

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

**Petition:** 84-013-12-1-5-00006  
**Petitioner:** Gregory A. Seger  
**Respondent:** Vigo County Assessor  
**Parcel:** 84-02-25-152-033.000-013  
**Assessment Year:** 2012

The Indiana Board of Tax Review (the “Board”) issues this determination in the above matter, finding and concluding as follows:

**PROCEDURAL HISTORY**

1. Gregory A. Seger, (the “Petitioner”) initiated the assessment appeal with the Vigo County Property Tax Assessment Board of Appeals (the “PTABOA”) by filing a Form 130 dated February 07, 2013.
2. The Petitioner filed with the Board due to the PTABOA’s failure to hold a hearing within 180 days of the filing of the Petitioner’s Form 130.
3. The Petitioner appealed to the Board by filing a Form 131 Petition for Review of Assessment on August 30, 2013.
4. The Petitioner elected to have the administrative hearing conducted under the Board’s small claims procedures. The Respondent did not elect to have the proceeding removed from the Board’s small claims procedures.
5. Paul Stultz, the Board’s appointed Administrative Law Judge (the “ALJ”), held the administrative hearing on August 22, 2014. The ALJ did not inspect the subject property.
6. The Petitioner appeared pro se. Susan McCarty, Chief Deputy for the Vigo County Assessor represented the Vigo County Assessor (the “Respondent”). Mr. Seger and Ms. McCarty were sworn in as witnesses and testified under oath.

**FACTS**

7. The subject property is residential rental property consisting of four buildings located at 6341 N. Clinton Street in Terre Haute.
8. The 2012 assessed value for the land is \$28,800 and the assessed value for the improvements is \$215,200, for a total assessed value of \$244,000.

## RECORD

9. The official record for this matter contains the following:
- a. A digital recording of the hearing
  - b. Petitioner Exhibit 1: Department of Local Government Finance (“DLGF”) and Board Memorandum dated August 24, 2007
  - Petitioner Exhibit 2: Beacon report for subject property dated July 19, 2014
  - Petitioner Exhibit 3: E-mail from Realtor Sherry Bedwell to Petitioner
  - Petitioner Exhibit 4: Assessment record of two comparable properties
  - Petitioner Exhibit 5: Parcel info for comparison and Gross Rent Multiplier (“GRM”) calculation
  - Petitioner Exhibit 6: Board’s Final Determination in *Bernie’s Place LLC, B. Edward Ewing v. Dubois County Assessor* issued December 21, 2011 (“*Bernie’s Place*”).
  - Petitioner Exhibit 7: Worksheet computing multiplier to annual income
  - Petitioner Exhibit 8: Gross rent comparisons explanation of color code
  - Petitioner Exhibit 9: Comparisons used and not used
  - Petitioner Exhibit 10: Settlement Statement from Petitioner’s purchase of subject property on May 9, 2012 (“Settlement Statement”)
  
  - Respondent Exhibit 1: Property Record Card (“PRC”) for subject property
  - Respondent Exhibit 2: GIS 2012 parcel view
  - Respondent Exhibit 3: International Association of Assessing Officers (“IAAO”) GIM definition/formula
  - Respondent Exhibit 4: IncomeWorks sales used for Gross Income Multiplier (“GIM”)
  - Respondent Exhibit 5: IncomeWorks Evaluation Report
  - Respondent Exhibit 6: IncomeWorks Evaluation Report breakdown
  - Respondent Exhibit 7: Seger income turned into Assessor’s Office
  - Respondent Exhibit 8: E-mail to Mr. Seger offering new income value
  - Respondent Exhibit 9: Association of Indiana Counties (“AIC”) Fair Market Rental Data for Vigo County
  
  - Board Exhibit A: Form 131 Petition
  - Board Exhibit B: Notice of Hearing
  - Board Exhibit C: Hearing Sign-In Sheet
- c. These Findings and Conclusions

## THE PETITIONER’S STANDING

10. The Respondent challenged the Petitioner’s standing to appeal because he did not own the subject property on March 1, 2012. The Petitioner testified that he purchased the subject property in May of 2012 and was responsible for paying the taxes thereafter. The

