

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

**Petition No.:** 35-005-07-1-3-00314  
**Petitioner:** Shuttleworth, Inc.  
**Respondent:** Huntington County Assessor  
**Parcel No.:** 35-05-09-300-563.200-005  
**Assessment Year:** 2007

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

**Procedural History**

1. On August 4, 2008, Shuttleworth, Inc. filed a Form 130 petition contesting the subject property’s 2007 assessment. On February 23, 2010, the Huntington County PTABOA mailed notice of its determination denying Shuttleworth relief.
2. Shuttleworth then timely filed a Form 131 petition with the Board. It elected to have its appeal heard under the Board’s small claims procedures.
3. On July 28, 2010, the Board held an administrative hearing through its designated Administrative Law Judge, Patti Kindler (“ALJ”).
4. The following people testified under oath:
  - a) For Shuttleworth: Dave Schaadt, certified tax representative, Integrity Tax Consulting, Inc.
  - b) For the Assessor: Terri Boone, Huntington County Assessor  
Julie Newsome, deputy assessor

**Facts**

5. The subject property includes a 48,175-square-foot light manufacturing building on a 5.74-acre lot. The property is located at 10 Commercial Road in Huntington, Indiana.
6. Neither the Board nor the ALJ inspected the subject property.

7. The PTABOA determined the following values for the subject property:  
Land: \$97,500      Improvements: \$762,500      Total: \$860,000
8. On its Form 131 petition, Shuttleworth requested the following values:  
Land: \$97,500      Improvements: \$625,100      Total: \$722,600
9. At the hearing, Shuttleworth requested an assessment equaling \$15 per square foot of building area.

### **Parties' Contentions**

10. Shuttleworth's representative, Mr. Schaadt, offered the following evidence and arguments:
  - a) The subject property is assessed too high in light of the sale prices for similar industrial properties in northern Indiana. *Schaadt testimony*. In reaching that conclusion, Mr. Schaadt performed sales comparison analyses using three different groups of properties. The first group included four sales and one listing. Four of the properties were from Huntington County and one was from Kendallville in Noble County. All five properties either were sold or were listed for sale between December 2004 and December 2007 for prices ranging from \$7.49 to \$11.67 per square foot. The buildings were between 17 and 42 years old, had average wall heights between 16 and 20 feet, and devoted between 3% and 10% of their space to offices. *Id.*; *Pet'r Ex. 2*. The properties as a whole had land-to-building ratios between 2:1 and 31.43:1. The subject building, by contrast, was 32 years old, had 15-foot-high walls, and devoted 32% of its space to office use. And the subject property had a 5.13:1 land-to-building ratio. *Id.*
  - b) Mr. Schaadt used the United States Department of Labor's consumer price index ("CPI") to adjust each sale price to a January 2006 value. He then made the following additional adjustments to reflect differences between the comparable properties and the subject property:
    - 1% for each percentage point difference in the amount of office space,<sup>1</sup>
    - 1% each year of difference in building age,
    - 1% for each foot of difference in average wall height, and
    - 2% per point difference in land-to-building ratio.

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<sup>1</sup> Although 32 % of the subject building was used as office space, Mr. Schaadt did not adjust for each percentage point difference between the comparable buildings and the subject buildings. Instead, for purposes of the adjustment, he treated the subject building as if only 15% of it were used as office space. For example, he adjusted the sale price for 1605 Riverfork Drive East (comparable 3), in which only 3% of the building was used as office space, by 12%. *See Pet'r Ex. 3*.

*Schaadt testimony; Pet'r Ex. 3.* According to Mr. Schaadt, he used similar adjustments “throughout the state” based on his experience in many counties. *Schaadt testimony.*

