

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

**Petition #:** 79-164-02-1-5-01299  
**Petitioner:** Sara Lyn Smith  
**Respondent:** Wabash Township Assessor, Tippecanoe County  
**Parcel #:** 164046010084  
**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 Tippecanoe County Property Tax Assessment Board of Appeals (PTABOA) by written document dated June 9, 2003.
2. The Petitioner received notice of the decision of the PTABOA on October 29, 2003.
3. The Petitioner filed an appeal to the Board by filing a Form 131 with the county assessor on December 4, 2003. Petitioner elected to have this case heard in small claims.
4. The Board issued a notice of hearing to the parties dated February 26, 2004.
5. The Board held an administrative hearing on April 20, 2004, before the duly appointed Administrative Law Judge Joan Rennick.
6. Persons present and sworn in at hearing:
  - a. For Petitioner: Sara Lyn Smith, Petitioner  
Melissa Dickson, Licensed Appraiser
  - b. For Respondent: Eleanor Mlynarik, Wabash Township Assessor  
Nancy Moore, Tippecanoe County Assessor

**Facts**

7. The property is classified as residential, as is shown on the property record card for parcel # 164046010084.
8. The Administrative Law Judge (ALJ) did not conduct an inspection of the property.

9. Assessed Value of subject property as determined by the Tippecanoe County PTABOA:  
Land: \$ 115,100, Improvements: \$ 195,400, Total: \$ 310,500.

10. Assessed Value requested by Petitioner: Land and Improvements: \$ 234,000.

### **Issues**

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

- a. Assessment is too high because a valid appraisal of 377 Pawnee Drive was completed in 2000 and the estimated value of the property was \$234,000.
- b. The IRS accepted the 2000 appraisal.
- c. The sales of comparable properties submitted by the Township Assessor during the PTABOA hearing in October were, in fact, not comparable.
- d. No township conference was held and the results of the PTABOA hearing were not understood.

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

- a. Grade was lowered from B+1 to B-1, land influence factor was lowered from -25% to -35%, the basement recreation room square footage was lowered from 1100 square feet to 404 square feet per the 2000 appraisal submitted in evidence.
- b. Four (4) assessment property record cards were presented at the PTABOA hearing of properties in the immediate neighborhood of the subject property. Recent sales of these properties are listed in the comment section of the property record cards and that information is obtained from sales disclosures.

### **Record**

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

- a. The 131 Petition, and all subsequent pre-hearing or post-hearing submissions by either party.
- b. The tape recording of hearing labeled #5381.
- c. Exhibits:

Petitioner Exhibit A: Uniform Residential Appraisal Report (URAR), Cover Sheet and pages 3,4,5

Petitioner Exhibit B: "Comparables" submitted by County (4)

Petitioner Exhibit C: Supplement to Form 131 with contentions

Petitioner Exhibit D: URAR Market Data Analysis of County comparables

Petitioner Exhibit E: Narrative of Market Analysis

Petitioner Exhibit F: Petitioner's notes

Petitioner Exhibit G: Page from DLGF Communicator

Petitioner Exhibit H: Appraiser Qualifications

Petitioner Exhibit I: Market Data Analysis faxed to IBTR

Respondent Exhibit 1: Property Record Card (PRC) for subject parcel  
Respondent Exhibit 2: PTABOA Meeting Minutes October 22, 2003  
Respondent Exhibit 3: Comparable assessment sheets (4)  
Respondent Exhibit 4: Form 130 listing changes to the assessment.

d. These Findings and Conclusions.

### Analysis

14. The most applicable governing statutes and cases are:

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. Conclusory statements are of no value to the Board in its evaluation of the evidence. *See generally, Heart City Chrysler v. State Board of Tax Commissioners*, 714 N.E.2d 329, 333 (Ind. Tax Ct. 1999).

The Petitioner must do two things: (1) prove the assessment is incorrect; and (2) prove that the specific assessment he seeks, is correct. In addition to demonstrating that the assessment is invalid, the petitioner also bears the burden of presenting sufficient probative evidence to show what assessment is correct. *See Blackbird Farms Apts. v. Dep't of Local Gov't Fin.*, 765 N.E.2d 711 (Ind. Tax Ct. 2002).

