

SURA GAIL TALA, Pro Se

MARILYN MEIGHEN, Attorney for Respondent

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

SURA GAIL TALA,)	Petition No. 53-003-10-1-5-00041
)	
Petitioner,)	Parcel No. 53-01-35-300-036.000-003
)	
v.)	Monroe County
)	
MONROE COUNTY ASSESSOR,)	Benton Township
)	
Respondent.)	2010 Assessment Year

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

April 22, 2012

FINAL DETERMINATION

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

ISSUE

1. Did the Petitioner prove that the current assessment for 2010 is not an accurate market value-in-use for the subject property, and did the Petitioner prove what the correct assessed value should be for the year at issue?

HEARING FACTS AND OTHER MATTERS OF RECORD

2. The subject property is a rental home located at 8943 Sail Away Lane in Unionville. The property fronts Lake Lemon.
3. The Petitioner filed a Form 130 Petition for Review of Assessment with the Monroe County Assessor to contest the 2010 assessed value of the subject property. On November 19, 2010, the Monroe County Property Tax Assessment Board of Appeals (“PTABOA”) issued its determination for the 2010 assessment denying Petitioner relief. The PTABOA left the assessed values at \$82,300 for land and \$121,500 for improvements (total \$203,800).
4. On January 3, 2011, the Petitioner filed a Form 131 Petition with the Board. The Form 131 stated the assessed value should be \$29,700 for land and \$76,800 for improvements (total \$106,500).
5. A hearing was held on January 22, 2013, before Jaime S. Harris, the designated Administrative Law Judge (“ALJ”) authorized by the Board. Neither the Board nor the ALJ inspected the subject property.
6. Petitioner Sura Gail Tala, Monroe County Assessor Judith A. Sharp, and Vice President of Nexus Group Ken Surface were sworn as witnesses.
7. Petitioner submitted the following exhibits:
 - Petitioner Exhibit 1: A map containing the subject and surrounding properties,
 - Petitioner Exhibit 2: Photograph of subject property,
 - Petitioner Exhibit 3: Photograph of subject property,
 - Petitioner Exhibit 4: Photograph of subject property,
 - Petitioner Exhibit 5: Photograph of subject property,
 - Petitioner Exhibit 6: Photograph of subject property,
 - Petitioner Exhibit 7: Photograph of subject property,
 - Petitioner Exhibit 8: Photograph of subject property,
 - Petitioner Exhibit 9: 2010 Tax Return, Supplemental Income and Loss attachment including subject property,

- Petitioner Exhibit 10: 2010 Tax Return, Supplemental Income and Loss attachment,
- Petitioner Exhibit 11: 2011 Tax Return, page 1,
- Petitioner Exhibit 12: 2011 Tax Return, page 2,
- Petitioner Exhibit 13: 2011 Tax Return, Supplemental Income and Loss attachment including subject property,
- Petitioner Exhibit 14: 2011 Tax Return, Supplemental Income and Loss attachment.

8. The Respondent submitted the following exhibits:

- Respondent Exhibit A: Property Record Card (PRC) for subject property,
- Respondent Exhibit B: Change in Assessment Analysis,
- Respondent Exhibit C: Sales Comparison grid with maps,
- Respondent Exhibit D: Sales Disclosure Form, PRC and photos for Parcel 53-01-35-300-010.000-003 (Comp 1),
- Respondent Exhibit E: Sales Disclosure Form, PRC and photos for Parcel 53-00-31-283-000.000-003 (Comp 2),
- Respondent Exhibit F: Sales Disclosure Form, PRC and photos for Parcel 53-01-35-300-051.000-003 (Comp 3),
- Respondent Exhibit G: Bloomington Real Estate Market and Home Price Forecast,
- Respondent Exhibit H: November 2010 Indiana Association of Realtors Market Review (pages 1, 10 and 11),
- Respondent Exhibit I: November 2011 Indiana Association of Realtors Market Review (pages 1 and 2),
- Respondent Exhibit J: Website information for Lake Lemon Guest Houses including the subject property,
- Respondent Exhibit K: County Clarification to Tala Land Grid,
- Respondent Exhibit L: Pages 70-73, Chapter 2, Valuing Residential Acreage Parcels One Acre or Smaller, 2002 Real Property Guidelines

9. The Board recognizes the following additional items as part of the record of proceedings:

- Board Exhibit A: Form 131 petition and attachments,
- Board Exhibit B: Notice of Hearing,
- Board Exhibit C: Hearing Sign-in Sheet.

