

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

**Petition #:** 76-006-06-1-5-00128  
**Petitioners:** Jack C. & Nancy A. Stiefel  
**Respondent:** Steuben County Assessor  
**Parcel #:** 760314320122000006  
**Assessment Year:** 2006

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

**Procedural History**

1. On September 10, 2007, the Stiefels appealed their property’s assessment to the Steuben County Property Tax Assessment Board of Appeals (“PTABOA”). The PTABOA issued its determination on December 31, 2008.
2. The Stiefels then timely filed a Form 131 petition with the Board. They elected to have their appeal heard under the Board’s small claims procedures.
3. On August 4, 2009, the Board held a hearing through its Administrative Law Judge, Jennifer Bippus (“ALJ”).
4. The following people appeared and were sworn in at hearing:
  - a) For the Stiefels: Jack Stiefel  
Nancy Stiefel
  - b) For the Assessor: Jennifer Becker, County Representative

**Facts**

5. The subject property contains a home on a lakefront lot located at 400 Lane 201A Lake George, Fremont, Indiana.
6. Neither the Board nor the ALJ inspected the property.
7. The PTABOA valued the subject property as follows:  
  
Land: \$372,600      Improvements: \$57,800      Total: \$430,400

8. On their Form 131 petition, the Stiefels requested the following values:

Land: \$301,806      Improvements: \$47,900      Total: \$349,706

### **Parties' Contentions**

9. The Stiefels offered the following evidence and arguments:

- a) Assessments on the Indiana side of Lake George are inequitable. Properties along the lake are homogeneous, yet assessors have arbitrarily divided them into separate neighborhoods with different base rates. For example, in the Stiefels' neighborhood, assessors used a base rate of \$6,900 per front foot, while they used rates ranging from \$6,540 to \$4,860 per front foot in other neighborhoods. The neighborhood lines, however, were arbitrarily drawn based on one or two sales that were significantly disproportional to average values around the lake. Properties should instead be valued uniformly in one large neighborhood based on the average sale price for lakefront properties. *J. Stiefel testimony; Pet'rs Ex. 2.*
- b) Based on the assessments for what they claimed were comparable properties, the Stiefels argued that the subject property should be assessed for \$4,860 per front foot. Mr. Stiefel pointed to two properties in particular, both of which had about the same amount of lake frontage as the subject property but which were deeper than the subject property. *J. Stiefel testimony; Pet'rs Ex. 3.* He also pointed to a map showing the various assessment neighborhoods around Lake George and their corresponding base rates. *Id.; Pet'rs Ex. 2.* According to Mr. Stiefel, the properties in the \$6,900 neighborhood did not inherently differ in value from those in the \$4,860 neighborhood. In fact, Mr. Stiefel claimed that one property in the \$4,860 neighborhood actually had a better view than the subject property. *Id.*
- c) Finally, the Stiefels offered a broker's opinion from Jane M. Kearns. In Ms. Kearns's opinion, the subject property's market value was \$395,000 in 2005. Ms. Kearns, however, explained that her opinion was a "market opinion and not an appraisal." *Pet'rs Ex. 8.*

10. The Assessor offered the following evidence and arguments:

- a) As an example of how base rates were determined, Ms. Becker pointed to a 2006 sale from the Stiefels' neighborhood. After subtracting the value of the property's improvements and adjusting for time differences, that sale yielded a value of \$7,716 per front foot. *Becker testimony; Resp't Ex. 5.*
- b) Also, even if the Board were to accept Ms. Kearns's broker's opinion, that opinion fell within 8% of the value that the PTABOA determined for the subject property. Thus, that opinion actually supports the property's mass-appraisal assessment. *Becker testimony.*

## **Record**

11. 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:

- Petitioners' Exhibit 1: Copy of Form 130 for tax year 2006 with attached statement,
- Petitioners' Exhibit 2: Map of Lake George showing "neighborhoods" and base rates per effective front foot,
- Petitioners' Exhibit 3: Appraisal/tax information for petitioner's property and two comparable properties,
- Petitioners' Exhibit 4: Evidence request form from PTABOA to the petitioner,
- Petitioners' Exhibit 5: Appraisal/tax information for properties at the borders of each "neighborhood,"
- Petitioners' Exhibit 6: Real estate broker's estimate of market value for the subject property,
- Petitioners' Exhibit 7: Evidence request form: PTABOA to Marcia Sievers with attached response,
- Petitioners' Exhibit 8: Copy of Form 115,
- Petitioners' Exhibit 9: Copy of Form 131 petition,
- Petitioners' Exhibit 10: Copy of Form 130 petition for tax year 2007 with attached statement.