Respondent asked for more information to verify that testimony and requested a copy of the Petitioner's Settlement Statement. The Petitioner provided the Respondent and the Board with a copy of his Settlement Statement by email on August 22, 2014.<sup>1</sup>

11. The Petitioner's Settlement Statement shows that he purchased the subject property on May 9, 2012. More importantly, the Settlement Statement also reveals how the parties addressed the property tax liabilities because it itemized the adjustments made for the 2012 property taxes. In this instance, the Petitioner received a credit on line 211 of the Settlement Statement in the amount of \$2,445.04 for the period from January 1, 2012 to the settlement date, May 9, 2012. This amount represents a prorated credit for the 2012 property taxes to account for the period of time the seller was in possession of the property during 2012. Put another way, the seller gave the Petitioner a credit toward the 2012 taxes because the Petitioner would be responsible for paying the tax bill in 2013.<sup>2</sup>
12. Pursuant to the Board's procedural rules, either the owner of the subject property or the taxpayer responsible for paying the property taxes on the subject property can be a proper party to an appeal before the Board. 52 I.A.C. 2-2-13(2). Based on the evidence, the Board concludes that the Petitioner was responsible for paying the property taxes for the March 1, 2012 assessment due and payable in 2013. Therefore, the Petitioner has standing to appeal the 2012 assessment.

### **BURDEN OF PROOF**

13. Generally, a taxpayer seeking review of an assessing official's determination has the burden of proving that a property's assessment is wrong and what its correct assessment should be. *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). The taxpayer must explain how each piece of evidence relates to the requested assessment. *Indianapolis Racquet Club, Inc. v. Washington Twp. Assessor*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004). If the taxpayer makes a prima facie case, the burden shifts to the assessor to offer evidence to impeach or rebut the taxpayer's evidence. *American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004); *see also Meridian Towers*, 805 N.E.2d at 479.
14. Indiana Code § 6-1.1-15-17.2, as amended, creates an exception to that general rule and assigns the burden of proof to the assessor in two circumstances. First, where the assessment under appeal represents an increase of more than 5% over the prior year's assessment for the same property, the assessor has the burden of proving that the assessment under appeal is correct. Ind. Code § 6-1.1-15-17.2(b). This provision may not apply if there was a change in the property's improvements, zoning or use. Ind. Code

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<sup>1</sup> Both parties expressly agreed to the submission of the Settlement Statement as posthearing evidence and stated they understood this evidence would be admitted into the record and given proper consideration in the Board's Final Determination.

<sup>2</sup> In Indiana, property taxes are due and payable in two (2) equal installments on May 10 and November 10 of the year following an assessment. Ind. Code § 6-1.1-22-9(a). Thus, taxes for the March 1, 2012 assessment at issue in this appeal were due and payable on May 10, 2013 and November 10, 2013.

§ 6-1.1-15-17.2(c). Second, the assessor has the burden where a property's gross assessed value was reduced in an appeal, and the assessment for the following assessment date represents an increase over "the gross assessed value of the real property for the latest assessment date covered by the appeal regardless of the amount of the increase..." Ind. Code § 6-1.1-15-17.2(d). This provision may not apply if the assessment was determined using the income approach to value. *Id.*

15. In any case, if an assessor has the burden and fails to meet it, the taxpayer may offer evidence to prove the correct assessment. If neither party offers evidence that suffices to prove the property's correct assessment, it reverts to the previous year's value. I.C. § 6-1.1-15-17.2(b).
16. The parties agreed on the record that the Petitioner has the burden of proof in this appeal.

### CONTENTIONS

17. Summary of the Petitioner's case:
  - a. The property is a cluster of four buildings consisting of one house, one triplex and two duplexes that have eight rental units in total. The Petitioner purchased the property for \$165,000 in May of 2012. The prior owners appealed the 2011 assessment of \$346,800, which resulted in an adjusted assessment of \$244,000. *Seger testimony; Pet'r Ex. 2.*
  - b. The Petitioner's realtor told the Petitioner that the subject property was originally put on the market in 2009 and was listed for \$230,000. The realtor also stated that the Petitioner's purchase of the subject property for \$165,000 was an appropriate price for the apartments and that comparable properties in the area are priced lower. *Seger testimony; Pet'r Ex. 3.*
  - c. The Petitioner offered testimony with regard to two properties in the area of the subject property:
    - The first parcel has been assessed at around \$114,000 for several years. The property has undergone foreclosure and other sales in the amounts of approximately \$88,000, \$81,000, and \$58,000. The assessed value of the property, however, has not significantly changed. It has stayed at around \$114,000.
    - The second parcel sold 3 times over a 10 year period. It dropped in value every time. The assessed value stayed at \$116,000 even though the last sale was for \$55,000.