SUMMARY OF PETITIONER’S CASE

10. Petitioner contends it is unfair to base the subject’s assessed value on the assessor's opinion and speculation. Ms. Tala lives in a neighborhood where there is limited lake property. Some of the properties are worth little and others are much more expensive. It

is just an individual's own judgment over which place is worth what amount. *Tala testimony.*

11. The Petitioner purchased multiple parcels located in and around the same area as the subject property when those properties were inexpensive. She bought the subject property in 1992 for \$78,000.
12. In 1991, Petitioner paid \$60,000 for a .73 acre piece of property in the same area. She was able to sell the .73 acre parcel for \$150,000 in November 2011. That property is a duplex so Petitioner was able to get more rent from tenants. It is a much larger piece of property and located where the lake comes into a canal. It was on the market with a realtor for \$125,000 for a period of two years and no one came to look at it. The only reason Petitioner was finally able to sell this other property for \$150,000 was because the buyers' previous house had recently been purchased for quite a bit of money in order to construct apartment buildings.
13. Some neighbors in the area have had homes on the market for five and seven years. As stated by Petitioner, "It's not like we have a thriving market." *Tala testimony; Pet. Ex. 1.*
14. Petitioner presented a hand-drawn map that includes the 2012 assessed values of nine properties, including the subject property. The 2012 values are relevant to the 2010 assessment because values are going up instead of down. Petitioner went from left to right on the map and gave the following information for only five of the properties:
 - a. Petitioner sold the first property for \$150,000 in November 2011. It is located on .73 acres and is a duplex. It could also be a four bedroom single residence and has two kitchens and two bathrooms.
 - b. The second property on the map has an assessed value of only \$33,800. The improvement is a trailer located on .4 acres.
 - c. The third comparable is an unimproved lot. It has an assessed value of \$13,800 and is located on .55 acres. So it is a larger piece of property than the subject, but worth substantially less.

- d. The fourth comparable is “like a commercial property” and used as a sailing club. It has an assessed value of \$122,500 and is located on 1.22 acres. It consists of a very large building that could easily be a four bedroom house with a bathroom and a kitchen. This property is far more valuable than the subject, but assessed for much less.
- e. The subject property, which is the eighth parcel on the map going from left to right, has an assessed value of \$205,800. It is a two bedroom rental home located on .37 acres.

Tala testimony; Pet. Ex. 1.

15. Petitioner submitted photographs of the subject property that accurately depict what the outside of the property looked like on March 1, 2010. The house was built in 1957 as a weekend home. It had a fairly flat rubber roof, no insulation, and “very little electric.” Petitioner has since added insulation, but it is in inadequate condition because it was difficult to put the insulation inside the walls due to the way the house was built. Furthermore, anytime more electricity was needed, it had to be placed in pipes on the exterior of the home. This is not the way homes are built today. A mortgage company would likely not approve when a purchaser attempts to obtain a loan. The home was built on a concrete slab with no attic. The siding of the house consists of board and batten, which is a poor way to side a house as it causes it not to be airtight and allows insects to come into the house on a regular basis. Petitioner has always had problems with the fascia boards and paint that easily peels. The photographs submitted by Petitioner reveal peeling paint all over the exterior of the home, including around the older windows. Underneath the soffit board was never painted and has a little bit of rot. Homes are supposed to have ventilation in the soffit board, but a previous owner merely cut a hole and placed a piece of screen where the air space should be. This causes the soffit to fall out around the home. *Tala testimony; Pet. Ex. 2-8.*
16. All of the aforementioned problems, when added together, would decrease the value of the property by approximately \$30,000 according to the Petitioner. The entire house could be rebuilt for \$60,000. Petitioner has owned over 23 houses in the last 30 to 40 years and does over 50% of the repairs on these homes. Petitioner’s experience of selling

and buying homes, remodeling, and purchasing lumber support her conclusion about value. *Tala testimony; Pet. Ex. 2-8.*

