

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

**Petition:** 88-002-06-1-5-00035  
**Petitioner:** Susan Sama  
**Respondent:** Washington County Assessor  
**Parcel:** 88-24-17-332-025.000-022  
**Assessment Year:** 2006

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

**Procedural History**

1. The Petitioner initiated an assessment appeal with the Washington County Property Tax Assessment Board of Appeals (PTABOA).
2. The PTABOA notified the Petitioner of its decision on March 24, 2008.
3. The Petitioner appealed to the Board by filing a Form 131 on April 30, 2008, and elected to have this case heard according to small claims procedures.
4. The Board issued a notice of hearing to the parties dated December 24, 2008.
5. Administrative Law Judge Paul Stultz held the Board's administrative hearing on February 12, 2009. He did not conduct an on-site inspection.
6. Property owner Susan Sama, County Assessor Jason Cockerill, and past PTABOA President Jim Davis were sworn as witnesses.

**Facts**

7. This is a case about a residential rental property located at 304 North Harrison Street in Salem.
8. The assessed value determined by the PTABOA is \$5,500 for land and \$55,100 for improvements (total \$60,600).
9. The assessed value requested by the Petitioner is \$5,500 for land and \$50,500 for improvements (total \$56,000).

## Contentions

10. Summary of the Petitioner's case:
  - a. The Petitioner purchased the subject property for \$57,000 as a rental property. It had been an owner-occupied residence. *Sama testimony.*
  - b. The value has not increased. As a rental property, the value has decreased. An increase in value is difficult to achieve when a property is changed from owner-occupied to rental property. *Sama testimony.*
  - c. The property taxes have increased from \$359 when it was purchased to \$1,701 currently. *Sama testimony.*
  - d. The subject property is not realizing the profits expected in the current market. The assessed value should be close to the purchase price. *Sama testimony.*
  
11. Summary of the Respondent's case:
  - a. The subject property's current assessment is \$60,600. *Davis testimony.*
  - b. A comparison of the subject property and two comparable properties sets the lower limit of value at \$72,500. Comparable #1 is located at 711 W. Bristol Street and sold for \$72,500. Comparable #2 is located at 508 N. Spurgeon Street and sold for \$72,900. The subject property was offered for sale at \$89,900. This figure sets the upper limit of value. *Davis testimony; Resp't Ex. 1.*
  - c. An analysis of two comparable properties shows that the subject property is either equal to or superior to the comparables. The subject property was built in 1928. Comparable #1 was built in 1915 and Comparable #2 was built in 1989. The subject property is graded D+1. Comparable #1 is graded D and Comparable #2 is graded D+1. All three properties have a condition rating of average. The subject property's dwelling square footage and lot size are larger than either Comparable #1 or Comparable #2. Because the subject property is equal to or superior to the comparables, no adjustments were made to the sale prices. *Davis testimony; Resp't Ex. 1, 3, 4, 5.*
  - d. The evidence supports a market value range between \$72,500 and \$89,900. The subject property's current assessment of \$60,600 is considerably under valued, but the Respondent is not proposing any change. *Davis testimony; Resp't Ex. 1.*

## Record

12. The official record for this matter is made up of the following:
- a. The Petition,
  - b. A digital recording of the hearing,
  - c. Petitioner Exhibits – None,  
Respondent Exhibit 1 – Comparative Analysis,  
Respondent Exhibit 2 – Copy of Form 131,  
Respondent Exhibit 3 – Subject property record card,  
Respondent Exhibit 4 – Property record card of Comparable #1,  
Respondent Exhibit 5 – Property record card of Comparable #2,  
Respondent Exhibit 6 – Notice of Appearance,  
Board Exhibit A – Form 131 Petition for Review of Assessment,  
Board Exhibit B – Notice of Hearing on Petition,  
Board Exhibit C – Hearing Sign In Sheet,
  - d. These Findings and Conclusions.

## Analysis

13. 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.

14. The Petitioner did not make a case for any assessment change. This conclusion was arrived at because:
- a. Real property is assessed based on its "true tax value," which does not mean fair market value. It means "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." Ind. Code § 6-1.1-31-6(c); 2002 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.3-1-2). A taxpayer may offer evidence relevant to market value-in-use to rebut the presumption the assessment is correct. Such evidence may include actual construction costs, sales information regarding the subject or comparable properties, appraisals, and any other information compiled in accordance with generally accepted appraisal principles. MANUAL at 5.
  - b. A 2006 assessment must reflect the value of the property as of January 1, 2005. Ind. Code § 6-1.1-4-4.5; 50 IAC 21-3-3. Any evidence of value relating to a different date must also have an explanation about how it demonstrates, or is relevant to, the value as of that required valuation date. *See Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). The Petitioner relied on her purchase price of \$57,000 as evidence of the subject property's market value-in-use. While purchase price of the subject property could be the type of evidence contemplated in the Manual, in this case the Petitioner's evidence falls short. There is no documentation. Most importantly, the Petitioner provided no evidence to prove the date of her purchase. The only reference to her purchase date is in the Form 131, which indicates the subject property was purchased in February 2002. Assuming that this is the actual date of purchase, the Petitioner's purchase price lacks probative value because she did not establish how or why a 2002 purchase price is relevant to value as of January 1, 2005. *Id.*
  - c. The Petitioner testified that the property has decreased in value because now it is rental property. The Petitioner did not present any probative evidence substantiating this point. Such conclusory statements are not probative evidence and are insufficient to establish a prima facie case of error in assessment. *Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E. 2d 1113, 1122 (Ind. Tax 1998).
  - d. The Petitioner pointed to the increase in property taxes between 1995 and 2006. But an increase in the tax bill is not probative or relevant evidence in regard to what the correct assessment should be.
  - e. When a taxpayer fails to provide probative evidence supporting its position that an assessment should be changed, the Respondent's duty to support the assessment with substantial evidence is not triggered. *See Lacy Diversified Indus. v. Dep't of Local Gov't Fin.*, 799 N.E.2d 1215, 1221-1222 (Ind. Tax Ct. 2003); *Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998). Furthermore, to the extent that the Respondent offered some

evidence that the assessment should be higher, that issue was waived because the Respondent took the position that the existing assessment should not be changed.

### **Conclusion**

15. 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 assessment will not be changed.

ISSUED: \_\_\_\_\_

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Commissioner, 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

### **- APPEAL RIGHTS -**

You may petition for judicial review of there final determination under 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 the notice. The Indiana 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/ic/code>>. P.L. 219-2007 (SEA 287) is available on the Internet at <<http://www.in.gov/legislative/bills/2007/SE/SE0287.1.html>>