15. Petitioner provided sufficient evidence to support Petitioner's contentions. This conclusion was arrived at because:

- a. The Petitioner presented a Uniform Residential Appraisal Report (URAR) signed by a licensed appraiser. *Pet'r Ex. A*. The cover sheet of the URAR states the appraisal is for mortgage loan purposes only. The appraisal was completed in accordance with FIRREA regulations as well as the Uniform Standards of Professional Practice (USPAP). The "AS IS" market value of the property set by the appraisal is \$234,000. *Id.* The appraisal date was June 14, 2000. *Id.* The Petitioner requested the total value of \$234,000 for her March 1, 2002 assessment.
- b. The Petitioner received copies of four (4) property record cards at the PTABOA hearing that were presented into evidence by the Wabash Township Assessor. *Pet'r Ex. B; Resp't Ex. 3*. The property record cards were assessments of properties sold in the subject's immediate neighborhood. *Mlynarik testimony*. Sales information obtained from sales disclosures is in the comment section at the bottom of the property cards. The Petitioner had the licensed appraiser who performed the original appraisal in 2000 do a market analysis of the township's comparable properties to show the adjustments that should be made to make the

comparable sales truly comparable. *Pet'r Ex. D; Smith testimony*. The Petitioner and the Appraiser contend Comparable #1 is the best comparable sale and the adjusted sales price is \$235,417 or rounded \$235,400. *Dickson testimony*. This property sold on June 14, 2002, for \$248,500. The Petitioner made a prima facie case by using an appraisal done in accordance with generally recognized appraisal practices and market data to support her contentions. *See Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d 475, 479 (Ind. Tax Ct. 2003).

- c. The township assessor questioned the comparable sales used in the original appraisal and stated the comparable sales were not in the same type of neighborhood. *Mlynarik testimony*. The township assessor stated the comparable sales were in nice neighborhoods, but they do not compare with the subject premier neighborhood. *Mlynarik testimony*. No information was given by the township assessor to compare neighborhood factors or ratio studies used in the reassessment.
- d. The township assessor questioned the sale of the subject property for \$235,000 on January 10, 2002; the Petitioner contends it was a transfer of ownership rather than a sale. *Smith testimony*. The township assessor questioned if the original appraisal was an estate appraisal that is sometimes weighted lower in value. *Mlynarik argument*. The appraiser testified that she did not know it was for an estate at the time she performed the appraisal. *Dickson testimony*. She did a market value appraisal for financing purposes as stated on the appraisal. *Id.*
- e. The township assessor stated the PTABOA lowered the original assessment to make the subject property conform to the original appraisal. *Mlynarik testimony*. The basement recreation room was recalculated based on information given in the original appraisal. *Id.* Therefore, the original appraisal was given some weight by the PTABOA.
- f. The Petitioner provided sufficient market evidence to support Petitioner's contentions. The original appraisal and the Market Analysis prepared by the licensed appraiser were close in value and support a reduction to the subject property.
- g. The Respondent did not adequately rebut the Petitioner's appraisal and other evidence by offering an alternate appraisal or evidence rebutting the calculations found in the Dickson appraisal. *Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d 475, 479 (Ind. Tax Ct. 2003).
- h. Respondent presented four properties from the same neighborhood and claimed that they were comparable. However, Respondent did not explain what factors (other than geography) lead them to this conclusion. In order to demonstrate comparability, a party should explain the physical features of each of the properties and how they relate to the subject. *See Blackbird Farms Apts., LP v. Dep't of Local Gov't Fin.*, 765 N.E.2d 711, 715 (Ind. Tax Ct. 2002). With such

comparison, the Respondent's "comparables" do not rebut Petitioner's prima facie case.

- i. Additionally, Petitioner did present such a comparison, describing the township's comparables as "larger with more square footage," "newer," having fireplaces and larger finished basements. *Smith testimony*. Respondent did not challenge this testimony.
- j. The Petitioner and the licensed appraiser agreed the market analysis based on sales in the subject neighborhood is the most comparable in value to the subject and the adjusted sales price of \$235,400 is a fair assessment of the subject property.

### Conclusion

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

### **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.**