17. Petitioner's tax returns demonstrate that she does not really make income from the subject property. Petitioner has never made more than \$18,000 a year in her entire life, and her current income is approximately \$12,000. From a business perspective, the property makes less money as a guest house than it ever does as a rental property, because of how much money Petitioner owes for the interior furnishings. (Petitioner obtained a loan for the furnishings, which explains why the inside of the property looks nice while the outside looks bad.) During the summer season, people rent the property by the night as a guesthouse. In the winter, people will rent it for the entire season. It has been implied that Petitioner makes more money when the property is used as a guesthouse. This is incorrect due to the fact that Petitioner has to clean up after guests and keep the house spotless everyday as opposed to waiting until the end of the winter season. Petitioner also has to pay for all of the utilities when rented out by the night. This means that the subject is actually an income negative property when used as a guesthouse. *Tala testimony; Pet. Ex. 9 and 13.*
18. When Petitioner purchased the property it was zoned agricultural. Petitioner has 34 acres of land in the same neighborhood and has been trying to reunite the original farm that Dorothy and Leonard Taylor had previously owned. Five of Petitioner's properties were a part of the Taylor's original farm. When she purchased the property, Petitioner had an active farm and raised llamas and a horse. Petitioner rotates her farm animals between her properties in order for them to graze. She fenced in part of the yard at the subject property and currently ties her horse up in the non-fenced area. Petitioner no longer has llamas. Petitioner, therefore, still uses the property partly for agricultural purposes. *Tala testimony.*
19. The subject property's assessed value should be \$29,700 for land and \$76,800 for improvements (total \$106,500). In order to arrive at these values, Petitioner looked at all the other properties in the neighborhood and what they sold for. Petitioner's mother

keeps all the newspaper clippings that show the sale prices of neighboring properties. Because she has lived in the neighborhood for 29 years, Petitioner has a pretty good idea as to the values of other properties. Petitioner also took into consideration what she personally had invested in the house and the value for which it must be insured. Insurance for rental property has doubled in price since hurricane Katrina and 2008. Petitioner is forced to insure the subject property for its highest rebuild value. *Tala testimony; Tala cross-examination.*

20. The location has its good points and its bad points. Some negative aspects of the neighborhood contribute to a lower assessed value. Even though Petitioner does not use the subject property as her permanent residence, she has lived in the same neighborhood as the subject for the last 29 years. There is an undesirable home that was formerly a cheap motel and almost adjoins the property. It rents for \$400 a month and attracts drug dealers and homeless people. The police are known to frequent this shanty-type home, and a woman has even died at the residence. A bar is also located close to the subject property. *Tala testimony.*
21. The internet advertisement for the subject property is old. Petitioner has wanted to change the website for quite some time because many potential renters pull up to the property and leave after seeing the outside condition of the home. Many of the descriptions on the website pertain to the city's property and not that of the subject property. For example, the "gently sloped access to the lake" and the area to play croquet and throw Frisbees are all on city property. The "unique double swing" is located on city property as well. *Tala testimony; Resp't Ex. J.*

SUMMARY OF RESPONDENT'S CASE

22. The PRC for the subject property indicates that Petitioner and her former husband purchased the subject property in 1990. The property is .37 acres and is located on prime Lake Lemon frontage. The Petitioner got a loan for \$110,000 when she bought the subject property. *Surface testimony; Tala cross-examination; Resp't. Ex. A.*

