

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

**Petition No.:** 41-041-07-1-5-00003  
**Petitioner:** David Sloan  
**Respondent:** Johnson County Assessor  
**Parcel No.:** 41-04-28-021-030.000-037  
**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 Petitioner initiated an assessment appeal with the Johnson County Property Tax Assessment Board of Appeals (PTABOA) by written document dated October 28, 2008.
2. The PTABOA issued its decision on June 1, 2009.
3. The Petitioner filed a Form 131 petition with the Board on July 9, 2009. The Petitioner elected to have his case heard pursuant to the Board's small claims procedures.
4. The Board issued a notice of hearing to the parties dated September 10, 2009.
5. The Board held an administrative hearing on October 20, 2009, before the duly appointed Administrative Law Judge Alyson Kunack.
6. Persons present and sworn in at hearing:
  - a) For Petitioner: David Sloan, Petitioner
  - b) For Respondent: Michael S. Watkins, Johnson County Assessor's Office<sup>1</sup>

**Facts**

7. The property is a residence located at 4907 Kerrington Boulevard in the city of Bargersville, in Johnson County.
8. The Administrative Law Judge (ALJ) did not inspect the property.

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<sup>1</sup> Mr. Watkins is a full time employee of the Assessor's office.

9. For 2006, the PTABOA determined the assessed value of subject property to be \$79,100 for the land and \$565,800 for the improvements, for a total assessed value of \$644,900.
10. The Petitioner requests an assessed value of \$68,100 for the land and \$512,000 for the improvements, for a total assessed value of \$580,100.

### **Issues**

11. Summary of the Petitioner's contentions in support of an alleged error in his assessment:
  - a) The Petitioner contends that his property is inequitably assessed based on a comparison of his assessment to the assessments of other comparable properties. *Sloan testimony*. In support of this argument, Mr. Sloan presented information on twelve properties, which he contends are similar in size, sale price, year built, and lot size to his home. *Id.*; *Petitioner Exhibits 4-7*. Further, seven of the twelve comparable properties are located in the same neighborhood as the subject property. *Id.* According to Mr. Sloan, his house was assessed for \$115 per square foot. *Sloan testimony; Petitioner Exhibits 4 and 5*. The assessed values of the comparable properties, however, averaged \$103 per square foot. *Sloan testimony; Petitioner Exhibits 4-7*. Mr. Sloan notes specifically that the property next door to the subject property which was built by the same builder in the same year, and is very similar in size and interior finish, has an assessed value of only \$105 per square foot. *Sloan testimony; Petitioner Exhibits 4 and 6*.
  - b) Mr. Sloan further argues that when he purchased the property in July of 2007, he was informed that the assessed value was \$548,700. *Sloan testimony*. According to Mr. Sloan, he purchased the home for \$645,000, and then the assessment increased to \$644,900 for 2007. *Id.* Mr. Sloan argues that assessed values should either be determined strictly by sales, or by a comparison of properties and appraisals – not both. *Id.*
12. Summary of the Respondent's contentions in support of the assessment:
  - a) The Respondent contends the property is valued correctly based on its sale price. *Watkins argument*. In support of this contention, the Respondent's representative offered a sales disclosure form from the Petitioner's purchase of the home in July of 2007. *Watkins testimony; Respondent Exhibit 1*. According to Mr. Watkins, the Petitioner purchased the property for \$645,000, which is within \$100 of the 2007 assessed value of \$644,900. *Id.*
  - b) In response to the Petitioner's argument that the property's value improperly increased after he purchased the property, Mr. Watkins testified that the 2006 assessment was based on the property being 83% complete, while the 2007 assessment was based on the home being 100% complete. *Watkins testimony*. According to Mr. Watkins, if the completion of the construction is accounted for

by multiplying the 2006 assessment of \$548,700 by 17%, the 2006 assessment supports the property's 2007 assessed value. *Id.*

### **Record**

13. The official record for this matter is made up of the following:
- a. The Petition, and all subsequent pre-hearing, and post-hearing submissions by either party.

- b. The digital recording of the hearing.

