

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

**Petition No.:** 02-074-09-1-5-00243  
**Petitioner:** Ulman Properties, LLC  
**Respondent:** Allen County Assessor  
**Parcel No.:** 02-12-25-153-011.000-074  
**Assessment Year:** 2009

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

**Procedural History**

1. Ulman Properties, LLC filed a Form 130 petition contesting the subject property’s March 1, 2009 assessment. On April 22, 2010, the Allen County Property Tax Assessment Board of Appeals (“PTABOA”) issued its determination lowering the subject property’s assessment, but not to the level that Ulman Properties had requested.
2. Ulman Properties timely filed a Form 131 petition with the Board. Ulman Properties elected to have its appeal heard under the Board’s small claims procedures.
3. On February 16, 2011, the Board held an administrative hearing through its designated administrative law judge, Jennifer Bippus (“ALJ”).
4. The following people were sworn in and testified:

Ronald Ulman

Tammy Smith, Real Estate Appraisal Deputy

**Facts**

5. The subject property contains a single-family home located at 6314 Chaddsford Drive in Fort Wayne.
6. Neither the Board nor the ALJ inspected the subject property.
7. The PTABOA determined the following values for the subject property:  
Land: \$9,100            Improvements: \$54,400            Total: \$63,500
8. Ulman Properties requested the following values:  
Land: \$9,100            Improvements: \$14,000            Total: \$23,100

## Parties' Contentions

9. Ulman Properties offered the following evidence and arguments:
  - a) The subject property is assessed for more than its market value. On November 7, 2009, Ulman Properties listed the subject property for sale with an asking price of \$27,000. *Ulman testimony; Pet'r Ex. 1.* The property was listed at that price for an entire year without Ulman Properties receiving an offer. *Ulman testimony.*
  - b) The house across the street from the subject property is similar to the subject house, but its March 1, 2010 assessment was only \$19,300—less than one-third of the subject property's assessment. *Ulman testimony; Pet'r Ex. 3.* To show that disparity, Mr. Ulman pointed to the front sides of the property record cards for the two properties. *Ulman testimony; Pet'rs Exs. 2-3.*
  - c) According to Mr. Ulman, he has been in the real estate business for a long time, and he knows the value of rental properties in southeast Fort Wayne. *Ulman testimony.*
  
10. The Assessor offered the following evidence and arguments:
  - a) Ulman Properties appealed the subject property's March 1, 2009, assessment. That assessment was based on sales for the period between January 1, 2007 and December 31, 2008. *Smith testimony.*
  - b) Ms. Smith performed a sales-comparison analysis to support the subject property's assessment. *Smith testimony; Resp't Ex. 3.* She used that approach instead of the income approach because she did not have any income information for the subject property. *Smith testimony.* For her comparators, Ms. Smith chose properties that she believed were similar to the subject property and that did not have homestead credits. Ms. Smith adjusted the sale prices for her comparators to account for differences with the subject property in terms of depreciation and quality grade. *Id.; Resp't Ex. 3 at 2.* She also adjusted the sale prices to account for the presence of garages, HVAC systems, and exterior features. *Id.*
  - c) When applied to the subject property, the median adjusted sale price per square foot was \$78,380 and the mean was \$56,400 (rounded). *Smith testimony; Resp't Ex. 3 at 3.* The range was so wide because of the limited sales data for homes without a homestead credit in the subject property's neighborhood. *Smith testimony.* After looking at all of the sales in the entire neighborhood, Ms. Smith found that most properties sold for prices between \$50,000 and \$60,000. *Id.* Thus, Ms. Smith believed that the mean sale price from her analysis was a better value for the subject property than what the PTABOA determined. *Smith testimony.*
  - d) Ms. Smith did not consider foreclosure sales in her analysis. *Smith testimony.* While there may have been foreclosure sales in the subject property's neighborhood, that neighborhood was not included on the list of "foreclosure neighborhoods" sent to the Department of Local Government Finance for the 2009 assessment year. *Id.; Resp't Ex. 4.*

## **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:

Petitioner Exhibit 1: Subject Property Real Estate Listing History,  
Petitioner Exhibit 2: Property record card (“PRC”) for the subject property (front side only),  
Petitioner Exhibit 3: PRC for 6311 Chaddsford Drive (front side only),