- Respondent's Exhibit 1: Respondent's Exhibit Coversheet,
- Respondent's Exhibit 2: Power of Attorney for County Representation,
- Respondent's Exhibit 3: Power of Attorney Certification,
- Respondent's Exhibit 4: 2006 property record card for the subject property,
- Respondent's Exhibit 5: Property record card for 440 LN 201A Lk George.

- Board Exhibit A: Copy of Form 131 petition with attachments,
- Board Exhibit B: Notice of hearing,
- Board Exhibit C: Hearing sign-in sheet.

- d) These Findings and Conclusions.

## Analysis

### Burden of Proof

12. A petitioner seeking review of an assessing official's determination must make 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).
13. In making its case, the petitioner 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).
14. Once the petitioner establishes a prima facie case, the burden shifts to the respondent to 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

15. The Stiefels did not make a prima facie case to rebut the presumption that the subject property was accurately assessed. 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 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 market value: the cost, sales-comparison, and income approaches to value. *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 assessment, as determined using the Guidelines, is presumed to accurately reflect its market value-in-use. *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 2006). But a taxpayer may rebut that presumption with evidence that is consistent with the Manual's definition of true tax value. *Id.* A market value-in-use appraisal prepared according to the Uniform Standards of Professional Appraisal Practice often will suffice. *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 other information compiled according to generally accepted appraisal principles. MANUAL at 5; *Eckerling v. Wayne Twp. Assessor*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006).

- c) By contrast, a taxpayer does not rebut the presumption that a property's assessment is accurate simply by contesting the assessor's methodology in computing it. *See Eckerling*, 841 N.E.2d at 678. Instead, the taxpayer must show that the assessor's methodology yielded an assessment that does not accurately reflect the property's market value-in-use. *Id.* Strictly applying the Guidelines does not suffice; rather, the taxpayer must offer the types of market-value-in-use evidence contemplated by the Manual. *Id.*
- d) Here, the Stiefels did not offer the types of market value-in-use evidence that the Manual and Tax Court describe. At most, the Stiefels offered Ms. Kearns's conclusory broker's opinion about the subject property's value. Beyond saying that she had not performed an appraisal, Ms. Kearns did not explain how she formed her opinion. In fact, Ms. Kearns's opinion letter contained only three short sentences. While Ms. Kearns may have expertise and experience in valuing properties, the Board cannot simply take her word for the subject property's value without any showing that she applied generally accepted appraisal principles in forming her opinion.
- e) In reality, the Stiefels did not try to show that their property was assessed for more than its market value-in-use as much as they argued that assessments around the lake were inequitable. Once again, however, the Stiefels' failure to offer any probative market-value-in-use evidence dooms their claim.
- f) In *Westfield Golf Practice Center v. Washington Twp. Assessor*, 859 N.E.2d 396 (Ind. Tax Ct. 2007), the Indiana Tax Court addressed a lack-of-uniformity-and-equality claim under Indiana's new market-value-in-use system. As the court explained, before the switch to our current system, true tax value was determined under Indiana's own assessment regulations and bore no relation to any external, objectively verifiable measurement standard. *Westfield Golf*, 859 N.E.2d at 398. Properties within the same neighborhood in a land order were presumed to be comparable to each other, and the principles of uniformity and equality were therefore violated when those properties were assessed and taxed differently. *Id.*
- g) That changed under the new system, which incorporates market value-in-use as its external, objectively verifiable benchmark. The focus shifted from examining how assessment regulations were applied to examining whether a property's assessed value actually reflects that external benchmark. *Id.* at 399. Thus, the taxpayer in *Westfield* lost its lack-of-uniformity-and-equality claim because it focused solely on the base rate used to assess its driving-range landing area compared to the rates used to assess other driving ranges and failed to show the actual market value-in-use for any of the properties. *Id.* The Stiefels' claim fails for the same reason.

**Conclusion**

- 16. Because the Stiefels offered no probative market value-in-use evidence to rebut the presumption that the subject property’s assessment was accurate, they failed to make a prima facie case. The Board therefore finds for the Steuben County Assessor.

**Final Determination**

In accordance with the above findings and conclusions, the Indiana Board of Tax Review now affirms the 2006 assessment.

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

\_\_\_\_\_  
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>>.