

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

**Petition No.:** 12-011-08-1-5-00001  
**Petitioner:** Donna Faye Snodgrass  
**Respondent:** Clinton County Assessor  
**Parcel No.:** 12-07-27-227-007.000-011  
**Assessment Year:** 2008

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, Donna Faye Snodgrass, initiated an assessment appeal with the Clinton County Property Tax Assessment Board of Appeals (the PTABOA) by written document dated March 20, 2009.
2. The PTABOA issued notice of its decision on September 28, 2010.
3. Pursuant to Indiana Code § 6-1.1-15-1, the Petitioner filed a Form 131 petition with the Board on October 28, 2010. The Petitioner elected to have her case heard according to the Board's small claim procedures.
4. The Board issued a notice of hearing to the parties dated January 20, 2011.
5. Pursuant to Indiana Code § 6-1.1-15-4 and § 6-1.5-4-1, the Board held an administrative hearing on March 15, 2011, before the duly appointed Administrative Law Judge Dalene McMillen.
6. The following persons were present and sworn in at the hearing:
  - a. For Petitioner: Donna Faye Snodgrass, property owner  
Scott Walker, Petitioner's son
  - b. For Respondent: Dana M. Myers, Clinton County Assessor  
Jada Ray, Clinton County Deputy Assessor  
Brian Thomas, Ad Valorem Solutions

## Facts

7. The property under appeal is a house, barn and lean-to located at 602 Main Street, Michigantown, Michigan Township in Clinton County.
8. The ALJ did not conduct an on-site inspection of the property under appeal.
9. For 2008, the PTABOA determined the assessed value of the property to be \$12,500 for the land and \$90,900 for the improvements, for a total assessed value of \$103,400.
10. The Petitioner requested an assessed value of \$12,500 for the land and \$67,300 for the improvements, for a total assessed value of \$79,800.

## Issue

11. Summary of the Petitioner's contentions in support of an alleged error in her property's assessment:
  - a. The Petitioner's witness contends that the Petitioner's property is over-valued based on the Petitioner's purchase of the property. *Walker testimony*. According to Mr. Walker, the Petitioner purchased the property under appeal on December 11, 2008, for \$25,400. *Walker testimony; Petitioner Exhibits 1-2*. In support of this contention, Mr. Walker submitted the property's property record card. *Petitioner Exhibit 2*.
  - b. The Petitioner's witness further contends that the value of the Petitioner's property is overstated compared to the sales prices and assessed values of other properties in the area. *Walker testimony*. In support of this contention, Mr. Walker submitted sales prices, exterior photographs and property record cards for the property under appeal and for the properties located at 603 Main Street and 301 Ohio Street. *Petitioner Exhibits 1-5*. According to Mr. Walker, 603 Main Street is the closest in proximity to the Petitioner's property, but it is smaller in size to the property under appeal. *Walker testimony*. 603 Main Street sold on April 20, 2010, for \$40,000 and its house was assessed for \$15.00 less per square foot than the Petitioner's house. *Walker testimony; Petitioner Exhibits 1 and 3*. Similarly, the property located at 301 Ohio Street is slightly inferior in quality, but larger in size than the Petitioner's property. *Walker testimony*. 301 Ohio Street sold on October 26, 2009, for \$37,500 and its house was assessed for \$8.00 less per square foot than the Petitioner's house. *Id.; Petitioner Exhibits 1 and 4*. While sales prices in the area are consistent, Mr. Walker argues, the assessor is assessing the Petitioner's property for considerably more per square foot than other properties in the area. *Walker testimony*.

- c. In addition, the Petitioner contends that her property would not sell for its assessed value because it needs to be remodeled. *Snodgrass testimony*. According to Ms. Snodgrass, the house needs the windows replaced and the interior needs to be updated. *Id.*
- d. Finally, the Petitioner's witness argues that the Respondent's listing information for 108 East Seventh Street should be given little weight. *Walker testimony; Respondent Exhibit C*. According to Mr. Walker, the property has been listed for sale at \$119,900 for two or three years with no prospective buyers. *Walker testimony*. Thus, Mr. Walker concludes, the Respondent's evidence supports his contention that the Petitioner's property is over-assessed at \$103,400. *Id.*

