

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

**Petition No.:** 65-018-07-1-5-00004  
**Petitioners:** Andrei Sharygin and Tatiana Sharygina  
**Respondent:** Posey County Assessor  
**Parcel No.:** 009-01857-00  
**Assessment Year:** 2007

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 Posey County Property Tax Assessment Board of Appeals (the PTABOA) by written document dated June 6, 2008.
2. The PTABOA issued its Form 115 - Notification of Final Assessment Determination on December 19, 2008.
3. The Petitioners initiated an appeal to the Board by filing a Form 131 Petition dated January 16, 2009. The Petitioners elected to have their case heard according to the Board's small claims procedures.
4. The Board issued a notice of hearing to the parties dated March 10, 2010.
5. The Board held an administrative hearing on June 10, 2010, before the duly appointed Administrative Law Judge (the ALJ) Rick Barter.
6. The following persons were present and sworn in at hearing:
  - a. For Petitioners: Andrei Sharygin, Petitioner,
  - b. For Respondent: Kristi Carroll, Posey County Assessor,  
Debra Eads, Appraisal Research Corporation,

**FACTS**

7. The property under appeal is an improved residential parcel located at 405 East Fifth Street, Black Township, Posey County, in Mount Vernon, Indiana.

8. The ALJ did not conduct an on-site visit of the property.
9. For 2007, the PTABOA determined the assessed value of the subject property to be \$5,300 for the land and \$31,100 for the improvements, for a total assessed value of \$36,400.
10. The Petitioners requested a total assessed value of \$16,100 for 2007.

## ISSUES

11. Summary of the Petitioners' contentions in support of an alleged error in their assessment:
  - a. The Petitioners contend the subject property's 2007 assessed value is higher than the property's market value-in-use based on their February 1, 2007, purchase of the property for \$16,100. *Sharygin argument; Petitioner Exhibit 1, Page 7*. In support of this contention, the Petitioners offered the Settlement Statement from their purchase; a letter from their realtor; and the Multiple Listing Service (MLS) advertisement for the subject property. *Sharygin argument; Petitioner Exhibit 2, Page 4 through 9*. According to Mr. Sharygin, the property was offered for sale for \$16,900 for 71 days on the MLS, which is available to all real estate agents and the general public. *Sharygin argument; Petitioner Exhibit 1, Page 11*. Further, Mr. Sharygin argued, the Petitioners had no relationship with the seller and the negotiations and transactions were all handled by Indiana-licensed real estate agents. *Sharygin testimony*. Although there were other offers on the property, Mr. Sharygin testified, the seller accepted the Petitioners' offer of \$16,100. *Id.*
  - b. Mr. Sharygin argues that "a property's sale price and the asking price is the best evidence of the correct assessed value." *Sharygin argument (citing Hurricane Food Inc., v. White River Twp. Assessor, 836 N.E.2d 1069 (Ind. Tax Ct. 2005); Petitioner Exhibit 3*. Because the February 2007 purchase date of the subject property is just thirteen months beyond the January 1, 2006, valuation date for the 2007 assessment, Mr. Sharygin argues, it is therefore probative of the property's correct assessed value. *Sharygin argument*.
  - c. The Petitioners further contend that the property is over-valued based on the purchase prices of four other properties in the area that sold between March 2007 and March 2008. *Sharygin argument*. In support of this contention, the Petitioners submitted a list of properties located in the same general area as the appealed property and MLS data sheets showing the properties' list and sale prices. *Petitioner Exhibit 1, Pages 2 and 12 through 15*. Mr. Sharygin admitted that he did not provide evidence of the comparability of those neighboring properties. *Sharygin testimony*. However, he argues, the four sales show that the purchase price of the subject property was not an anomaly. *Sharygin argument*. In addition, Mr. Sharygin argues, the four sales from 2007 and 2008 were available to the county assessor at the time of the assessment and

should have been considered in determining the assessed value of the subject property. *Id.*