23. The subject property is not assessed as agricultural land. While Petitioner claims to graze farm animals on the property, she admitted on cross-examination that there is not much grass in the area, so tying her horse up to the fence in order to graze actually occurred only about 4 days per month. Furthermore, Petitioner no longer owns llamas, so the horse is the only animal that supposedly grazed on the property in 2010. *Meighen argument; Tala cross-examination.*
24. Petitioner sometimes rents out the subject property night by night as a guesthouse during the warm months. Petitioner estimated that she rented the property approximately 50 nights as a guesthouse. Petitioner also rented the property for approximately 3 months during the winter of 2009 carrying over into the winter of 2010. *Meighen argument; Tala cross-examination.*
25. According to information obtained from a website for Lake Lemon Guest Houses, the property is referred to as “Strawberry Fields” and is described in the following ways:
- a. A family fun hideaway with a boat dock and swimming beach area;
 - b. The property offers a large yard with a hot tub and a panoramic view of the lake;
 - c. Ultimate kid friendly accommodations with a gently sloped access to the lake;
 - d. Ideal for throwing Frisbees and playing croquet;
 - e. Unique double swing accommodating six right on the water;
 - f. A delightful place to sip a cold drink, chat and watch the sunset;
 - g. Whimsical getaway;
 - h. Comfortably sleeps nine plus (Queen size bed on the main floor, queen size futon in the living room, queen and single bed in one of the upstairs bedrooms, double and single bed in other upstairs bedroom); and
 - i. Conveniently located midway between Bloomington and Nashville.

Meighen argument; Tala cross-examination; Resp't. Ex. J.

26. Property record cards and sales disclosure forms for comparable sales show that the assessed values for those properties and the subject are reasonable. Comparable lakefront properties are priced the same as Petitioner's lakefront lot using the same base rate before adjustments if the comparables were assigned to the same neighborhood. Respondent's

witness, Ken Surface, provided information concerning the sale of three comparable properties located in close proximity to the subject.¹ Below is information pertaining to those comparables and some notable differences between them and the subject property:

- a. Comparable 1 (Comp 1) is located at 8921 E. Sail Away Lane, which is next door to the subject. As far as its overall rating, Comp 1 is very similar to the subject in age, effective age, land size, proximity and amenities. Comp 1 is assigned to the same neighborhood, which determines the base value to be applied when assessing property. It is .46 acres, which is virtually the same land size as the subject. The utility for both is prime water front. Both properties are improved with a dwelling. Comp 1 has a house with smaller square footage, so it is deemed inferior in size. As far as other characteristics (i.e. decks, porches, etc.), they are the same. Comp 1 has a boathouse whereas the subject has a carport. This property sold in a valid sales transaction on May 17, 2011, for \$257,000. The subject was assessed for \$203,800.
- b. Comparable 2 (Comp 2) is located at 9405 E. South Shore Drive, which is approximately 1900 feet from the subject. It is assigned to the same neighborhood as the subject and its utility is prime water front as well. It is, however, slightly smaller than the subject as far as land (.30 acres) and dwelling size. This property was sold in a valid sales transaction on July 15, 2011, for \$245,000.
- c. Comparable 3 (Comp 3) is located at 8949 E. South Shore Drive. This is not lake front property like the first two comparables and the subject. The only reason Comp 3 was included in the comparable sales analysis was to demonstrate what non-water frontage properties are selling for. It is approximately half the size of the subject and was sold by the Petitioner in a land contract on November 1, 2011, for \$150,000. A land contract sale is not the typical arms length transaction because it does not go through the same financing.

Surface testimony; Resp't Ex. C, D, E, and F.