- c) The properties’ adjusted sale and listing prices ranged from \$8.29 to \$11.37 per square foot, with an average of \$9.73. *Schaadt testimony; Pet'r Ex. 3.* By contrast, the subject property was assessed for \$17.65 per square foot. Mr. Schaadt also offered an analysis for the five properties in which he did not adjust the properties’ sale or listing prices other than using his CPI time adjustment. *Schaadt testimony; Pet'r Ex. 4.*
- d) Mr. Schaadt’s second group of properties was a subset of the first and included only properties from Huntington County. The second group’s adjusted sale prices ranged from \$8.29 to \$11.37 per square foot with an average of \$9.75. *Schaadt testimony; Pet'r Ex. 5.*
- e) The last group consisted of four Huntington County properties, three of which were included in the first two groups. Mr. Schaadt created the last group because he wanted to analyze a group of properties with buildings close to the subject building’s age. Mr. Schaadt once again used the properties’ actual sale and listing prices adjusted only for time. Those time-adjusted prices ranged from \$7.16 to \$13.16 per square foot with an average of \$10.12. *Schaadt testimony; Pet'r Exs. 1-2, 6.*<sup>2</sup>
- f) The average unadjusted sale price per square foot for all the properties in his various analyses was \$9.79 per square foot, while the average adjusted sale price was \$9.71 per square foot. *Schaadt testimony; Pet'r Ex. 8.* Mr. Schaadt requested an assessment equaling \$15 per square foot, which is over \$4.00 more than the highest average under any of his analyses. It is also \$3.33 more than the highest unadjusted sale price for any of the comparable properties. And that building was both newer and had higher walls than the subject building. *Schaadt testimony; Pet'r Exs. 2, 8.*
- g) According to Mr. Schaadt, his analyses better reflected the subject property’s value than did Ms. Newsome’s competing sales-comparison analysis. *Schaadt testimony.* Ms. Newsome unjustifiably excluded three comparable properties from Huntington. Most notably, she excluded 1625 Riverfork Drive East, which contains a building that is 15 years newer than the subject building and has walls that are five feet higher, but which sold for only \$11.67 per square foot. *Id; Pet'r Ex. 2.* Although Ms. Newsome claimed that 1625 Riverfork Drive East’s sale was not an arm’s length transaction because the property was a “foreclosure, the

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<sup>2</sup> Mr. Schaadt also analyzed a group of seven properties, several of which were contained in his other three groupings. Although Mr. Schaadt offered an exhibit (Pet'r Ex. 1) containing his analysis of that seven-property group, he did not rely on that analysis at the hearing. *See Schaadt testimony; Pet'r Ex. 1.*

property was listed on the open market for almost two years before it sold. *Schaadt testimony.*

- h) Had Ms. Newsome used 1625 Riverfork Drive East and the other Huntington properties that Ms. Schaadt used in his analyses, she would have estimated a lower value for the subject property. And because those properties contained buildings that were closer in age to the subject building, they more accurately reflect the subject property's true market value. *Schaadt argument.*
11. The Assessor offered the following evidence and arguments:
- a) The market for similar properties located within three miles of the subject property supports its assessment. *Newsome testimony.* To demonstrate that the assessment was reasonable, the Assessor's deputy, Ms. Newsome, performed her own sales-comparison analysis using properties located in Huntington's Riverfork Industrial Park. *Id.; Exs. 5A-5F.*
- b) Ms. Newsome used the following sales in her analysis:
- 1600 Riverfork Drive East. This property contains a 55,128-square-foot light manufacturing and assembly plant built in 1989 on 9.1 acres. It is made of pre-engineered steel with 22-foot walls, and 11% of the building is used for offices. The property also has a stand-alone 40' x 60' pole building. The property sold for \$1,050,000 in March 2003. *Newsome testimony; Resp't Ex. 5C.*
  - 1700 Riverfork Drive East. This property contains a 7,200-square-foot light industrial manufacturing warehouse built in 2004 on 14.19 acres, of which only 6.5 acres are usable. The building is made of pre-engineered steel with 16-foot walls, and 25% of the building is used for offices. The building also has two truck docks. The property sold for \$375,000 on October 26, 2009. *Newsome testimony; Resp't Ex. 5*
  - 1750 Riverfork Drive East. This property contains a 40,200-square-foot one-story light industrial warehouse built in 2004 on 13.38 acres, of which only approximately 8 acres are useable. The building is made of steel with 30-foot walls, and 3% of the building is used for offices. The building also has four truck docks. The property sold for \$1,600,000 on February 15, 2007. *Newsome testimony; Resp't Ex. 5E.*
  - 1890 Riverfork Drive West. This property contains an 186,474-square-foot one-story light industrial facility built in 1987 on 13.71 acres. It is made of concrete block and metal with 24-foot walls, and 4% of the building is used for offices. The building also has six truck docks. The

property sold for \$3,500,000 on April 19, 2010. *Newsome testimony; Resp't Ex. 5F.*