12. Summary of the Respondent's contentions in support of the assessment:

- a. The Respondent's representative contends the property under appeal is correctly assessed at \$103,400. *Thomas testimony*. In support of this position, Mr. Thomas submitted assessment information on two properties similar to the Petitioner's property. *Respondent Exhibit C and D*. Mr. Thomas testified that the house located at 108 East Seventh Street is similar in size and architectural style to the Petitioner's house and has an assessed value of \$110,000.<sup>1</sup> *Thomas testimony; Respondent Exhibits A and C*. Similarly, Mr. Thomas testified, the property located at 301 Second Street is a one-story house with a finished attic but less living area than the Petitioner's house. *Thomas testimony; Respondent Exhibits A and D*. 301 Second Street was assessed for \$91,800. *Id.* Therefore, the Respondent's representative argues, the Petitioner's property's 2008 assessment is consistent with the assessment of other similar properties. *Thomas testimony*.
- b. The Respondent's representative also contends the assessed value of the Petitioner's property is fair based on its sales prices. *Thomas testimony*. According to Mr. Thomas, the property under appeal sold on September 26, 2005, for \$112,000 and again on August 22, 2008, for \$89,250. *Thomas testimony; Petitioner Exhibit 2*. While there was decline in the market value-in-use of the property between 2005 and 2008, Mr. Thomas argues, the property was accurately assessed for \$103,400 as of the January 1, 2007, valuation date. *Thomas testimony*.

### **Record**

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

- a. The Form 131 petition and related attachments.

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<sup>1</sup> The Respondent's representative submitted a multiple listing sheet showing that 108 East Seventh Street was listed for sale in 2011 for \$119,900. *Thomas testimony; Respondent Exhibit C*.

- b. The digital recording of the hearing.
- c. Exhibits:

- Petitioner Exhibit 1 – The Notice of Hearing on Petition and Petitioner’s tax valuation meeting notes,
- Petitioner Exhibit 2 – Property record card for 602 Main Street, Michigantown,
- Petitioner Exhibit 3 – Property record card for 603 Main Street, Michigantown,
- Petitioner Exhibit 4 – Property record card for 301 Ohio Street, Michigantown,
- Petitioner Exhibit 5 – Exterior photographs of 602 Main Street, 603 Main Street, and 301 Ohio Street, Michigantown,
- Petitioner Exhibit 6 – Notification of Final Assessment Determination – Form 115, dated September 28, 2010,
- Petitioner Exhibit 7 – Special Power of Attorney from Donna Faye Snodgrass to Scott Walker,
  
- Respondent Exhibit A – The Respondent’s exhibit list,
- Respondent Exhibit B – The Respondent’s written summary and exterior photograph of 602 Main Street, Michigantown,
- Respondent Exhibit C – Property record card and listing information for 108 East Seventh Street, Michigantown,
- Respondent Exhibit D – Property record card and exterior photograph for 301 Second Street, Michigantown,
  
- Board Exhibit A – Form 131 petition with 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 Township 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 Township 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 Petitioner failed to provide sufficient evidence to establish a prima facie case for a reduction in the assessed value of her property. 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, for the property.” 2002 REAL PROPERTY ASSESSMENT MANUAL (the 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 Township Assessor*, 836 N.E.2d 501, 505 (Ind. Tax Ct. 2005); *P/A Builders & Developers, LLC*, 842 N.E.2d 899 (Ind. Tax Ct. 2006). A taxpayer may rebut the presumption, however, 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 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 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, 2008, assessment date, the valuation date was January 1, 2007. 50 IAC 21-3-3.

- d. The Petitioner's witness first argues that the Petitioner's property is over-valued based on its sales price. *Walker testimony*. According to Mr. Walker, the Petitioner purchased the property under appeal on December 11, 2008, for \$25,400. *Id.* The Petitioner's property record card supports this contention. *Petitioner Exhibit 2*. The sale of the subject property is often the best evidence of the property's value. *See Hubler Realty, Inc. v. Hendricks County Assessor*, 938 N.E.2d 311, 314 (Ind. Tax Ct. 2010) (the Tax Court upheld the Board's determination that the weight of the evidence supported the property's purchase price over its appraised value). Here, however, the sale occurred approximately 23 months after the relevant valuation date of January 1, 2007. Because the Petitioner did not relate the property's December 11, 2008, purchase price to the property's value as of January 1, 2007, valuation date, the purchase price lacks probative value. *See Long*, 821 N.E.2d at 471 (holding that an appraisal valuing a property as of December 10, 2003, lacked probative value in an appeal from a 2002 assessment because the taxpayer did not explain how the appraised value related to the relevant valuation date).
- e. Moreover, the property was purchased from the U.S. National Bank Association. *Petitioner Exhibit 2*. A sale does not necessarily indicate the market value of a property unless that sale happens in a competitive and open market under all of the conditions requisite to a fair sale, in which the buyer and seller are typically motivated. MANUAL at 10. Although the fact that a particular sale is a foreclosure or bank sale alone is insufficient to impeach or rebut the sales evidence, the Petitioner's property record card indicates that the property was sold on August 22, 2008, for \$89,250. *Petitioner Exhibit 2*. This suggests that the Petitioner's purchase of the property less than four months later for \$25,400 was not a sale for "market value-in-use." Even the Petitioner's witness testified the purchase price was a "really good deal." Thus, the Board finds that the Petitioner failed to sufficiently show that she purchased the subject property at a price that reflects the property's market value-in-use.
- f. The Petitioner's witness also argues that the property is over-valued based on the assessments of two other properties in the area. *Walker testimony; Petitioner Exhibits 1-5*. 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) (rejecting taxpayer's lack of uniformity and equality claim where the taxpayer showed neither its own property's market value-in-use nor the market values-in-use of purportedly comparable properties). In that case, the Tax Court held that it is not enough for a taxpayer to show that its property is assessed higher than other comparable properties. *Id.* Instead, the taxpayer must present

