain whether its comparable rental sales represented net or gross leases, or whether the owner was responsible for the utilities. *Ward Testimony.*
- f) The Petitioners' appraiser utilized a gross rent multiplier of 50 in their income approach to value, which is determined by dividing the sale prices of the comparable properties by their monthly rental incomes. The Respondent contends the chosen gross rent multiplier of 50 is merely the appraiser's opinion of value. In addition, Respondent claims its rental data from 1999 to 2002 is more recent than the 1997 and 1998 rental data reported in the Petitioners' appraisal. The income properties utilized in the Respondent's rental grid indicate a gross rent multiplier ranging from 61 to 76. *Ward Testimony. Respondent's Exhibit 14.*
- g) Using the income approach to value developed by the Respondent, the indicated value of the property should be between \$69,000 and \$87,000. *Respondent's Exhibit 14.* The value of the property based on income is calculated by taking the monthly subject income (\$1140) times the derived gross rent multipliers:  $\$1140 \times 61 = 69,540$ ;  $\$1140 \times 68 = 77,520$ ; and,  $\$1140 \times 76 = 86,640$ . Respondent asserts the subject property's assessment at \$76,400 is within the range of the county equalization studies, as well as the income and sales approaches to value. *Ward Testimony.*
- h) The Respondent asserts that there are discrepancies in the Petitioners' appraisal. Respondent claims the appraisal shows three separate

indications of value, one for the sales comparison approach and two for the income approach. The cover page of the appraisal shows an estimated market value of \$65,000, based on the sales comparison approach as of September 15, 1998. In addition, the appraiser estimated a value of \$72,500 using the income approach to value, and an estimate of \$64,500 using the direct capitalization method of the income approach. *Ward Testimony; Attachment to Board Exhibit A.*

- i) The Respondent contests the appraiser's opinion of value, arguing no explanation or reconciliation was provided by the appraiser when he chose \$65,000 as the appraised value for the subject income producing property, in lieu of the appraiser's reported value of \$72,500 based on actual rental income for the subject property. *Ward Testimony.*
- j) Respondent further contends its data is more recent than the data used in the subject appraisal and its opinion of value is supported by the submitted sales and income information. *Ward Testimony.*

### **Record**

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

- a) The Petition, and all subsequent pre-hearing and post-hearing submissions by either party.
- b) The tape recording of the hearing labeled BTR # 5314.
- c) Exhibits:
  - Petitioners' Exhibit 1: Subject PRC.
  - Petitioners' Exhibit 2: Comparable PRC for 524 N Alameda.
  - Petitioners' Exhibit 3: Comparable PRC for 504 N Alameda.
  - Petitioners' Exhibit 4: Comparable PRC for 516 N Alameda.
  - Petitioners' Exhibit 5: Comparable PRC for 520 N Alameda.
  - Petitioners' Exhibit 6: Comparable PRC for 508 N Alameda.
  - Petitioners' Exhibit 7: Copy of newspaper advertisement for 410 N Alameda.

Respondent's Exhibit 1: General information regarding subject property.

Respondent's Exhibit 2: Subject photographs: front and side views.

Respondent's Exhibit 3: Subject photographs: rear and side views.

Respondent's Exhibit 4: Subject PRC.

Respondent's Exhibit 5: Sales grid used in equalization study.

Respondent's Exhibit 6: Definition of market value from the International Association of Assessing Officers.

Respondent's Exhibit 7: Respondent's comparable sales grid.

Respondent's Exhibit 8: PRC for sales comparable property located at 2024 W Main Street.

Respondent's Exhibit 9: PRC for sales comparable property located at 1109-1111 University.

Respondent's Exhibit 10: PRC for sales comparable property located at 708 Ashland Avenue.  
Respondent's Exhibit 11: PRC for rental comparable property located at 221 S College.  
Respondent's Exhibit 12: PRC for rental comparable property located at 811-13 W University.  
Respondent's Exhibit 13: PRC for rental comparable property located at 1013-15 W Marsh.  
Respondent's Exhibit 14: Comparison gross rent multiplier grid.  
Respondent's Exhibit 15: Tax Representative's Authorization.

d) These Findings and Conclusions.

### Analysis

14. The most applicable governing cases and rules are:

- 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 Board 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 Board of Tax Comm'rs*, 694 N.E. 2d 1230 (Ind. Tax Ct. 1998); *North Park Cinemas, Inc. v. State Board of Tax Comm'rs*, 689 N.E. 2d 765 (Ind. Tax Ct. 1997).
- c) In the event the Petitioner sustains his burden, the burden then shifts to the Respondent to rebut Petitioner's evidence with substantial evidence. Should the Respondent fail to rebut Petitioner's evidence, the Board will find for the Petitioner. *Meridian Towers East & West v. Washington Township Assessor*, 805 N.E.2d 475 (Ind. Tax 2003).
- d) 2002 Real Property Assessment Manual, Page 8 – Appraisal Date, defined:  
The date as of which a property's value is estimated. In the case of the 2002 general reassessment, this would be January 1, 1999.

15. The Petitioners did provide sufficient evidence to support their contentions. This conclusion was arrived at because:

- a) The subject property is currently assessed at \$76,400. The Petitioners argue the assessed value is overstated and higher than the property would sell for on the open market. *Rick and Wendy Bellar Testimony; Board Exhibit A*. The Petitioners assert on the Form 131 petition that the correct

total assessment for the subject property is \$65,000. A certified appraisal of the property supporting the \$65,000 valuation request is attached to the Form 130 petition.