- c) Ms. Newsome considered adjusting each comparable property's sale price to reflect differences between it and the subject property in terms financing concessions, time, year built, land-to-building ratio, building area, wall height, and percentage of office space. *Newsome testimony; Resp't Exs. 5 – 5A.* To determine an appropriate adjustment for trending each property's sale price to a January 1, 2006 value, Ms. Newsome looked to 1890 Riverfork Drive West, which sold on July 7, 2001, for \$3,570,000, and again on March 25, 2010, for \$3,500,000. The difference between those two sale prices reflected monthly appreciation of .015%. *Newsome testimony; Resp't Ex. 5 at 2.* Ms. Newsome did not explain how she calculated her other adjustments.
- d) The adjusted sale prices ranged from \$19.15 to \$32.65 per square foot, all of which were more than the subject property's assessment.
- e) Mr. Schaadt asked Ms. Newsome why she did not use the following three properties in her analysis: 1230 Sabine Street, 1605 Riverfork Drive East, and 1625 Riverfork Drive East. According to Ms. Newsome, the Sabine Street property does not have the same visibility and accessibility as either the subject property or Ms. Newsome's comparables because it is not located in an industrial park. And because the two Riverfork Drive sales followed bankruptcies, Ms. Newsome did not believe that they were arm's-length transactions. Also, 1625 Riverfork Drive East was listed in April 2006, but it did not sell until December 2007. *Newsome testimony.*

### **Record**

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

- a) The Form 131 petition
- b) A digital recording of the hearing
- c) Exhibits:

Petitioner Exhibit 1: Packet containing cover sheet, map of property, photographs, assessment analysis, aerial view, comparables, property record card, certificate recognizing David Schaadt as a certified tax representative, Qualifications of David M. Schaadt

Petitioner Exhibit 2: Cover sheet with explanation of special-use buildings, "Comparable Property Reports" for the subject property and five other properties, property record cards

Petitioner Exhibit 3: Comparable grid for five comparable properties with adjustments and explanation  
Petitioner Exhibit 4: Comparable grid for five comparable properties making no adjustments other than for time  
Petitioner Exhibit 5: Comparable grid for four Huntington County properties with adjustments and explanation  
Petitioner Exhibit 6: Comparable grid for four Huntington County properties making no adjustments other than for time  
Petitioner Exhibit 7: USDL Consumer Price Index Value Trending Calculator for five comparable properties  
Petitioner Exhibit 8: Sales Breakdown Comparison

Respondent Exhibit 1: Form 131 petition  
Respondent Exhibit 2: Form 115, PTABOA findings  
Respondent Exhibit 3: Form 130 petition  
Respondent Exhibit 4: The subject property's 2007 assessed values, description of features, aerial map, photograph and property record card  
Respondent Exhibit 5: Description of the subject land, definition of market value, explanation of the Assessor's sales-comparison approach to value,  
Respondent Exhibit 5A: Sales comparison grid with four comparable properties  
Respondent Exhibit 5B: Comparable location map  
Respondent Exhibit 5C: Description of pertinent features with aerial map, photograph, and property record card for comparable #1  
Respondent Exhibit 5D: Description of pertinent features with aerial map, photograph, property record card, and sales disclosure for comparable #2  
Respondent Exhibit 5E: Description of pertinent features with aerial map, photograph, property record card, and sales disclosure for comparable #3  
Respondent Exhibit 5F: Description of pertinent features with aerial map, photograph, property record cards, sales disclosure for comparable #4, and Assessor's concluding comments

Board Exhibit A: Form 131 petition  
Board Exhibit B: Hearing notice  
Board Exhibit C: Hearing sign-in sheet  
Board Exhibit D: Shuttleworth's witness and exhibit list  
Board Exhibit E: Assessor's witness and exhibit list

d) These Findings and Conclusions.

## Analysis

### Burden of Proof

13. A taxpayer seeking review of an assessing official's determination must establish a prima facie case proving both that the current assessment is incorrect, and specifically what the correct assessment should 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).
14. In making its case, the taxpayer must explain how each piece of evidence relates to its 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”).
15. Once the taxpayer establishes a prima facie case, the burden shifts to the respondent to impeach or rebut the petitioner’s evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004); *Meridian Towers*, 805 N.E.2d at 479.