27. When looking at a valuation date of March 1, 2010, one would typically look at sales up to February 28, 2011. Two of the above mentioned sales were outside of the typical time frame at which an assessor would look. An assessor would also look at the time frame of 2009 and 2010. There were no sales transactions, however, in the subject property's

¹ Petitioner objected to Respondent Exhibits D, E, and F, because the exhibits pertain to sales which occurred in 2011. The assessment year at issue in this case is 2010. Petitioner argued that because the market is going up and down, a house that sold in 2011 might not have sold for the same amount in 2010. Respondent successfully tied the values from March 1, 2011 to the 2010 assessment year. Petitioner Tala's objection is overruled.

immediate area during that time. Since there were no sales at which to look, one must adjust the time frame back to the assessment period. Publications directly related to Indiana and specifically Bloomington indicate trends ranging from a negative 2% to a positive 2%. Due to this insignificant percentage trend, sales were not adjusted in the trending process. The market was considered to be relatively flat during the relevant time period. Two of the publications submitted by Respondent demonstrate the overall condition of real estate in Indiana as opposed to the entire country. While the nation's economy continues to slowly recover from recession, Indiana is relatively stable and not losing values on properties. *Surface testimony; Resp't Ex. C, G, H, and I.*

28. Respondent submitted a grid that was made in response to a similar grid Petitioner had originally submitted with her 131 Petition. Even though Petitioner's grid was not presented at the hearing, Respondent's grid addresses the properties on Petitioner's Exhibit 1 and is more descriptive. It shows that the lake front properties on Sail Away Lane, with the exception of the commercial property, are extremely uniform. They are all receiving the same base rate. The actual assessed value varies slightly based upon the actual size of the property. The grid indicates values for the 2010 timeframe. Mr. Surface described some of the comparable assessments on the grid in the following way:
- a. ID #1 is owned by Carrico. The neighborhood assigned to this property is "lakeview." The improvement on this property, which has an assessed value of \$8000, is a single wide mobile home and would not be considered to be comparable to the subject property. The land is .40 acres and has an assessed value of \$29,700.
 - b. ID #2 is owned by Turfinger. The neighborhood assigned to this property is "lakefront." There is no improvement on this .55 acres piece of land. Therefore, there is no home site value. The assessed land value is \$13, 800.
 - c. ID #3 is owned by the Bloomington Yacht Club and consists of 1.23 acres. It is not assigned to the same neighborhood because it is a commercial property and given a commercial assessment on its land.
 - d. ID #4 is owned by Eller and consists of .57 acres. The neighborhood assigned to this property is "lakefront." The land value was \$106,000. The improvement value was \$122,500. Therefore, the total assessed value was \$228,500.

- e. ID #5 is owned by LeBeau and consists of .53 acres. The neighborhood is also “lakefront.” The land value was \$100,600. The improvement value was \$68,200. The total assessed value was \$168,800.
- f. ID #6 is owned by Stearns and consists of .46 acres. The neighborhood is “lakefront.” The land value was \$92,700. The improvement value was \$110,500. The total assessed value was \$203,200. This property is also Respondent’s Comp 1 mentioned previously, which sold for \$257,000 on May 26, 2011.
- g. ID #8 is owned by Scott and consists of .35 acres. The neighborhood assigned is “lakefront.” The land value was \$79,600. The improvement value was \$79,800. The total assessed value was \$159,400.

Surface testimony; Resp’t Ex. K.

29. Respondent presented excerpts from Chapter 2 of the 2002 Real Property Assessment Guidelines in order to demonstrate how to value residential acreage parcels that are one acre or smaller. All of the properties on Petitioner’s Exhibit 1 are less than one acre, so they were valued using the methods from that chapter. If one were to look at Respondent’s Exhibit A, which is the PRC for the subject property, land type 9 is home site; the size is .37 of an acre, which matches the legal description at the top of the page; pricing method “A” represents acre; factor 1.71 is taken from the last page of Respondent’s Exhibit L. This is the *less than one acre* adjustment factor that is applied pursuant to the Indiana Manual. The base rate for this neighborhood is \$130,000 per acre. If you take \$130,000 and multiply it by the factor of 1.71, you get an adjusted rate of \$222,300. That number multiplied by the size (.37 acres) gives you the extended value, which would be \$82,251. Under Indiana Guidelines, you round off to the nearest 100. Therefore, when rounded up the assessment is \$82,300. Whenever you have a dwelling on a property, the first acre is assigned to a home site value if it is being assessed on an acreage basis. This applies regardless of whether you are renting out the property or not. *Surface testimony; Resp’t Ex. A and L; Pet. Ex. 1.*
30. Mr. Surface testified about the income approach to value. He has taught classes for the Indiana Assessors Association on the income approach to value. During Petitioner’s case, she submitted her Exhibit 9, which is her supplemental income and loss, schedule E