The Petitioner contends this evidence demonstrates how foreclosure and bank sales are being ignored by the Respondent when valuing properties like the subject property. The Petitioner described his purchase of the subject property as an arms-

- length transaction because it was on the market for 3 years. *Seger testimony; Pet'r Ex. 4.*
- d. According to a memorandum dated August 24, 2007, issued jointly by the DLGF and the Board, it is appropriate to consider and use distressed sales when they constitute the normal market for real property in the area. Specific financing terms, types of sellers, and market conditions are not reasons for categorically rejecting a sale as invalid. *Seger testimony; Pet'r Ex. 1.*
- e. A comparable property with the lowest assessed rental multiplier is located at 3380 East Rose Hill Avenue, Terre Haute. It has eight rental units in one building. It has four units with two bedrooms each that rent for \$530 per month and four units with one bedroom each that rent for \$425 per month. The property is assessed for \$139,000 and has an annual income of \$45,840. The assessed rental multiplier is 3.03. The subject property's income of \$37,200 multiplied by the assessed rental multiplier of 3.03 would give the subject property a value of \$112,716. *Seger testimony; Pet'r Ex. 5.*
- f. The Board's final determination in *Bernie's Place* states that properties managed by a central management team and operating as one business can be considered an apartment complex. The Petitioner's evidence demonstrates that the subject property is part of a single economic unit and should be considered an apartment complex as well. Therefore, the Petitioner contends that the Respondent should be required to develop all three approaches to value his property and use the one with the lowest value. *Seger testimony; Pet'r Ex. 6.*
- g. The Petitioner offered Exhibit 7 to demonstrate that he is not being treated fairly when you compare his rental income to assessed value ratio to that of surrounding comparable properties. Exhibit 7 is a spreadsheet of apartments, duplexes, and four unit structures in his area representing 42 parcels containing over 100 rental units. His chart shows the number of units, square footage of the buildings, average size per unit, the assessed values and annual income for each property. The Petitioner computed a multiplier using the ratio of assessed values to annual income for these comparable properties. He contends this multiplier should be used to give his property the same ratio of assessed value to annual income as the comparable properties. The average multiplier from the comparable properties is 3.32. The subject property's multiplier is 6.56. The subject property's income times the average assessed rental multiplier of 3.32 results in a value of \$123,504, which is the assessed value he is requesting for the subject property. *Seger testimony; Pet'r Ex. 7.*
- h. The Petitioner testified that the comparable properties have asphalt roads and concrete structures, while the subject property has vinyl siding and white rock for drives and parking area. The Petitioner also introduced Beacon reports and rent verification statements for the comparable properties, describing and explaining each group from his chart by its designated color code. *Seger testimony; Pet'r Ex. 8.*

- i. The Petitioner stated that he only considered healthy businesses that rent property as comparable properties. He did not use properties that had a history of foreclosure, assessed values that did not match the sales prices, or properties assessed using the cost approach. He also excluded the properties across the street from his because they were reassessed and have unexplained increases over 5%, just like the subject property. He maintains that the Respondent cannot prove his property's increase or theirs. The Petitioner also testified that he did not use properties that are getting a homestead deduction in his assessment comparison. *Seger testimony; Pet'r Ex. 9.*
- j. The Petitioner's Settlement Statement shows that he purchased the subject property on May 9, 2012 for \$165,000. His Settlement Statement also shows that the Petitioner received a credit toward the 2012 property taxes in the amount of \$2,445.04. *Pet'r Ex. 10.*

18. Summary of the Respondent's case:

- a. The 2012 assessment of \$244,000 was calculated using the income approach to value. That was not the correct method to value the subject property. The subject property consists of four buildings:
  - The first building was built in 1938 and has one unit;
  - the second building was built in 1995 and has two units;
  - the third building is almost identical to the second building and has two units;  
and
  - the fourth building was built in 1980 and has three units of varying size.