Respondent Exhibit 1: Form 131 with attachments,  
Respondent Exhibit 2: Subject Property PRC, auditor’s exemption page for the subject property,  
Respondent Exhibit 3: Documents showing Tammy Smith’s sales-comparison analysis (4 pages),  
Respondent Exhibit 4: May 8, 2009 letter or memorandum from Amanda Miller, Sharri Hays, Tammy Smith, and Jesse Hawk, Exhibit A to letter or memorandum,  
Respondent Exhibit 5: PRCs for properties included in Ms. Smith’s sales-comparison analysis; auditor’s exemption pages for those same properties with portions highlighted,

Board Exhibit A: Form 131 petition,  
Board Exhibit B: Hearing notice,  
Board Exhibit C: Hearing sign-in sheet,

- d) These Findings and Conclusions.

## **Analysis**

### Burden of Proof

- 12. A taxpayer seeking review of an assessing official’s determination must make a prima facie case proving both that the current assessment is incorrect and 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 taxpayer 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) (“[I]t is the taxpayer’s duty to walk the Indiana Board . . . through every element of the analysis”).

14. If the taxpayer makes a prima facie case, the burden shifts to the respondent to offer evidence to rebut or impeach the taxpayer'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. Ulman Properties did not make a prima facie case for reducing the subject property's assessment. 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 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.
  - 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 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 Ct. 2006). But 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. *Id.*; *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.
  - c) Regardless of the method used to rebut an assessment's presumed accuracy, a party must explain how its evidence relates to the property's market value-in-use as of the relevant valuation date. *O'Donnell v. Dep't of Local Gov't Fin.*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006). Otherwise, the evidence lacks probative value. *See id.* ("[E]vidence regarding the value of property in 1997 and 2003 has no bearing upon 2002 assessment values without some explanation as to how these values relate to the January 1, 1999 value.")(emphasis added). For March 1, 2009 assessments, the valuation date was January 1, 2008. 50 IAC 21-3-3(2006).
  - d) Mr. Ulman relied primarily on the fact that Ulman Properties did not receive any offers to buy the subject property despite listing it for sale at \$27,000 for a whole year. In some circumstances, unsuccessful attempts to sell a property may tend to show that the property is worth no more than its list price. Like other market evidence, however, the party offering that evidence must explain how it relates to the property's value as of the relevant valuation date. Here the listing spanned a period that began more than a year and a half after the January 1, 2008 valuation date at

issue in this appeal. Mr. Ulman did not even attempt to explain how that listing related to the property's value as of January 1, 2008. Mr. Ulman's evidence about the property's unsuccessful listing therefore lacks probative value.

- e) Mr. Ulman also pointed to a property across the street from the subject property that was assessed for less than a third of what the subject property was assessed for.<sup>1</sup> But other than conclusorily asserting that the properties were similar to each other, Mr. Ulman did nothing to compare the two properties. Although he offered the front pages of the properties' record cards, those pages contain almost no information about the homes on the two properties. Thus, even if one assumes that showing an assessment disparity with one comparable property entitles a taxpayer to relief, Mr. Ulman did not show that the two properties were even comparable to each other. *See Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 470 (Ind. Tax Ct. 2005)("[A] taxpayer's statements that another property 'is similar' or 'is comparable' are nothing more than conclusions.").
- f) Finally, Mr. Ulman testified that he knows the value of rental properties in southeast Fort Wayne. But he did not offer any evidence to support his opinion that the subject property was assessed too high. Mr. Ulman's conclusory testimony therefore lacks any probative value.
- g) Thus, Ulman Properties failed to make a prima facie case. Nonetheless, Ms. Smith, the Assessor's representative and witness, conceded that the subject property was worth \$56,400. The Board accepts that concession and orders that the subject property's assessment should be reduced accordingly.

### **Conclusion**

- 16. Ulman Properties failed to make a prima facie case for reducing the subject property's assessment. Nonetheless, the Board accepts Ms. Smith's concession that the subject property is worth no more than \$56,400, and therefore orders that the assessment should be reduced to that amount.

### **Final Determination**

In accordance with the above findings and conclusions, the Indiana Board of Tax Review orders that the subject property's March 1, 2009 assessment be changed to \$56,400.

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<sup>1</sup>Although Mr. Ulman pointed to the properties' 2010 assessments, the disparity was similar for 2009.

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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>>.