### Discussion

16. Shuttleworth did not make a prima facie case for reducing the subject property’s assessment. The Board reaches this conclusion for the following reasons:
  - a) Indiana assesses real property based on its true tax value, which the 2002 Real Property 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 at 2 (incorporated by reference at 50 IAC 2.3-1-2). Appraisers traditionally have used three methods to determine a property’s value: the cost, sales-comparison, and income approaches. *Id.* at 3, 13-15. Indiana assessing officials generally use a mass-appraisal version of the cost approach set forth in the Real Property Assessment Guidelines for 2002 – Version A.
  - 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) *reh’g den. sub nom. PA Builders & Developers, LLC*, 842 N.E.2d 899 (Ind. Tax Ct. 2006). But 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 (“USPAP”) often will suffice. *Id.*; *Kooshtard Property VI*, 836 N.E.2d at 506 n.6. A taxpayer may also offer actual construction costs, sales information for the subject or comparable properties, and any other information compiled according to generally accepted appraisal principles. MANUAL at 5.

- c) Regardless of the method used to rebut an assessment's presumed accuracy, 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). Otherwise, that evidence lacks probative value. *Id.* For March 1, 2007 assessments, that valuation date was January 1, 2006. 50 IAC 21-3-3(2006).
- d) Shuttleworth relied on Mr. Schaadt's analysis of the sale and listing prices for several industrial properties. The sales-comparison approach is a generally accepted appraisal methodology that "estimates the total value of [a given] property directly by comparing it to similar, or comparable, properties that have sold in the market." MANUAL at 3. In order to effectively use a sales-comparison analysis as evidence in a property assessment appeal, however, the proponent must show that the properties on which that analysis is based are truly comparable to the property under appeal. Conclusory statements that a property is "similar" or "comparable" to another property do not suffice. *Long*, 821 N.E.2d at 470. Instead, the proponent must identify the appealed property's characteristics and explain how those characteristics compare to the characteristics of the purportedly comparable properties. *Id.* at 471. Similarly, he must explain how any differences between the properties affect their relative market values-in-use. *Id.*
- e) Mr. Schaadt's sales-comparison analyses did not meet the threshold requirements for those analyses to carry probative weight. Granted, Mr. Schaadt examined how the various properties that he used in his analyses compared to the subject property along at least a few lines. For example, he compared the buildings' respective ages, wall heights, and percentages of office space as well as the properties' land-to-building ratios. But he did little to explain how the properties compared in terms of other factors likely to affect market value-in-use.
- f) Even for the comparison factors that Mr. Schaadt identified, he did little to explain how differences between the purportedly comparable properties and the subject property affected the properties' relative values. While Mr. Schaadt adjusted each sale or listing price, he did not explain how he quantified those adjustments or otherwise show that those quantifications bore any relation to the market. Indeed, Mr. Schaadt's age, wall-height, and office-space adjustments were remarkably similar; each was 1% of the property's sale price per unit difference. Thus, for example, Ms. Schaadt subtracted 13% from 1605 Riverfork Drive East's sale price because that property's building was 13 years newer than the subject building, and he subtracted 5% because its walls were five feet higher than the subject building's walls. *See Pet'r Ex. 3*. Without any probative evidence to support such a notion, the Board finds it highly unlikely that the market would have valued differences in wall-height, building age, and percentage of office space so uniformly.



- g) In light of those problems, Mr. Schaadt was justifiably concerned that the Board might not accept his adjustments. He therefore offered two alternative sales-comparison analyses in which the only adjustment that he made to his comparable properties' sale or listing prices was to relate those prices to January 2006 values. The Board recognizes that sufficient data may not exist to quantify specific adjustments in many instances. But that does not mean that one can simply ignore relevant differences that affect market value. Instead, where an appraiser lacks sufficient data from which to quantify adjustments, he can perform a qualitative analysis. In any event, Mr. Schaadt offered nothing to show the Board that failing to account for relevant differences between his purportedly comparable properties and the subject property conforms to generally accepted appraisal principles. The Board therefore gives Mr. Schaadt's alternative analyses little weight.
  
- h) At most, Shuttleworth's evidence demonstrates that various industrial properties that are superior to the subject property in several ways but inferior in others sold for significantly less than the subject property's assessment on a per-square-foot basis. Viewed charitably, that evidence arguably shows that the subject property may be assessed too high. But it does almost nothing to show the subject property's actual market value-in-use or even a likely range of values. Shuttleworth therefore failed to make a prima facie case for changing the subject property's assessment.

**Conclusion**

- 17. Shuttleworth failed to offer sufficient evidence to make a prima facie case. The Board therefore finds in favor of the Assessor.

**Final Determination**

In accordance with the above findings and conclusions, the Indiana Board of Tax Review orders that the subject property's March 1, 2007 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>>