Because each of the four buildings has less than four units, the income approach used to value the property was not appropriate. *McCarty testimony; Resp't Exs. 1 and 2.*

- b. The IAAO defines the generally accepted appraisal method to compute the GIM. *McCarty testimony; Resp't Ex. 3.*
- c. The Respondent uses IncomeWorks to collect data on rental properties comparable to the subject property. The Respondent presented a list of five comparable properties that are examples of the type of data IncomeWorks used to determine rental data for comparable properties. *McCarty testimony; Resp't Ex. 4.*
- d. IncomeWorks provides GRMs for properties that are in similar condition, design, quality, age, amenities, and are in a similar location. IncomeWorks updates this data every year. The IncomeWorks Evaluation Report had to be broken down and computed on three different sheets. The first sheet is for the building with one unit. The second and third buildings are the same in that they have 2 units each. Consequently, the result on the second sheet is doubled. The third sheet has the

calculation for the three-unit building. The four buildings are different so the rankings used by IncomeWorks are also different. The averages on some are a plus and on others a minus. *McCarty testimony; Resp't Ex. 5.*

- e. Respondent's Exhibit 6 summarizes the market values computed by IncomeWorks for the four buildings:
- The one-unit building was valued at \$44,755;
  - the two two-unit buildings had a total value of \$75,254; and
  - the three-unit building was valued at \$55,732.

Based on these individual values, the total value for the subject property was \$175,741, which was rounded to \$175,700. This value was offered to the Petitioner via email, but he did not accept the Respondent's proposed value. *McCarty testimony; Resp't Exs. 6 and 8.*

- f. The potential gross rent for the parcel is around \$40,000, but the Petitioner's submission to the Respondent states that the potential gross rent is \$37,800. The Petitioner pays some utilities on some units, but the Respondent did not have sufficient information to adjust the Petitioner's rent to account for the utilities he pays on some of the units. When the Petitioner's rental incomes of \$55,980 and \$37,800 are added together the total income is over \$90,000. None of the Petitioner's Schedules E were close to this total, and the Respondent had no way to discern the breakdown of income and expenses. *McCarty testimony; Resp't Exs. 6 and 7.*
- g. The AIC's fair market rental data for Vigo County is shown on Respondent's Exhibit 9. The rents in Vigo County increased significantly from 2000 to 2013. The Petitioner's rents are below those in the AIC report. The Assessor has to look at potential gross incomes to be fair and equitable. *McCarty testimony; Resp't Ex. 9.*

## ANALYSIS

19. Real property is assessed based on its "true tax value," which means "the market value-in-use of a property for its current use, as reflected by the utility received by the owner or by a similar user, from the property." 2011 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.4-1-2); *see also* Ind. Code § 6-1.1-31-6(c). The cost approach, the sales comparison approach, and the income approach are three generally accepted techniques to calculate market value-in-use. MANUAL at 2. Any evidence relevant to the true tax value of the property as of the assessment date may be presented to rebut the presumption of correctness of the assessment, including an appraisal prepared in accordance with generally recognized appraisal standards. MANUAL at 3.

20. Regardless of the method used to prove a property's true tax value, a party must explain how its evidence relates to the subject property's market value-in-use as of the relevant valuation date. *O'Donnell v. Dep't of Local Gov't Fin.*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006); *see also Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). The valuation date for a 2012 assessment was March 1, 2012. Ind. Code § 6-1.1-4-4.5(f); 50 IAC 27-5-2(c). To establish a prima facie case, a taxpayer must "demonstrate that their suggested value accurately reflects the property's true market value-in-use (and, consequently, that the assessor's assessed value failed to accurately reflect the market value-in-use)." *Eckerling v. Wayne Twp. Assessor*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006).
21. As explained above, the Petitioner had the burden of proving that the 2012 assessment of \$244,000 was incorrect by demonstrating what the correct assessment should be. In support of his contention that the subject property is over-valued, the Petitioner presented a GRM analysis, an assessment comparison, and sales information regarding his purchase of the subject property.<sup>3</sup>
22. The Petitioner presented Beacon reports containing assessment and sales records of two properties to demonstrate the Respondent ignores foreclosure and bank sales when valuing properties like the subject property. However, the Petitioner failed to demonstrate how this evidence relates to the market value-in-use of the subject property as required by *O'Donnell*. Thus, this evidence has no probative value.
23. The Petitioner introduced a GRM analysis using an eight-unit rental property located at 3380 East Rose Hill Avenue as a comparable property. The IAAO's definition provided by the Respondent states "[A] [GRM] expresses a relationship between gross annual income and value of property; thus, it compares the income-producing characteristics of properties in the sales comparison approach." The GRM method develops an income multiplier by looking to market data for sales of comparable income-producing properties and calculates the ratio of the sale price to the gross income at the time of the sale. An opinion of value can then be calculated by multiplying the GRM by the annual income base for the subject property.
24. The GRM method eliminates the complex value adjustments required by the sales comparison approach by assuming differences between the properties are reflected in their respective rental rates. However, in order to derive and apply a reliable GRM for valuation purposes, the properties analyzed must still be comparable to the subject property and to one another in terms of physical, geographic, and investment characteristics. To establish that properties are comparable, a party must identify the

