

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-026-02-1-5-00094  
**Petitioner:** Robert H. Moore  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 007263400950015  
**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 informal hearing as described in Ind. Code § 6-1.1-4-33 was held between the Petitioner and the Respondent on December 4, 2003. The Department of Local Government Finance (the DLGF) determined that the Petitioner's property tax assessment for the subject property is \$98,200 and notified the Petitioner on March 31, 2004.
2. The Petitioner filed a Form 139L on April 14, 2004.
3. The Board issued a notice of hearing to the parties dated October 8, 2004.
4. A hearing was held on November 16, 2004, in Crown Point, Indiana before Special Master Jennifer Bippus.

### Facts

5. The subject property is located at 429 Waltham Street, Hammond, in North Township.
6. The subject property is a two story, single family home on a 37.5' x 150' lot.
7. The Special Master did not conduct an on-site visit of the property.
8. The DLGF determined the assessed value of the subject property to be \$14,800 for the land and \$83,400 for the improvements for a total assessed value of \$98,200.
9. The Petitioner requested an assessed value of \$2,040 for the land and \$4,840 for the improvements for a total assessed value of \$6,880.

10. Robert Moore, the Petitioner, and Anthony Garrison, representing the DLGF, appeared at the hearing and were sworn as witnesses.

### Issues

11. Summary of Petitioner's contentions in support of alleged error in assessment:
- a) The assessed value of the subject property is too high. The subject property would not sell for the assessed value. *Moore testimony*. The property taxes due on the subject property would keep a buyer away and prohibit the sale of the property. *Moore testimony*. The Petitioner alleges that the taxes are too high and the home cannot be sold for the assessed value because of economic factors such as high unemployment, low wages, depressed area, and high utilities. *Moore testimony; Pet'r Ex. 3*.
  - b) There is crime in the neighborhood including theft and burglary, drugs, and prostitution. The Petitioner contends that the neighborhood is declining. *Moore testimony; Pet'r Ex. 3*.
  - c) The subject property was built in 1914, has one bathroom and no finished basement. The driveway is shared, only 3 foot is on the Petitioner's property. *Moore testimony*.
  - d) Most of the homes in the neighborhood have been remodeled recently from top to bottom. The subject property has not been remodeled since 1977. *Moore testimony*. The Petitioner presented property record cards for 27 homes in the neighborhood. According to the Petitioner, the property record cards were presented to compare the assessment and condition of the neighboring homes with the subject property. Most of the homes have been rehabilitated and are nicer than the subject property. The Petitioner presented photos of some of the neighboring homes. *Moore testimony; Pet'r Exs. 8, 14*.
  - e) The Petitioner presented a print-out from [www.ElectronicAppraiser.com](http://www.ElectronicAppraiser.com) dated April 8, 2004, which shows the subject property assessed for \$11,700 for assessment year 2001. The Petitioner also presented a cover sheet and transmittal letter for an appraisal dated June 3, 1987, showing that the value of the subject property in the unsubmitted appraisal was determined to be \$41,500 as of June 3, 1987. *Pet'r Ex. 5; Moore testimony*.
  - f) Finally, the Petitioner presented tax statements from 2000, 2001, and 2002. The total taxes for the subject property in 2000 were \$208.14. The reconciliation tax bill for 2002 shows net current taxes as \$2,141.02. *Petitioner Ex. 9*. The Petitioner also testified that his assessment in 1979 was \$2,040 for the land and \$4,840 for the improvements and in 2002 it was \$14,800 for the land and \$83,400 for the improvements. *Moore testimony; Petitioner Exhibit 1*. According to Petitioner the increase between these assessments is much too large. *Moore testimony*.

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

- a) The Respondent presented a listing of twenty "comparable" properties. According to the Respondent, the comparable properties are all classified as "old style" homes, located in the subject neighborhood, and in fair condition. The comparables have grades ranging from D2 to C-1. *Garrison testimony; Resp't Ex. 4*. The average assessed value of the comparable homes totaled \$77,080 and the median time adjusted sale price equaled \$71,330.<sup>1</sup> *Respondent Exhibit 4*.
- b) Further, the Respondent submitted property record cards and photos for three properties that the Respondent deemed to be the "most comparable" to the subject property. *Garrison testimony; Resp't Ex. 4, 5*. The three comparable homes were sold between April 1998 and October 2001. The sales prices of these comparables ranged from \$55,000 to \$94,000. The Time Adjusted Sales Prices of these comparables ranged from \$56,465 to \$85,096. *Garrison testimony; Resp't Ex. 4*. The Time Adjusted Sales Price per square foot of the comparables ranged from \$38.78 to \$48.91 per square foot. The assessed value per square foot of the subject property is \$66.53. *Garrison testimony; Resp't Ex. 4*.

**Record**

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

- a) The Petition.
- b) The tape recording of the hearing labeled Lake #1039.
- c) Exhibits:

Petitioner Exhibit 1: Copy of Form 139L and Notice of Hearing.