- b) The Petitioners presented five property record cards showing assessed improvement values for neighborhood properties, and a real estate listing from a newspaper of a neighborhood property. The Petitioners contended the property record cards and real estate listing represent immediate neighborhood properties that have lower assessed values than the subject property. However, the only similarity noted between the comparable property record cards and the subject property is the contention they are in the same neighborhood. The Petitioners failed to offer any description of the features, conditions, number of rental units, and construction types to show the submitted properties' true comparability to the subject property. *Petitioners' Exhibits 2-7*
- c) Further, the Respondent disputed the Petitioners' assertion that these properties were comparable, arguing there was only one dwelling assessed on the comparable property record cards, even though the subject property's assessment includes two dwellings on the parcel. In addition, the Respondent rebutted the Petitioners' testimony regarding the disparity in assessed values between the subject property and the comparable properties. The Respondent asserted the Petitioners outlined only the improvement values listed on their comparable property record cards, trying to make a comparison between the comparable properties' improvement values and the total assessed value listed on the subject property record card.
- d) The appraisal submitted by the Petitioners shows an estimate of value of \$65,000 for the subject property as of September 15, 1998. *Attachment to Board Exhibit A.*
- e) The appraisal, identified as a small residential income report, was prepared for mortgage purposes. The appraisal shows the following estimates of value before reconciliation: 1) a sales comparison approach with an indicated value of \$65,000; 2) an income approach using a gross rent multiplier with an indicated value of \$72,500; and, 3) an income approach using the direct capitalization method with an indicated value of \$64,500. The appraiser departed from the cost approach, showing only a site value of \$6,000 for the property. The appraiser's final reconciliation of value of \$65,000 for the property is subject to the replacement of the furnace in the two-story property.<sup>2</sup>

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<sup>2</sup> Page 4 of 4 of the appraisal report indicates that an addendum, which further explains the appraiser's sales and income approach to value and his final reconciliation, is attached to the appraisal. However, no addendum was attached to the appraisal submitted to the Board.

- f) The Respondent argued the appraisal presented by the Petitioners is merely one opinion of value, and the Township officials have developed a different opinion of value. The Respondent submitted sales and rental data to support the current assessment applied to the subject property and rebut the value shown on the appraisal. The Respondent claims its sales and income data are superior to the subject appraisal in the following manner: 1) the appraiser's sales data is from 1997 and 1998, but the Respondent's sales grid considers sales data from 1999; 2) the appraiser utilized rental income from 1998, while the Respondent's income approach to value was developed by using more recent income data from 1999, 2001, and 2002; and, 3) the appraisal shows two separate income approaches to value, which result in disparate estimates of value of \$72,500 and \$64,500. The Respondent asserts the difference in the two values derived from the income approach is not explained in the appraisal report.
- g) The Respondent's first contention, that its sales information is more reliable than the data on the appraisal because it is more recent, is unfounded. For the 2002 reassessment, the valuation date of real property is January 1, 1999. The appraisal was performed on September 15, 1998, less than four months prior to the reassessment valuation date. Therefore, the subject appraisal is considered a timely estimate of the subject's value on the January 1, 1999 date.
- h) The Respondent's second contention regarding the appraisal is that its comparable rental properties are more reflective of the market because they represent the most recent (1999, 2001, and 2002) rental data. *Respondent's Exhibit 14*. This contention is incorrect. As stated before, the date of valuation for the subject property is January 1, 1999. Although the rental data submitted by the Respondent for 1999 is relevant, the data from 2001 and 2002 is not a timely indication of the property's value on the January 1, 1999 valuation date.
- i) The Respondent's third contention regarding the appraisal is that the appraiser has shown two separate indications of value for the income approach in the appraisal. One approach resulted in a value of \$64,500 using a direct capitalization rate, and another income approach indicated a value of \$72,500 by using a gross rent multiplier. The Respondent asserted this represents an unexplained discrepancy in the appraisal report. However, the Respondent did not request the missing addendum (purporting to offer an explanation of the final reconciliation) from the Petitioners prior to or at the hearing.
- j) In support of the current assessment, the Respondent also introduced a calculation based on the income approach to value. As indicated, in using 2001 and 2002 lease data, the Respondent's income approach fails to

reflect the subject property's January 1, 1999 valuation date. The Petitioners further rebutted the Respondent's income data, arguing that their property should be compared to other rental properties in which the property owners paid the utilities. The Respondent acknowledged it did not know whether the property owners were responsible for the utilities in the comparable rentals used in its income approach calculation.

- k) The Respondent also submitted its own sales grid showing three properties that sold from April 1999 through December 1999, with adjustments applied for differences from the subject property. *Respondent's Exhibit 7.*
- l) The Petitioners asserted all three of the Respondent's rental comparable properties were located in more desirable neighborhoods that are closer to the local university than the subject. The Petitioners' contentions regarding location are credible, since two of the three sales are located in a different neighborhood than the subject. Further, none of the three properties was included in the neighborhood equalization study prepared by the local officials. *Respondent's Exhibits 5, 7 & 14.*
- m) Finally, while the Respondent questioned the final reconciliation of value applied to the appraisal, it was unable to offer better evidence of the subject property's value. Therefore, the appraisal is considered the most probative evidence of value in this appeal.
- n) For all the reasons listed above, the Petitioners have presented probative evidence of an error in the assessment. The Respondent failed to adequately rebut the Petitioners' evidence. There is a change in the assessment as a result of this appeal.
- o) The Board determines the assessment should be as follows: Land \$10,200 and Improvements \$54,800. The correct total assessment for the subject property, in accordance with the Petitioner's appraisal, is determined to be \$65,000.<sup>3</sup>

### **Conclusion**

16. The Petitioners made a prima facie case. The Respondent failed to rebut the Petitioner's evidence. The Board finds in favor of the Petitioner.

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<sup>3</sup> At the appeal hearing, the Respondent agreed to change the classification of the carport listed on the property record card to a covered porch.



### **Final Determination**

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should 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.**