for 2010. When looking at the income approach, one has to reconstruct income and expense statements. It is based on market values and is not necessarily specific to the property. For example, if a man were using the income approach and paid his cousin one million dollars a week for landscaping expense, he would look to the market in order to see what a typical landscaping expense would be. Not all expenses that are allowed on a Federal Income Tax return are allowed in Indiana to determine an assessment under the income approach. So under the Indiana income approach, mortgage interest, taxes, and depreciation are not allowable expenses. Taxes are a part of the capitalization rate. Looking at a Schedule E is basically meaningless, because it does not necessarily determine the market average. *Surface testimony; Pet. Ex. 9.*

31. Respondent's second witness, Monroe County Assessor Judy Sharp, testified about Lake Lemon. Lake Lemon is one of two lakes in Monroe County. It was the one source of water before Lake Monroe came along in the 1960's. People have total use of Lake Lemon. Like Petitioner, other people can put boat docks on the lake. The city of Bloomington no longer draws their water from Lake Lemon. It is a conservancy area, which means in order to take care of the lake everyone who lives on or near the lake has to pay a conservancy fee. Lake Lemon is considered a resort area. The subject property is prime lake front property. It is in a highly desirable area because it is actually flat and people can walk right into the lake. *Sharp testimony.*
32. The bar located in the neighborhood of the subject property, Porthole Inn, has been there since at least the 1950's. It is a destination area where people go on Friday nights for catfish. It is by no means a detriment to the area. *Sharp testimony.*
33. There are land restrictions, covenants, and use prohibitions on the properties around Lake Lemon. It is not to be used for agricultural purposes. The conservancy would be very concerned if people were trying to raise goats, horses, or llamas on the side of the lake where the subject property is located. Monroe County is very protective of their water sources. And one horse tied up to graze on some grass would not mean that the property is devoted to agricultural use. This area has not been assessed as agricultural for 20 to 30 years. *Sharp testimony.*

ANALYSIS

34. Generally, a taxpayer seeking review of an assessing official's determination has the burden of proving that a property's assessment is wrong and what its 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). Nevertheless, the Indiana General Assembly enacted Ind. Code §6-1.1-15-17.2 and in some cases it shifts the burden of proof:

This section applies to any review or appeal of an assessment under this chapter if the assessment that is the subject of the review or appeal increased the assessed value of the assessed property by more than five percent (5%) over the assessed value determined by the county assessor or township assessor (if any) for the immediately preceding assessment date for the same property. The county assessor or township assessor making the assessment has the burden of proving that the assessment is correct in any review or appeal under this chapter and in any appeals taken to the Indiana board of tax review or to the Indiana tax court.

I.C. §6-1.1-15-17.2.

35. In this case, the parties agreed that Petitioner had the burden.
36. 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”).
37. 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. *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.