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<sup>3</sup> In Indiana, the GRM method is the preferred method of valuing real property that has one (1) to four (4) rental units. Ind. Code § 6-1.1-4-39(b). Indiana has not defined the term GRM by statute or regulation, but it is a commonly used appraisal term that uses the same formula and has essentially the same definition as a GIM. The one important difference being that a GRM is based on the gross income derived from rents, while a GIM is based on the gross income attributable to all sources, including, but not limited to, rent. *Maloof v. San Juan Co. Valuation Protests Bd.*, 114 N.M. 755, 760 n. 1; 1992-NMCA-127; 845 P.2d 849 (1992 N.M. App.) Despite this distinction, both parties use these terms interchangeably throughout their respective testimony and evidence. For convenience, the Board will use the term GRM in place of GIM hereinafter.

characteristics of the subject property and explain how those characteristics compare to the characteristics of the purportedly comparable properties. *Long*, 821 N.E.2d at 471. Specific reasons must be provided as to why a proponent believes a property is comparable. Conclusory statements that a property is “similar” or “comparable” to another property do not constitute probative evidence of the comparability of two properties. *Id.* at 470. In this case, the Petitioner failed to establish comparability.

25. The Petitioner’s GRM calculation also had several flaws. The Petitioner calculated a GRM for the purportedly comparable property of 3.03, and argued that using this GRM results in a value of \$112,716 for the subject property. However, the Petitioner calculated his GRM by dividing the property’s *assessed value* of \$139,000 by the annual income of \$45,840. The GRM method develops an income multiplier by calculating the ratio of the property’s gross income to its *sales price*, not its assessed value. Furthermore, the use of data from a single property does not provide the quantity or quality of data necessary to develop a reliable GRM. Thus, the Petitioner’s GRM analysis did not conform to generally accepted appraisal and assessment principles.
26. The Petitioner also presented an assessment comparison to demonstrate that he is not being treated fairly.<sup>4</sup> According to the Tax Court, “when a taxpayer challenges the uniformity and equality of his or her assessment one approach that he or she may adopt involves the presentation of assessment ratio studies, which compare the assessed values of properties within an assessing jurisdiction with objectively verifiable data, such as sales prices or market value-in-use appraisals.” *Westfield Golf Practice Center v. Washington Twp. Assessor*, 859 N.E.2d 396, 399 n.3 (Ind. Tax Ct. 2007). Such studies, however, must be prepared according to professionally acceptable standards. *Kemp v. State Bd. of Tax Comm’rs*, 726 N.E.2d 395, 404 (Ind. Tax Ct. 2000). Such studies must be based on a statistically reliable sample of properties that actually sold. *Bishop v. State Bd. of Tax Comm’rs*, 743 N.E.2d 810, 813 (Ind. Tax Ct. 2001) (*citing Southern Bell Tel. and Tel. Co. v. Markham*, 632 So.2d 272, 276 (Fla. Dist. Co. App. 1994)).
27. The Petitioner introduced a spreadsheet of apartments, duplexes, and four-unit structures in the area representing 42 parcels containing over 100 rental units. But the Petitioner failed to explain how this sample was sufficient to draw any meaningful inference concerning the uniformity of assessments in his taxing district. The Petitioner also failed to use any actual sales prices or market value-in-use appraisals when calculating his assessment ratios, choosing instead to use the ratio between the properties’ assessed values and their annual incomes. Although sales prices and appraisals are not the only objectively verifiable data that can be used, the Petitioner wholly failed to explain how his relatively unsophisticated statistical comparison of assessed values conforms to any professionally accepted standard for assessment ratio studies.
28. The Petitioner also attempted to use the ratio of assessed values to annual income from the same group of properties as a GRM. According to the Petitioner, the average rental multiplier of the comparable properties is 3.32. He contends that using this multiplier

