

REPRESENTATIVE FOR PETITIONER:  
Michael L. White, Tax Representative

REPRESENTATIVE FOR RESPONDENT:  
Marlene Knipp, Lake County Hearing Officer

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**BEFORE THE  
INDIANA BOARD OF TAX REVIEW**

Sayta Pal Singh,	)	Petition Nos.: 45-026-06-1-5-00014
	)	45-026-07-1-5-00001
	)	45-026-08-1-5-00001
Petitioner,	)	
	)	Parcel No.: 007-24-30-0221-0040
	)	
v.	)	
	)	
	)	
Lake County Assessor,	)	County: Lake
	)	Township: North
	)	
Respondent.	)	Assessment Years: 2006, 2007 and 2008

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Appeal from the Final Determination of the  
Lake County Property Tax Assessment Board of Appeals

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**January 7, 2011**

**FINAL DETERMINATION**

The Indiana Board of Tax Review (Board) has reviewed the facts and evidence, and having considered the issues, now finds and concludes the following:

Sayta Pal Singh  
4906 Parrish Avenue  
Findings & Conclusions  
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## FINDINGS OF FACT AND CONCLUSIONS OF LAW

### ISSUE

1. The issue presented for consideration by the Board is whether the assessed value of the Petitioner's property is over-stated for the 2006, 2007 and 2008 assessment years.

### PROCEDURAL HISTORY

2. The Petitioner initiated his 2006 assessment appeal by filing a Form 130 Petition to the Property Tax Assessment Board of Appeals for Review of Assessment on February 22, 2008. The Lake County Property Tax Assessment Board of Appeals (PTABOA) issued its assessment determination for 2006 on May 27, 2010. The Petitioner filed a Form 130 petition appealing his 2007 assessment on March 9, 2009. Although the record does not include a Form 130 petition for 2008, the Lake County Assessor signed Form 134 reports for both 2007 and 2008.
3. Pursuant to Indiana Code § 6-1.1-15-1, the Petitioner filed a Form 131 Petition for Review of Assessment on July 1, 2010, petitioning the Board to conduct an administrative review of the property's 2006 assessment. The Petitioner filed his petitions for the 2007 and 2008 assessment years on July 7, 2010. According to Mr. White, he filed the Petitioner's 2007 and 2008 appeals upon receipt of the Form 134, Joint Report by the Taxpayer/Assessor to the County Board of Appeals of a Preliminary Informal Meeting because, Mr. White contends, Lake County assessing officials informed him that the taxpayer would not receive a Form 115, Notification of Final Assessment Determination.<sup>1</sup>

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<sup>1</sup> The Respondent's representative did not object to Mr. White's testimony and, in fact, all parties agreed on the record to waive the 30-day hearing notice requirement and proceed with the hearing on all three tax years.

## **HEARING FACTS AND OTHER MATTERS OF RECORD**

4. Pursuant to Indiana Code § 6-1.1-15-4 and § 6-1.5-4-1, the duly designated Administrative Law Judge (the ALJ), Ellen Yuhan, held a hearing on November 8, 2010, in Crown Point, Indiana.

5. The following persons were sworn at the hearing:

For the Petitioner:

Sayta Pal Singh, property owner,  
Michael L. White, tax representative,  
Thomas S. Bochnowski, appraiser,

For the Respondent:

Marlene Knipp, Lake County Hearing Officer,  
Robert W. Metz, Lake County Hearing Officer.

6. The Petitioner presented the following exhibits:

Petitioner Exhibit A – Appraisal of the Petitioner’s property.

7. The Respondent presented the following exhibits:

Respondent Exhibit 1 – Exhibit coversheet,  
Respondent Exhibit 2 – The subject property’s property record card,  
Respondent Exhibit 3 – Comparable sales spreadsheet,  
Respondent Exhibit 4 – Market data for 4112 Drummond Street,  
Respondent Exhibit 5 – Market data for 4137 Euclid Avenue,  
Respondent Exhibit 6 – Market data for 1216 Beacon Street,  
Respondent Exhibit 7 – Market data for 718 East 151<sup>st</sup> Street,  
Respondent Exhibit 8 – Market data for 4224 Drummond Street,  
Respondent Exhibit 9 – Market data for 4922 Walsh Avenue,  
Respondent Exhibit 10 – Market data for 4907 Todd Avenue,  
Respondent Exhibit 11 – Memorandum comparing gross rent multipliers,

8. The following additional items are officially recognized as part of the record of proceedings and labeled as Board Exhibits:

Board Exhibit A – Form 131 Petitions,  
Board Exhibit B – Notices of Hearing, dated September 29, 2010,  
Board Exhibit C – Waiver of Hearing Notice for the 2007 and 2008 appeals,  
Board Exhibit D – Hearing sign-in sheet.

