

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

**Petition No.:** 91-014-06-1-5-00053  
**Petitioners:** Harlen E. and Phyllis E. Tomlinson  
**Respondent:** White County Assessor  
**Parcel No.:** 020-98160-00  
**Assessment Year:** 2006

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 Petitioners initiated an assessment appeal with the White County Property Tax Assessment Board of Appeals (the PTABOA) by written documents dated January 7, 2008.
2. The PTABOA issued notice of its decision on February 25, 2008.
3. The Petitioners filed a Form 131 petition with the Board on April 1, 2008. The Petitioners elected to have this case heard according to the Board's small claim procedures.
4. The Board issued a notice of hearing to the parties dated September 10, 2008.
5. The Board held an administrative hearing on October 15, 2008, before the duly appointed Administrative Law Judge (the ALJ) Dalene McMillen.
6. The following persons were present and sworn in at hearing:
  - a. For Petitioners: Harlen E. Tomlinson, Owner
  - b. For Respondent: Karen A. Hatter, White County Assessor  
Scott Potts, County Representative

## Facts

7. The property is a single-family residence located at 209 Walnut Street, Monon, Monon Township, in White County.
8. The ALJ did not conduct an on-site inspection of the properties under appeal.
9. The PTABOA determined the assessed value to be \$5,300 for the land and \$112,200 for the improvements, for a total assessed value of \$117,500.
10. The Petitioners requested an assessed value of \$5,300 for land and \$90,000 improvements, for a total assessed value of \$95,300.

## Issue

11. Summary of Petitioners' contentions in support of alleged error in assessment:
  - a. The Petitioners contend neighboring properties have diminished the value of the subject property because the properties are poorly maintained. *Tomlinson testimony*. In addition, Mr. Tomlinson testified, fumes from train engines left running affect the value of the property. *Tomlinson testimony*. In support of this contention, the Petitioners submitted a plat map and four photographs of the area. *Petitioner Exhibits 1-5*. The Petitioners argue that, while their house is nice, the character of the neighborhood adversely impacts its value. *Tomlinson testimony*.
  - b. Finally, in response to questioning from the Respondent, Mr. Tomlinson testified that Kenny George performed an appraisal on the property in March 2008, and determined the value of the property to be \$98,000. *Tomlinson testimony*. According to Mr. Tomlinson the appraisal was conducted at the request of Peoples Saving & Loan for the purpose of refinancing the property. *Tomlinson testimony*.
12. Summary of Respondent's contentions in support of the assessment:
  - a. The Respondent contends the subject property's 2008 appraised value of \$98,000 supports the property's current assessment. *Potts testimony*.<sup>1</sup> To support its position, the Respondent submitted Indiana Administrative Code, title 50, rule 21-11-1 (2006) and the 1999 International Association of Assessing Officers (IAAO) 1999 Standard on Ratio Studies. *Respondent Exhibits 1 and 2*. According to the Respondent, 50 IAC 21-11-1 identifies the Coefficient of Dispersion (COD) as

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<sup>1</sup> Mr. Potts testified the Petitioners' 2008 appraised value of \$98,000 was "probably" valid in 2005, because sales data in Monon has shown property values are not increasing or decreasing in the area. *Potts testimony*. According to Mr. Potts, the Monon area has been stagnant for at least three years and continues to be in 2008. *Potts testimony*.

15% for improved residential property. *Respondent Exhibit 1 at 9.* The COD is the average deviation of a group of numbers from the median, expressed as a percentage. *Respondent Exhibit 2 at 59.* The Respondent argues that because Indiana uses a mass-appraisal system for assessing properties, an assessed value needs only to fall within an acceptable statistical range to be accurate. *Potts testimony.* Thus, the current assessment is correct because it is only 19.9% higher than what Mr. Tomlinson testified is the appraised value or 4.9% more than the allowable COD. *Potts testimony.*

- b. The Respondent also contends that changing Mr. Tomlinson’s assessment to the appraised value would create an invalid uniformity. *Potts testimony.* According to Mr. Potts, the IAAO Standard prohibits “sales chasing” which it defines as the practice of assessing properties based on their sales prices. *Respondent Exhibit 2 at 62; Potts testimony.* Therefore, the Respondent argues, reassessing Mr. Tomlinson’s property at its appraised value would equate to sales chasing. *Potts testimony.*