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<sup>4</sup> The Petitioner appears to be challenging the assessment under the “uniform and equal” mandate contained in Article 10, Section 1(a) of Indiana’s Constitution.

would give his property the same ratio of assessed value to annual income as the comparable properties, and translates into a value of \$123,504 for the subject property. As previously discussed, this ratio is not the correct formula for developing a GRM, and the Petitioner offered no explanation of how his analysis conforms to generally accepted appraisal and assessment principles.

29. Further, the Petitioner offered little evidence regarding how the properties were actually comparable to the subject property. The Petitioner introduced copies of Beacon reports and floor plans for some of the properties. He also testified that the purportedly comparable properties have asphalt roads and concrete structures, while the subject property has vinyl siding and white rock for the driveways and parking areas. However, the Petitioner again failed to offer meaningful testimony relating these properties' specific features and characteristics to the subject property and did not provide the level of comparison required by *Long*.
30. Finally, the Petitioner presented his settlement statement showing that he purchased the property for \$165,000 on May 9, 2012. The purchase price of a property can be the best evidence of a property's value. *Hubler Realty Co. v. Hendricks Co. Ass'r*, 938 N.E.2d 311, 315 (Ind. Tax Ct. 2010). Here, the sale was closed approximately two months after the valuation date, and the Board finds that this was timely enough for the sales price to be probative evidence of the market value-in-use as of March 1, 2012. Therefore, the Petitioner has presented a prima facie case that the 2012 assessment should be reduced to \$165,000.
31. Having made his prima facie case, the burden shifts to the Respondent to rebut the Petitioner's evidence. *Am. United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). The Respondent bears the same burden to present probative evidence. *Fidelity Fed. Savings & Loan v. Jennings Co. Ass'r*, 836 N.E.2d 1075, 1082 (Ind. Tax Ct. 2005). The Respondent presented an income approach to value utilizing the GRM method. According to the Respondent, the subject property was assessed using the traditional income approach for the 2012 assessment, which was not appropriate because each building has fewer than four (4) units.
32. The Respondent used IncomeWorks to collect data on rental properties comparable to the subject property. Respondent's Exhibit 4 summarizes five sales of income-producing properties and their respective GRM's. The Respondent's witness, Ms. McCarty, testified that these five sales are examples of the properties IncomeWorks used to determine rental data for comparable properties. The Respondent provided three IncomeWorks Evaluation Reports based on this data: one for the house, one for the two duplexes, and one for the triplex. IncomeWorks assigned the house a monthly rent of \$592 and a GRM of 6.30 resulting in a value of \$44,755. The two duplexes were assigned a monthly rent of \$402 per unit and a GRM of 3.90, resulting in a combined value of \$75,254. And the triplex was assigned a monthly rent of \$399 per unit and a GRM of 3.88, for a value of \$55,732. The summary sheet, Respondent's Exhibit 6, shows the total assessed value computed by IncomeWorks for all four buildings on the subject property was \$175,741, which the Respondent rounded to \$175,700.