probative evidence to show that its assessed value does not accurately reflect the property's market value-in-use. *Id.* Here, the Petitioner's witness did not show the market value-in-use of the Petitioner's property. He merely argued that the Petitioner's property was assessed for more than other properties in the area.

- g. Further, the Petitioner's witness failed to show the comparability of the two properties that Mr. Walker claims are assessed or sold for less than the Petitioner's property's assessment. By comparing the Petitioner's property's assessed value to the sales prices or assessed values of other properties, the Petitioner's witness is essentially relying on a "sales comparison" method of establishing the market value of the Petitioner's property. 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 are not 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 also explain how any differences between the properties affect their relative market value-in-use. *Id.* Here the Petitioner's witness merely highlighted the differences in the comparable properties' sale prices and the assessed value per square feet of living area of the houses. The Petitioner's witness made no attempt to show that the properties were comparable other than to testify the properties were all located in Michigantown. This falls short of the burden to prove that properties are comparable as established by the Indiana Supreme Court. *See e.g. Beyer v. State*, 280 N.E.2d 604, 607 (Ind. 1972). Moreover, the Petitioner's comparable properties sold in 2009 and 2010 respectively – which is two to three years after the January 1, 2007, valuation date at issue in a March 1, 2008, assessment appeal. Thus, the Petitioner failed to raise a prima facie case that her property was over-assessed based on the sale prices or assessed values of other properties in the area.
- h. Finally, the Petitioner contends that the house needs its windows replaced and the interior needs to be remodeled and updated. *Snodgrass testimony*. The Board interprets this to be an argument that the condition of the house was improperly assessed. A condition rating is a "rating assigned each structure that reflects its effective age in the market." *See GUIDELINES*, app. B, at 5. A condition rating is determined by relating the structure to comparable structures within the property's neighborhood. In *Lacy Diversified Industries, Ltd. v. Department of Local Government Finance*, the petitioner argued that the condition rating of its property was excessive and presented evidence showing that its building was suffering from physical deterioration and evidence of the cost to repair the deterioration. *Lacy Diversified Industries, Ltd. v. Department of Local Government Finance*, 799 N.E.2d 1215 (Ind. Tax Ct. 2003). The court ruled in favor of the respondent,

reasoning that the Petitioner provided no explanation as to how the physical deterioration was not typical to a 70 year-old structure. *Id.* at 1223. Nor was there an explanation as to how the physical deterioration was significantly worse than would be expected. *Id.* Here, the Petitioner's argument that her house needed its windows replaced and its interior remodeled did not include any explanation as to how these updates were not typical for a structure that was over one hundred years old. Nor did she include any explanation as to how the physical deterioration was significantly worse than would normally be expected in a structure of that age. Thus, the Board cannot determine the property's assessment was in error.

- i. Even if the condition rating was assessed in error, a taxpayer fails to sufficiently rebut the presumption that an assessment is correct by simply contesting the method used to compute the assessment. *Eckerling v. Wayne Township Assessor*, 841 N.E.2d 674, 677 (Ind. Tax Ct. 2006). Instead, the Petitioner must show that the assessment does not accurately reflect the subject property's market value-in-use. *Id.*; *See also P/A Builders & Developers, LLC v. Jennings County 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). Thus, regardless of whether the assessment did not fully comply with the Guidelines, the Petitioner failed to show that the property's assessed value is not a reasonable measure of the property's true tax value.
- j. The Petitioner failed to raise a prima facie case that her property was over-assessed. Where the Petitioner failed 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 that her property was over-valued for the March 1, 2008, assessment. The Board finds in favor of the Respondent.

### **Final Determination**

In accordance with the above findings of fact and conclusions of law, the Indiana Board of Tax Review now determines that the Petitioner's property's assessed value 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>.**