### **Record**

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

- a. The Form 131 petition and related attachments.
- b. The digital recording of the hearing.
- c. Exhibits:

Petitioner Exhibit 1 – Photograph of 212 Walnut Street, Monon,  
Petitioner Exhibit 2 – Photograph of 210 Walnut Street, Monon,  
Petitioner Exhibit 3 – Photograph of 213 Walnut Street, Monon,  
Petitioner Exhibit 4 – Photograph of train engines parked near the subject  
property,

Petitioner Exhibit 5 – Plat map of the subject area,

Petitioner Exhibit 6 – Copy of the Form 131 petition,

Respondent Exhibit 1 – Excerpt of Indiana Administrative Code 50 IAC  
21,

Respondent Exhibit 2 – International Association of Assessing Officers’  
1999 Standard on Ratio Studies, approved July,  
1999,

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 evidence. *Id*; *Meridian Towers*, 805 N.E.2d at 479.
15. The weight of the evidence supports the Respondent. The Board reached this decision for the following reasons:
- a. The Petitioners contend the value of their property is diminished by the condition of the properties in the surrounding area. *Tomlinson testimony*. External obsolescence is caused by an influence outside of a property's boundaries that has a negative impact on the property's value. REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 – VERSION A, app. F at 4 (incorporated by reference at 50 IAC 2.3-1-2) (the GUIDELINES), intro. at 1. For Petitioners to show they are entitled to receive an adjustment for obsolescence, Petitioners must first identify the causes of obsolescence the Petitioners believe are present then quantify the amount of obsolescence they believe should be applied to the property. *Clark v. State Board of Tax Commissioners*, 694 N.E.2d 1230, 1241 (Ind. Tax Ct. 1998). Thus, Petitioners must present probative evidence that the causes of obsolescence identified are resulting in an actual loss in value to the property. *See Miller Structures, Inc. v. State Board of Tax Commissioners*, 748 N.E.2d 943, 954 (Ind.

Tax Ct. 2001). Further, Petitioners' quantification of the amount of obsolescence must be converted into a percentage reduction and applied against the structure's overall value. *See Clark*, 694 N.E.2d at 1238.

- b. Here, the Petitioners submitted four photographs of properties in the surrounding area. *Petitioner Exhibits 1-4*. The Petitioners, however, did not show how the diminished condition of the neighboring properties and fumes from the train engines has caused a loss in the market value of the subject property. It is not sufficient for Petitioners to merely identify random factors that may cause the property to be entitled to an obsolescence adjustment. Petitioners must explain how the purported causes of obsolescence cause the property to suffer an actual loss in value. *See Champlin Realty Co. v. State Board of Tax Commissioners*, 745 N.E.2d 928, 936 (Ind. Tax Ct. 2001).
- c. Further, in response to the Respondent's questions, Mr. Tomlinson testified that the property appraised in or around March 2008 for \$98,000. *Tomlinson testimony*. The Respondent's representative testified that property values have been stagnant in the Monon area for the last three years. *Potts testimony*. Therefore, Mr. Potts admitted that an appraised value of \$98,000 in 2008 would have been valid in 2005. *Potts testimony*.
- d. The Indiana Tax Court recognized that market value-in-use appraisals performed in conformance with Uniform Standards of Professional Appraisal Practice (USPAP) are compelling evidence of a property's market value-in-use. *See e.g., Eckerling v. Wayne Township Assessor*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006). Here, however, no appraisal report was submitted. Mr. Tomlinson merely testified that an appraisal was prepared around March of 2008 that valued the property at \$98,000. The Petitioners provided no evidence of the effective date of the appraisal. Nor did Mr. Tomlinson testify that the appraisal was prepared according to USPAP standards. Moreover, none of the evidence that supported the appraiser's opinion of value was submitted for the record. Thus, while Mr. Tomlinson testified that an appraiser valued the property at \$98,000 as of March of 2008, none of the safeguards and support that make an appraisal a credible estimate of a property's value is in evidence. The Board gives little weight to an opinion of value that is wholly unsupported by an appraisal document or by testimony of an appraiser. Thus, the Petitioners failed to raise a prima facie case that their property is over-valued.
- e. Where the 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*, 799 N.E.2d at 1221-1222 (Ind. Tax Ct. 2003).

**Conclusion**

15. 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 the assessment 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>.**