33. While the Respondent asserted that IncomeWorks uses data from properties that are similar in age, condition, design, quality, amenities, and have similar locations, the Respondent failed to convey how the five purportedly comparable properties' particular features and characteristics are similar to the subject property. Specific reasons must be provided as to why a proponent believes a property is comparable. Conclusory statements that a property is "similar" or "comparable" to another property do not constitute probative evidence of the comparability of two properties. *Long*, 821 N.E.2d at 470.
34. Again, the Respondent did not support the comparability of these five properties to the subject property as required by *Long*. Although they only represent a sample of the properties included in the IncomeWorks calculations, the Respondent failed to provide any evidence to establish that there were other sales included in the IncomeWorks analysis that were, in fact, comparable to the subject property. Furthermore, there is nothing in the record to suggest that the other properties were of a sufficient quantity or quality to generate reliable and consistent sales and income data for the development of a GRM.
35. Additionally, the sale dates for the five purportedly comparable properties ranged from January 2008 to April 2011. Although the Respondent provided these sale dates, there is no evidence to establish whether the dates for the gross income data correspond to the dates of the sales. In any case, the Respondent's analysis did not properly account for the age of the income and sales data from the five purportedly comparable properties by making adjustments to relate those figures to the appropriate valuation date of March 1, 2012 before calculating the GRM. *See Long*, 821 N.E.2d at 471 (stating that any evidence of value relating to a different date must have an explanation about how it demonstrates, or is relevant to, that required valuation date).
36. The Respondent also failed to specifically explain how the three different GRM's were derived from the market data collected on the purportedly comparable properties. The Respondent provided no testimony concerning the development of the three GRM's and also failed to offer any supporting evidence, such as sales disclosure forms, to verify that the sale prices reflected the market value. Without this verification, it is possible that the sale prices may have included the value of personal property, financing or leases, and the sales may not have been open-market, arm's-length transactions. There is also no evidence that the income data was gathered at the time of the sale, or whether it included income from sources other than rent. Thus, the Board cannot conclude that the proffered multipliers are based on valid market data. Given the numerous issues discussed above, the Respondent did not provide adequate support for the GRMs used to calculate the value of the subject property.
37. The Respondent also relied on IncomeWorks to determine the potential rents per month and the potential gross rents for each building on the subject property. The rents from the five purportedly comparable properties ranged from \$500 to \$612.50 per month, but as previously discussed the Respondent's evidence did not support their comparability to the

subject property. The Respondent also attempted to support the rental rates used by IncomeWorks with data developed by the AIC, but the Respondent did nothing to explain how the data from AIC related to this case. Thus, the Respondent failed to provide a substantial basis for the potential gross rents used in the IncomeWorks analysis.

38. The Respondent appears to have completely relied on IncomeWorks to identify comparable properties, collect and analyze sales and income data from those comparable properties, develop the potential gross rents and an income-multiplier, and compute an assessed value for the subject property based thereon. As part of making a prima facie case, “it is the taxpayer’s duty to walk the [Board] through every element of [its] analysis.” *Long*, 821 N.E.2d at 471 (quoting *Clark v. Dep’t of Local Gov’t Fin.*, 779 N.E.2d 1277, 1282 n. 4 (Ind. Tax Ct. 2002)). This requirement applies equally to an assessor. The Respondent failed to prove how IncomeWorks accomplished the aforementioned tasks. Thus, the Board has been deprived of the ability to assess the software’s reliability and the credibility of the resulting assessed value.<sup>5</sup>
39. Because the Respondent failed to sufficiently support the selected comparable properties, the GRM value, and the potential gross rents, the Respondent’s requested value for the 2012 assessment is not probative evidence of the subject property’s market value-in-use. Further, the Respondent failed to walk the Board through every element of the income approach analysis as required by *Long* and did not demonstrate that it conforms to generally accepted appraisal and assessment principles. Therefore, the Respondent failed to make a case supporting a higher assessment.

### CONCLUSION

40. The Petitioner made a prima facie case that the 2012 assessment should be \$165,000, and the Respondent failed to rebut the Petitioner’s evidence. The Petitioner is entitled to have the property’s 2012 assessment reduced to \$165,000.

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<sup>5</sup> IncomeWorks may be a valid tool for delivering a calculation of value. However, a party introducing a report produced by such software must also show that the underlying data used by the software is reliable for the report’s value conclusions to constitute probative evidence of a property’s market value-in-use.

## FINAL DETERMINATION

In accordance with the above findings and conclusions, the 2012 assessed value must be changed to \$165,000.

ISSUED: February 16, 2015

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Chairman, 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 this final determination under the provisions of Indiana Code § 6-1.1-15-5 and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required not later than forty-five (45) days after the date of this notice. The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>. The Indiana Tax Court's rules are available at <<http://www.in.gov/judiciary/rules/tax/index.html>>.