12. Summary of the Respondent's contentions in support of the assessment:
- a. The Respondent contends the 2007 assessed value is correct and that Petitioner's contention that the \$16,100 purchase price represents market value-in-use is not supported by the evidence. *Eads argument.* According to the Respondent's representative, the Petitioners' purchase of the property was not an arms-length transaction because it was a foreclosure property owned by a financial institution. *Eads argument.* Further, Ms. Eads argues, a single sale does not establish the market value of a property. *Id.*
  - b. The Respondent also contends the property is properly assessed based on its income value. *Eads argument.* Under the gross rent multiplier method, a property is valued using the annual income the property produces multiplied by a calculated factor. *Id.* According to Ms. Eads, the \$625 monthly rent that the Petitioners receive for the property supports a much higher value than the purchase price. *Eads argument.* Ms. Eads admitted, however, that she did not have the information to calculate the property's value using the gross rent multiplier method. *Id.*

#### **RECORD**

13. The official record for this matter is made up of the following:
- a. The Form 131 petition and related attachments.
  - b. The digital recording of the hearing.
  - c. Exhibits:
    - Petitioner Exhibit 1 – Copy of the Petitioners' Form 130 and attachments,
    - Petitioner Exhibit 2 – Copy of the Petitioners' Form 131 and attachments,
    - Petitioner Exhibit 3 – *Hurricane Foods Inc. v. White River Twp. Assessor*, 836 N.E. 2d 1069 (Ind. Tax Ct. 2005),
    - Petitioner Exhibit 4 – *Sharygin v. Posey County Assessor*, Indiana Board of Tax Review, Petition No. 65-018-07-1-5-00001 (2007),
    - Respondent Exhibits – None presented,
    - Board Exhibit A – Form 131 petition and its related attachments,
    - Board Exhibit B – Notice of Hearing,
    - Board Exhibit C – Hearing sign-in sheet.
  - d. These Findings and Conclusions.

## ANALYSIS

14. 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 case. *Id.*; *Meridian Towers*, 805 N.E.2d at 479.
15. The Petitioners failed to provide sufficient evidence to establish a prima facie case for a reduction in their assessed value. The Board reached this decision for the following reasons:
  - a. Indiana assesses real property based on its “true tax value,” which the 2002 Real Property Assessment Manual defines as “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.” 2002 REAL PROPERTY ASSESSMENT MANUAL (MANUAL) (incorporated by reference at 50 IAC 2.3-1-2). The appraisal profession traditionally has used three methods to determine a property’s market value: the cost approach, the sales comparison approach, and the income approach to value. *Id.* at 3, 13-15. Indiana assessing officials generally use a mass appraisal version of the cost approach, as set forth in the REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 – VERSION A (the GUIDELINES).
  - b. A property’s market value-in-use, as determined using the Guidelines, is presumed to be accurate. *See MANUAL* at 5; *Kooshtard Property VI, LLC v. White River Twp. Assessor*, 836 N.E.2d 501, 505 (Ind. Tax Ct. 2005); and *P/A Builders & Developers, LLC*, 842 N. E.2d 899 (Ind. Tax Ct. 2006). A taxpayer may rebut that presumption with evidence that is consistent with the Manual’s definition of true tax value. *MANUAL* at 5. A market value-in-use appraisal prepared according to the Uniform Standards of Professional Appraisal Practice often will suffice. *Id.*; *Kooshtard Property VI*, 836 N.E.2d at 505, 506 n.1. A taxpayer may also offer actual construction costs, sales information for the subject property or comparable properties

and any other information compiled according to generally accepted appraisal practices. MANUAL at 5.