Petitioner Exhibit 2: Summary of Petitioner's Arguments.

Petitioner Exhibit 3: Written Outline of Evidence Explaining Its Relevance.

Petitioner Exhibit 4: Affidavits (*There are no affidavits included in the evidence*).

Petitioner Exhibit 5: Appraisals of Subject Property.

Petitioner Exhibit 6: Reasons Why Property Tax Increase Seems Irregular (*the page is blank*).

Petitioner Exhibit 7: Appraisal Approaches (From the *Fundamentals of Real Estate Appraisal*).

Petitioner Exhibit 8: Property Record Cards from the neighborhood, including the subject property (27 cards and 1 photo of the subject).

Petitioner Exhibit 9: Copies of Tax Bills.

Petitioner Exhibit 10: Notice of Assessment for March 1, 1995.

Petitioner Exhibit 11: Copy of Deductions.

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<sup>1</sup> While the Respondent's Exhibit 4 provided the average sale price, it did not calculate the average time adjusted sales price. The closest comparable calculation was the median sales price.

- Petitioner Exhibit 12: Copy of Governor Kernan news release.  
Petitioner Exhibit 13: Comparable Sales Charts exercises and answer keys from the *Fundamentals of Real Estate Appraisal*.  
Petitioner Exhibit 14: Photos of comparable homes in the same neighborhood as subject.

- Respondent Exhibit 1: Copy of Form 139L.  
Respondent Exhibit 2: Subject property record card.  
Respondent Exhibit 3: Subject photograph.  
Respondent Exhibit 4: Comparable analysis sheet.  
Respondent Exhibit 5: Comparable property record cards and photographs.

- Board Exhibit A: Form 139L Petition.  
Board Exhibit B: Notice of Hearing on Petition.

- d) These Findings and Conclusions.

### Analysis

14. The most applicable governing cases and regulations 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. Wash. 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 the Petitioner’s contentions. However, Respondent’s evidence supported a reduction in assessment. This conclusion was arrived at because:

### Comparables

- a) The Petitioner contends the assessment of the subject property is overstated and the subject property would not sell for the assessed value. In support of this contention,

the Petitioner provided property record cards and photos of neighboring properties. *Pet'r Exs. 8, 14.*

- b) Indiana Code § 6-1.1-2-2 requires uniform and equal assessments. Thus to the extent that the Petitioner can prove that his property is not assessed uniformly or equal to comparable properties, Petitioner's assessment should be equalized. However, "taxpayers are required to make a detailed factual showing at the administrative level." *Home Federal Savings Bank v. Madison Twp. Assessor*, 817 N.E.2d 332 (Ind. Tax Ct. 2004). To meet this showing, "the taxpayer must not only present probative evidence in support of its argument, but it must also sufficiently explain that evidence." *Id.*
- c) To introduce evidence of comparable properties, a taxpayer must explain *how* the properties are comparable. *See Blackbird Farms Apts. v. Dep't of Local Gov't Fin.*, 765 N.E.2d 711, 715 (Ind. Tax Ct. 2002) (holding that the taxpayer did not present a prima facie case where it provided assessment information for allegedly comparable properties but failed to explain *how* the properties were comparable). Conclusory statements that a property is "similar" or "comparable" to another property do not constitute probative evidence of the comparability of the two properties. *See Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 470 (Ind. Tax Ct. 2005). 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 471. The proponent likewise must explain how any differences between the properties affect their relative market values-in-use. *Id.* *See also, Hoogenboom-Nofziger*, 715 N.E.2d at 1024 (holding that taxpayer failed to make prima facie case when he offered conclusory statements and photographs without further explanation); *Lacy Diversified Industries, Ltd. v. Dep't of Local Gov't Fin.*, 799 N.E.2d 1215, 1220 (Ind. Tax Ct. 2003) (holding that taxpayer failed to make prima facie case when he offered conclusory statements, property record cards, and photographs without further explanation).
- d) In the case at bar, the Petitioner has not met his burden. While the Petitioner identifies various neighboring properties that are assessed lower, the Petitioner did not make any attempt to explain why or how the properties are comparable to the subject property. The Petitioner merely provided property record cards with no explanation as to their relevance.<sup>2</sup> This falls far short of the burden that Petitioner faces. The Petitioner has only made a "de minimis factual showing" and has failed to "sufficiently link [his] evidence to the uniform and equal argument" that he raises here. *See Home Federal Savings Bank v. Madison Twp. Assessor*, 817 N.E.2d 332 (Ind. Tax Ct. 2004).

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<sup>2</sup> Arguments that lack explanation and merely point to large blocks of evidence as though it speaks for itself do not constitute probative evidence. *Indianapolis Racquet Club, Inc. v. Washington Township Assessor*, 802 N.E.2d 1019, 1022 (Ind. Tax Ct. 2004).