38. 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). 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. *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.
39. Regardless of the method used to rebut an assessment's presumed accuracy, a party must explain how its evidence relates to the appealed property's market value-in-use as of the relevant valuation date. *See 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 NE2d 466, 471 (Ind. Tax Ct 2005). Otherwise, the evidence lacks probative value. *Id.* For March 1, 2010 assessments, the valuation date is March 1, 2010. Ind. Code §6-1.1-4-4.5(f) (2010). Any evidence of value relating to a different date must also have an explanation about how it demonstrates, or is relevant to, that required valuation date. *Long*, 821 N.E.2d at 471.
40. The sale price of \$78,000 in 1992 is not probative evidence for this case because nothing in the record relates it forward to the required valuation date, which was eighteen years later. The record does not establish what kind of movement there might have been with general market conditions during that time. The record lacks substantial evidence or explanation to form any legitimate conclusion about a more accurate value for the subject property eighteen years later.
41. Petitioner compared the subject property to the assessment values of properties in the same neighborhood. The values of the "comparables" were from the 2012 assessment.

Petitioner failed to relate these values back to the 2010 assessment. Therefore, the evidence regarding the 2012 assessed values lacks probative value.

42. Furthermore, even if Petitioner had related the values back, most of the neighboring properties were not comparable to the subject. One of the parcels had a trailer as its improvement. Another parcel was an unimproved lot. A third parcel was assessed as commercial property. And finally, Petitioner did not give an assessed value for the last property she compared to the subject. Instead, Petitioner gave its sale price from November 2011. The Petitioner did little to explain how the relevant characteristics of those properties were similar to the characteristics of the subject property. *See Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 470 (Ind. Tax Ct. 2005)(finding that taxpayers failed to establish comparability where they did not discuss the characteristics of the properties being compared). The Respondent likewise failed to explain how any differences between the properties affected their relative market values. *Id.*
43. Petitioner testified that she reached her contended values for the subject property by looking at sales prices of other properties in the neighborhood as well as the value for which she must insure her property. She provided no actual evidence demonstrating the neighboring homes' sale prices and no documentation of an insurance policy. Such conclusory statements are not probative evidence. *Whitley Products v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998) (stating that conclusory statements do not qualify as probative evidence).
44. Petitioner also testified that she could rebuild the subject property residence for \$60,000, which is much less than the value for which it was assessed. Petitioner used her experience of buying and selling homes as well as her practice of doing her own repairs as the explanation for her knowledge of the cost to rebuild. Once again, such conclusory statements are not probative evidence. *Whitley Products*, 704 N.E.2d at 1119 (Ind. Tax Ct. 1998) (stating that conclusory statements do not qualify as probative evidence). This falls short of the type of detailed facts and analysis that might support a legitimate

conclusion about building costs for the subject property. *See Long*, 821 N.E.2d at 471 (Ind. Tax Ct. 2005).

45. Petitioner made the argument that the subject property used to be agricultural. Respondent testified that the area has not been assessed as agricultural in 20 to 30 years. How the property was assessed in prior years has no bearing on how the property was assessed in 2010.
46. Much of the Petitioner's case merely focused on the condition of the property. Ms. Tala's testimony established that the subject property's exterior condition was poor. The Assessment Guidelines have six condition ratings from excellent to very poor. GUIDELINES—app. B at 7 (incorporated by reference at 50 IAC 2.3-01-2). Determining a condition rating for the subject property, however, is just one of the many steps in the Guidelines. It does not directly answer the essential question, which is value.
47. The Petitioner failed to make her case based on the evidence and arguments related to condition. Even if the condition of the subject property really was very poor on March 1, 2010, that point does not prove what a more accurate value is. One cannot make a case based on whether the Guidelines were applied properly. *Eckerling v. Wayne Twp. Assessor*, 841 N.E.2d 674,677 (Ind. Tax Ct. 2006). To successfully make her case, the Petitioner needed to show the assessment does not accurately reflect 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) (explaining that proper focus is not on methodology, but rather, on what the correct value actually is). She did not do so.
48. Because the Petitioner failed to establish a prima facie case, the burden did not shift 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); *Meridian Towers*, 805 N.E.2d at 479.

SUMMARY OF FINAL DETERMINATION

49. The Petitioner failed to prove that the PTABOA assessment should be changed.

This Final Determination of the above captioned matter is issued by the Indiana Board of Tax Review on the date first written above.

Chairman, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

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>.