9. The subject property is a two-unit residential property located at 4906 Parrish Avenue, in East Chicago, Indiana.
10. The ALJ did not conduct an on-site inspection of the property.
11. For 2006, the PTABOA determined the assessed value of the subject property to be \$7,700 for the land and \$93,500 for the improvements, for a total assessed value of \$101,200. For 2007 and 2008, the Lake County Assessor determined the assessed value of the property to be \$7,700 for the land and \$94,600 for the improvements, for a total assessed value of \$102,300.
12. The Petitioner contends his property's assessment should be \$47,000 for each of the 2006, 2007 and 2008 assessment years.

#### **JURISDICTIONAL FRAMEWORK**

13. The Indiana Board is charged with conducting an impartial review of all appeals concerning: (1) the assessed valuation of tangible property; (2) property tax deductions; and (3) property tax exemptions; that are made from a determination by an assessing official or a county property tax assessment board of appeals to the Indiana Board under any law. Ind. Code § 6-1.5-4-1(a). All such appeals are conducted under Indiana Code § 6-1.1-15. *See* Ind. Code § 6-1.5-4-1(b); Ind. Code § 6-1.1-15-4.

## ADMINISTRATIVE REVIEW AND THE PETITIONER'S BURDEN

14. A Petitioner seeking review of a determination of the county Property Tax Assessment Board of Appeals 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).
15. 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. Wash. 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”).
16. 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.

## PARTIES' CONTENTIONS

17. The Petitioner contends that the assessed value of his property is over-stated based on an appraisal. The Petitioner presented the following evidence in support of his contention:
  - A. The Petitioner's representative contends that the property is over-valued based on its appraised value. *White testimony*. In support of this contention, the Petitioner presented the appraisal of Cassandra K. Schmidt, a licensed residential appraiser, and Thomas Bochnowski, a certified general appraiser. *Petitioner Exhibit A*. The appraisers estimated the value of the property to be \$47,000 as of January 1, 2007. *Id.* Further, because the property was assessed for the same amount in 2007 and 2008

and because the property's 2006 assessment was only \$1,100 less than the 2008 value, Mr. White contends that the market value-in-use of the Petitioner's property would be \$47,000 for all three years. *White testimony*.

- B. The Petitioner's appraiser, Mr. Bochnowski testified that he and Ms. Smith inspected the subject property on October 15, 2009. *Bochnowski testimony*. According to Mr. Bochnowski, they estimated the property's value using both the income approach and the sales comparison approach to value. *Id.*; *Petitioner Exhibit A*.
- C. For the income approach to value, Mr. Bochnowski testified that the appraisers used a gross rent multiplier (GRM) analysis. *Bochnowski testimony*. According to Mr. Bochnowski, the property's 2007 annual rent was \$13,320 and the appraisers determined the gross rent multiplier was 3.5 from comparable sales. *Id.* Applying the gross rent multiplier to the property's annual rent resulted in a value of \$46,500. *Id.*; *Petitioner Exhibit A*. In response to questioning, Mr. Bochnowski testified that, although only one unit was rented, the appraisers considered the potential gross income for both units. *Bochnowski testimony*.
- D. For their sales comparable analysis, the appraisers compared the subject property to six comparable properties and made adjustments to the properties' sales prices where adjustments were appropriate. *Bochnowski testimony*; *Petitioner Exhibit A*. Mr. Bochnowski testified that their analysis resulted in adjusted prices that ranged from \$34,000 to \$51,000. *Id.* Based on these adjusted sale prices, the appraisers estimated the property's value to be \$47,000 as of January 1, 2007. *Id.*
- E. Finally, Mr. White argues that Board should give little weight to the Respondent's comparable sales. *White testimony*. According to Mr. White, the sales are simply nearby properties that the Respondent made no attempt to show were comparable to the Petitioner's property. *White testimony*. Moreover, Mr. White contends, the Respondent failed to make any adjustments to those properties' sales prices to account for the differences between the properties. *Id.* Mr. White argues that the