- c. Exhibits:

Petitioner Exhibit 1: Letter originating the Petitioner's appeal with the PTABOA,

Petitioner Exhibit 2: Form 131 petition,

Petitioner Exhibit 3: Form 115 determination,

Petitioner Exhibit 4: Comparables summary sheet,

Petitioner Exhibit 5: Assessment information for the subject property,

Petitioner Exhibit 6: Assessment information for 4919 Kerrington,

Petitioner Exhibit 7: Assessment information for 4854 Krestridge Court,

Petitioner Exhibit 8: Property Record Card for the subject property,

Respondent Exhibit 1: Sales disclosure form for the Petitioner's property,

Board Exhibit A: Form 131 Petition,

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 evidence. *Id.*; *Meridian Towers*, 805 N.E.2d at 479.
15. The Petitioner failed to provide sufficient evidence to establish a prima facie case for a reduction in the assessed value of his property. The Board reached this decision for the following reasons:
- a) 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.
  - b) 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 or comparable properties and other information compiled according to generally accepted appraisal principles. MANUAL at 5.
  - c) 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, 2007, assessment, the valuation date was January 1, 2006. 50 IAC 21-3-3.
  - d) Here the Petitioner contends his property is inequitably assessed based on a comparison of assessed values of other properties, including the house next door. *Sloan testimony; Petitioner Exhibits 4-8*. This argument, however, was found to be insufficient to show an error in an assessment by the Indiana Tax Court in *Westfield Golf Practice Center, LLC v. Washington Township Assessor*, 859 N.E.2d 396 (Ind. Tax Ct. 2007). In that case, the Indiana Tax Court held that

under the prior assessment system, “true tax value” was determined by Indiana’s assessment regulations and “bore no relation to any external, objectively verifiable standard of measure.” 859 N.E.2d at 398. Therefore, “the only way to determine the uniformity and equality of assessments was to determine whether the regulations were applied similarly to comparable properties.” *Id.* Presently, “Indiana’s overhauled property tax assessment system incorporates an external, objectively verifiable benchmark -- market value-in-use.” 859 N.E.2d at 399. “As a result, the new system shifts the focus from examining how the regulations were applied (i.e., mere methodology) to examining whether a property’s assessed value actually reflects the external benchmark of market value-in-use.” *Id.*

- e) Thus, the Tax Court held, it is not enough for a taxpayer to show that its property is assessed higher than other comparable properties. *Westfield Golf Practice Center*, 859 at 399. Instead, the taxpayer must present probative evidence to show that the assessed value, as determined by the assessor, does not accurately reflect the property’s market value-in-use. *Id.*; *see also P/A Builders & Developers, LLC v. Jennings Co. Assessor*, 842 N.E.2d 899, 900 (Ind. Tax Ct. 2006) (The focus is not on the methodology used by the assessor, but instead on determining whether the assessed value is actually correct. Therefore, the taxpayer may not rebut the presumption merely by showing an assessor’s technical failure to comply strictly with the Guidelines). Like the petitioner in *Westfield Golf*, the Petitioner here only argued that the method of the Petitioner’s assessment was not uniform. Mr. Sloan failed to offer any evidence to show that the Petitioner’s assessment exceeded his property’s market value-in-use. Thus, the Petitioner failed to raise a prima facie case.
- f) Moreover, the Petitioner failed to show the comparability of those neighboring properties. By comparing the Petitioner’s assessed value to the assessed values of other comparable properties, Mr. Sloan essentially relies on a “sales comparison” method of establishing the market value-in-use of his property. In order to effectively use the sales comparison approach as evidence in property assessment appeals, 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 party seeking to rely on a sales comparison approach must explain the characteristics of the subject property and how those characteristics compare to those of purportedly comparable properties. *See Id.* at 470-71. They must explain how any differences between the properties affect their relative market value-in-use. Here, Mr. Sloan merely offered assessment information<sup>2</sup> for the neighboring properties and made conclusory statements about the similarity of the properties in size, sales price, year built and acreage. Further, Mr. Sloan made no attempt to value the differences between his house and the properties he claims are

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<sup>2</sup> Mr. Sloan testified that the data came from the Beacon online tool for property taxes for Johnson County.

comparable. Thus, the Petitioner failed to raise a prima facie case that his property was assessed in error.

- g) When a taxpayer fails to provide probative evidence that an assessment should be changed, the Respondent's duty to support the assessment with substantial evidence is not triggered. *See Lacy Diversified Indus. v. Dep't of Local Gov't Fin.*, 799 N.E.2d 1215, 1221-1222 (Ind. Tax Ct. 2003).

### **Conclusion**

- 16. The Petitioner failed to raise a prima facie case. 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 that the assessments 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>.**