- c. Regardless of the method used to rebut an assessment's presumption of accuracy, a party to an appeal must explain how his or her evidence relates to the 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). For the March 1, 2007, assessment, that valuation date is January 1, 2006. 50 IAC 21-3-3.
- d. Here the Petitioners presented undisputed evidence that they purchased the subject property for \$16,100. *Sharygin testimony; Petitioner Exhibit 1*. The property had been offered on the open market for 71 days and their purchase of the property was based on negotiations between real estate agents on behalf of both the buyer and seller. *Id.* The seller listed the property for \$16,900 and received multiple offers before accepting the Petitioners' offer. *Id.* The Petitioners' additional evidence shows four properties of various sizes and ages sold for similar prices, suggesting that the value of the Petitioners' property reflects a pattern in the community and is not an anomaly. *Petitioner Exhibit 1*. Thus, the Petitioners presented some evidence that their purchase of the subject property, although from a financial institution, represented a market sale.
- e. The Petitioners fell short of raising a prima facie case, however, when they neglected to address the appropriate time frame for the appeal at bar. The valuation date for the March 1, 2007, assessment is January 1, 2006. 50 IAC 21-3-3. The Petitioners' purchase of the subject property in February of 2007 falls thirteen months beyond the valuation date required to prove the property's 2007 value. In order for their purchase of the subject property to be probative of the property's market value-in-use, the Petitioners must have submitted probative evidence to adjust the property's purchase price to the January 1, 2006, valuation date.<sup>1</sup> *See O'Donnell v. Dep't of Local Gov't Fin.*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006) (parties must explain how their evidence relates to the property's market value-in-use as of the relevant valuation date). This they did not do.
- f. The Petitioners also contend that the assessed value of their property is too high based on the sales of other local properties. *Sharygin argument*. In support of this contention, the Petitioners submitted a list of four properties that sold between March 2007 and March 2008 and MLS data sheets showing the list prices and the sale prices. *Petitioner Exhibit 1, Pages 12-15*. In making this argument, the Petitioners

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<sup>1</sup> Pursuant to 50 IAC 21-3-3(a), which states that "local assessing officials shall use the sale of properties occurring between January 1, 2004, and December 31, 2005, in performing ratio studies for the March 1, 2006, assessment date. For assessment years occurring March 1, 2007, and thereafter, the local assessing official shall use sales of properties occurring the two (2) calendar years preceding the relevant assessment date," the Board has found market value evidence within those two prior calendar years to be some evidence of market value-in-use. Here, however, the Petitioners' purchase fell outside of that "grace" period and therefore some additional evidence must have been submitted to trend the February 1, 2007, purchase price to the January 1, 2006, valuation date for the Petitioners' purchase of the property to be probative of the property's value.

essentially rely on a sales comparison approach to establish the market value in use of their property. See MANUAL at 3 (stating that the sales comparison approach “estimates the total value of the property directly by comparing it to similar, or comparable, properties that have sold in the market.”). In order to effectively use the sales comparison approach as evidence in a property assessment appeal, however, the proponent must establish the comparability of the properties being examined. Conclusory statements that a property is “similar” or “comparable” to another property do not constitute probative evidence of the comparability of the two properties. *Long*, 821 N.E.2d at 470. 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. Similarly, the proponent must explain how any differences between the properties affect their relative market values-in-use. *Id.* Here, however, the Petitioners presented no evidence to show that the offered properties were comparable to the subject property. Nor did they value any differences between the properties. In fact, Mr. Sharygin testified it was not his intention to use the other properties as comparables but instead to demonstrate sales in the same price range as his purchase price. While the evidence does show similar sales prices, without the support of valid sales comparison approach evidence, the Petitioners’ argument is not probative of the subject property’s market value-in-use.

- g. Where the Petitioners have not supported their claim with probative evidence, the Respondent’s duty to support the assessment with substantial evidence is not triggered. *Lacy Diversified Indus. v. Dep’t of Local Gov’t Fin.*, 799 N.E.1215, 1221-1222 (Ind. Tax Ct. 2003).

### CONCLUSION

- 16. The Petitioners failed to raise a prima facie case that their property was over-valued in its 2007 assessment. The Board finds in favor of the Respondent.

### FINAL DETERMINATION

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines the assessment should not be changed.

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

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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

### **IMPORTANT NOTICE**

- Appeal Rights -

**You may petition for judicial review of this 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 this 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>.**