Petitioner's appraisers, on the other hand, actually inspected the subject property and made adjustments to the comparable sales to value the Petitioner's property. *Id.*

18. The Respondent contends the property's assessed value is correct. The Respondent presented the following evidence in support of the assessment:
  - A. The Respondent's representative, Ms. Knipp, argues that the Petitioner's property is properly assessed based on other sales in the Petitioner's neighborhood. *Knipp testimony*. In support of this contention, Ms. Knipp presented seven comparable two-unit and three-unit properties that sold in 2004 and 2005. *Respondent Exhibits 3 – 9*. According to Ms. Knipp, she compared the finished living area, the condition of the house, the number of bedrooms, the assessed values of the properties, and the sales prices of each property from either a Multiple Listing Service (MLS) listing or from the county's sales disclosure system. *Id.*; *Knipp testimony*.
  - B. Further, Ms. Knipp argues, the Petitioner's appraisal should be given little weight by the Board. *Knipp testimony*. According to Ms. Knipp, the Petitioner's appraisers failed to choose comparable properties that were located close to the Petitioner's property. *Id.* Further, she claims, two of the comparable properties used on the Petitioner's appraisal are foreclosure sales and one property was bank owned. *Id.* In addition, Ms. Knipp testified that the Petitioner's appraisers identified the fifth "comparable" property as having sold for \$58,000, but county records show that it actually sold for \$68,000. *Id.*
  - C. Finally, Ms. Knipp contends that North Township did an extensive analysis of rental properties and determined that the gross rent multiplier for the area was 93. *Knipp testimony; Respondent Exhibit 11*. Applying that GRM, Ms. Knipp argues, results in a value of \$123,876 for the subject property.<sup>2</sup> *Id.* According to Mr. Metz, the

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<sup>2</sup> The Board notes that applying the Respondent's GRM to the Petitioner's annual rent (\$13,320) actually results in a value of \$1,238,760. Applying the Respondent's GRM to the Petitioner's monthly rent (\$13,320/12 or \$1,110), on the other hand, results in a value of \$103,230.

appraisal did not calculate the GRM properly because the GRM is for monthly rents, but the appraiser used that term for an annual multiplier. *Metz testimony*.

#### ANALYSIS

19. The 2002 Real Property Assessment Manual defines “true tax value” 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). 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. In Indiana, assessing officials generally value real property using a mass-appraisal version of the cost approach, as set forth in the Real Property Assessment Guidelines for 2002 – Version A.
20. A property’s assessment under the Guidelines is presumed to accurately reflect its true tax value. *See* MANUAL at 5; *Kooshtard Property VI, LLC v. White River Twp. Assessor*, 836 N.E.2d 501, 505 (Ind. Tax Ct. 2005); *P/A Builders & Developers, LLC*, 842 N.E.2d 899 (Ind. Tax 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 sales information for the subject property or comparable properties and other information compiled according to generally accepted appraisal principles. MANUAL at 5.
21. Regardless of the method used to rebut an assessment’s presumption of 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. Department of Local Government Finance*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006); *see also Long v. Wayne Township Assessor*, 821



N.E.2d 466, 471 (Ind. Tax Ct. 2005). For the March 1, 2006, assessment, the valuation date was January 1, 2005. 50 IAC 21-3-3. For the March 1, 2007, assessment, the valuation date was January 1, 2006, and for the March 1, 2008, assessment, the valuation date was January 1, 2007. *Id.*