### *Appraisal Information*

- e) The Petitioner also presented two documents he considered evidence of the property value. The first “appraisal” is from [www.ElectronicAppraiser.com](http://www.ElectronicAppraiser.com) dated April 8, 2004. A review of this document shows that the \$11,700 value noted by the Petitioner is actually tax information from the 2001 assessment year. This document provides no information with regard to the market value of the subject property. The document is comprised mainly of Census information, school information, and local business information. Further, the 2002 Real Property Assessment Manual (hereinafter “Manual”) provides that for the 2002 general reassessment, a property’s assessment must reflect its value as of January 1, 1999. 2002 REAL PROPERTY ASSESSMENT MANUAL 4 (incorporated by reference at 50 IAC 2.3-1-2). Consequently, a party relying on an appraisal to establish the market value-in-use of a property must provide some explanation as to how the appraised value demonstrates or is relevant to the property’s value as of January 1, 1999. *See Long v. Wayne Township Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005) (holding that an appraisal indicating the value for a property on December 10, 2003, lacked probative value in an appeal from the 2002 assessment of that property). Thus, even if the document was an appraisal, it would still have no probative value due to Petitioner’s failure to relate this information to the January 1, 1999, valuation date.
- f) The Petitioner also presented two pages from an appraisal dated June 3, 1987, estimating the market value to be \$41,500. The Petitioner, however, did not submit the entire appraisal to allow the Board and the Respondent to evaluate its relevance and accuracy. Without more, the Board holds that the cover sheet and transmittal letter submitted as an “appraisal” is not probative evidence of the property’s market value. Further, this document also suffers from an untimely assessment. Again, Indiana’s assessment regulations provide that for the 2002 general reassessment, a property’s assessment must reflect its value as of January 1, 1999. *Long* at 471; 2002 REAL PROPERTY ASSESSMENT MANUAL at 4 (incorporated by reference at 50 IAC 2.3-1-2)(hereinafter “Manual”). Thus, even if the Petitioner had presented the full appraisal report, the estimated value is more than 10 years old. The Petitioner provided no explanation as to how the appraisal value from 1987 is relevant to the subject property’s value as of January 1, 1999. *See Long* at 471.

### *Prior Assessments*

- g) The Petitioner also contends that the subject property value is over-stated based on the change in valuation between 1979 and 2002. *Moore testimony*. The Petitioner is mistaken in his reliance on the subject property’s earlier assessments. Each assessment and each tax year stand alone. *Fleet Supply, Inc. v. State Bd. of Tax Comm’rs*, 747 N.E.2d 645, 650 (Ind. Tax Ct. 2001) (citing *Glass Wholesalers, Inc. v. State Bd. of Tax Comm’rs*, 568 N.E.2d 1116, 1124 (Ind. Tax Ct. 1991)). Thus, evidence as to a property’s assessment in one tax year is not probative of its true tax value in a different tax year. *See, Id.*

*Respondent's Evidence*

h) While Petitioner's evidence was insufficient to raise a prima facie case, Respondent through its evidence has effectively admitted that Petitioner's property is over-valued. The Respondent presented a listing of twenty "comparable" properties. According to the Respondent, the comparable properties are all classified as "old style" homes, located in the subject neighborhood, and in fair condition. The comparables have grades ranging from D2 to C-1. *Garrison testimony; Resp't Ex. 4*. The average assessed value of the comparable homes totaled \$77,080 and the median time adjusted sale price equaled \$71,330. *Respondent Exhibit 4*. Thus, based on Respondent's evidence, the Board finds that the assessment of \$98,200 on the subject property is incorrect. Absent better evidence of the value of the subject property, the Board hereby determines that the median time-adjusted sales price of the twenty "comparable" properties submitted by Respondent is the best evidence of the subject property's value. Thus, the Board finds that the value of the subject property is \$71,330.

**Conclusion**

16. The Petitioner failed to make a prima facie case that the subject property is over-valued. However, the Respondent, in essence, admitted that the property was over-valued. Therefore, based on Respondent's effective admission, the Board finds in favor of the Petitioner and holds that the assessed value of the subject property is \$71,330.

**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: \_\_\_\_\_

\_\_\_\_\_  
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. You must name in the petition and in the petition's caption the persons who were parties to any proceeding that led to the agency action under Indiana Tax Court Rule 4(B)(2), Indiana Trial Rule 10(A), and Indiana Code §§ 4-21.5-5-7(b)(4), 6-1.1-15-5(b). The Tax Court Rules provide a sample petition for judicial review. The Indiana Tax Court Rules are available on the Internet at <<http://www.in.gov/judiciary/rules/tax/index.html>>. The Indiana Trial Rules are available on the Internet at <[http://www.in.gov/judiciary/rules/trial\\_proc/index.html](http://www.in.gov/judiciary/rules/trial_proc/index.html)>. The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>.