22. Here, the Petitioner presented an appraisal report prepared by two licensed appraisers in which they valued the property at \$47,000 as of January 1, 2007. *Petitioner Exhibit A*. The appraisers certified that the appraisal report was prepared in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP). *Id.* Further Mr. White testified that the Assessor did not change the property's assessed value between 2007 and 2008. *White testimony*. Therefore, he argues, because property values did not change in that time, the property's estimated value as of January 1, 2007, for the March 1, 2008, assessment date should also apply to the March 1, 2007, assessment date. *Id.* Similarly, he argues that the property's assessed value was only about \$1,000 less in 2006 than it was for the 2007 and 2008 assessment dates. *Id.* Thus, Mr. White contends, the Petitioner seeks the same value for each of the three assessment years. *Id.* Because the Petitioner's representative presented some evidence relating the property's market value to the relevant valuation dates, the Board finds that the Petitioner raised a prima facie case. *See Meridian Towers*, 805 N.E.2d at 479 (An appraisal performed in accordance with generally recognized appraisal principles is often enough to establish a prima facie case).
23. Once the Petitioner establishes a prima facie case, the burden shifts to the assessing official to rebut the Petitioners' evidence. *See American United Life Insurance Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). To rebut or impeach the Petitioner's case, the Respondent has the same burden to present probative evidence that the Petitioner faced to raise its prima facie case. *Fidelity Federal Savings & Loan v. Jennings County Assessor*, 836 N.E.2d 1075, 1082 (Ind. Tax Court 2005).
24. The Respondent's representative first contends the property is properly valued based on comparable sales. *Knipp testimony*. In support of this contention, Ms. Knipp offered

sales and assessment information for seven other multi-family properties. *Respondent Exhibits 3-10*. 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 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, the Respondent failed to show that the nearby two and three-unit properties were comparable to the subject property. Moreover, the Respondent failed to value the differences between the properties. Thus, the Respondent failed to rebut the Petitioner’s prima facie case.

25. The Respondent’s representative also contends that the Board should give little weight to the Petitioner’s appraisal because the appraiser used foreclosure sales and properties that were “bank owned.” *Knipp testimony*. The Respondent appears to ask the Board to find that bank sales or foreclosure sales by definition do not reflect a property’s market value-in-use, but Ms. Knipp presented no evidence to support the inference that the sales were for below market prices. Statements that are unsupported by probative evidence are conclusory and of no value to the Board in making its determination. *Whitley Products, Inc. v. State Bd. of Tax Comm’rs*, 704 N.E.2d 1113, 1118 (Ind. Tax Ct. 1998). Without more, the fact that a particular property is a foreclosure sale or bank owned is insufficient to impeach or rebut the Petitioner’s appraisal.
26. In addition, Ms. Knipp argues that one of the Petitioner’s appraisers’ sale prices was incorrect. *Knipp testimony*. In support of this contention, Ms. Knipp argues that the sales disclosure form filed with the county identifies the sale price of 4140 Euclid Avenue as \$68,000. *Id.* The Petitioner’s appraiser, on the other hand, argues that the MLS listing sheet shows that the property was listed for \$68,000 but sold for \$58,000. *Bochnowski testimony*. The problem with both parties’ arguments, however, is that neither

representative offered a copy of their “evidence” as an exhibit. Therefore the Board has no information beyond each representative’s unsupported testimony to make a determination as to which of the competing sales values is more credible. Ultimately, however, even if the Board found that the Petitioner’s appraisers were incorrect on a single sale, it is insufficient to rebut the entire appraisal – particularly where the appraisers’ estimated value was based on six different comparable sales. Thus the Board need not determine whose evidence is more credible.

27. Finally, the Respondent argues that the Petitioner’s property is properly assessed based on an income approach analysis. *Knipp testimony*. According to Ms. Knipp, the North Township assessor “conducted an extensive market analysis of rental properties” and developed a GRM of 93 for East Chicago. *Knipp testimony; Respondent Exhibit 11*. However, Ms. Knipp offered no evidence of that “extensive market analysis.” While she could have offered a list of sales of rental properties and the resulting GRM calculation, here Ms. Knipp presented no explanation as to how the assessor arrived at the value. *See Whitley Products, Inc. v. State Bd. of Tax Comm’rs*, 704 N.E.2d 1113, 1118 (Ind. Tax Ct. 1998) (conclusory statements, unsupported by probative evidence, are of no value to the Board in making its determination). Thus, the Respondent’s income calculation is insufficient to rebut the Petitioner’s case.

### CONCLUSION

28. The Petitioner raised a prima facie case. The Respondent failed to rebut or impeach the Petitioner’s evidence. The Board finds in favor of the Petitioner and holds that the property’s market value in use for the 2006, 2007 and 2008 assessment years is \$47,000.

### FINAL DETERMINATION

In accordance with the findings of fact and conclusions of law above, the Indiana Board of Tax Review determines that the Petitioner’s property’s assessed value should be changed to \$47,000 for the 2006, 2007 and 2008 assessment years.

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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, 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>