

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

**Petition No.:** 02-074-04-1-5-00706  
**Petitioner:** Ulman Properties LLC  
**Respondent:** Wayne Township Assessor (Allen County)  
**Parcel No.:** 02-13-18-155-024.000-074  
**Assessment Year:** 2004

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 written request asking the Allen County Property Tax Assessment Board of Appeals (“PTABOA”) to reduce the subject property’s assessment. On November 16, 2006, the PTABOA issued its determination.
2. Ulman Properties disagreed with the PTABOA’s determination and filed a Form 131 petition with the Board. Ulman Properties elected to have the appeal heard under the Board’s small claims procedures.
3. On April 29, 2009, the Board held an administrative hearing through its designated Administrative Law Judge, Joseph Stanford (“ALJ”).
4. F. John Rogers appeared as the attorney for the Wayne Township Assessor. The following people were sworn in and testified:
  - a) Ronald T. Ulman, Manager, Ulman Properties, LLC<sup>1</sup>
  - b) Amanda Miller, Wayne Township Deputy Assessor

**Facts**

5. The subject property is located at 3418 Euclid Avenue, Fort Wayne, Indiana. Ulman Properties uses the 720-square-foot home as a rental property.
6. Neither the Board nor the ALJ inspected the property.

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<sup>1</sup>Although Mr. Ulman described himself as “manager,” he signed the Form 131 petition in the space provided for the taxpayer or its duly authorized officer. *Board Ex. A.*

7. The PTABOA determined that the subject property's assessment was \$3,900 for the land and \$27,700 for the improvements, for a total of \$31,600.
8. Ulman Properties asked for an assessment of \$3,900 for the land and \$7,750 for the improvements, for a total of \$11,650.

### **Parties' Contentions**

9. Summary of Ulman Properties' contentions:
  - a) Mr. Ulman offered a "comparative market analysis" to support Ulman Properties' claim that the subject property should be assessed for \$11,500. *Pet'r Ex. 7*. The analysis, which Mr. Ulman prepared on June 6, 2005, lists seven other properties that sold between June 30, 2004 and May 27, 2005. *Id.* Mr. Ulman made one or two adjustments to each property's list price to reflect differences between that property and the subject property. But Mr. Ulman admitted that he did not know whether any of the properties were sold as the result of a foreclosure. *Ulman testimony*.
  - b) To support his market analysis and demonstrate his knowledge about property values in that area, Mr. Ulman pointed to appeals that he filed on two other properties. The first of those properties, located at 4324 Spatz Avenue, was assessed at \$18,200 for March 1, 2004. *Ulman testimony; Pet'r Ex. 3*. On appeal, Mr. Ulman claimed that the property should have been assessed at \$7,000. *Ulman testimony; Pet'r Ex. 4*. In 2006, Mr. Ulman sold the property for \$7,000 after having it on the market for over 200 days. *Ulman testimony; Pet'r Ex. 3*. Mr. Ulman had originally bought the property for \$4,000 and needed to fix it up. *Ulman testimony*. When he sold the property, it had a new carpet, new kitchen vinyl, new countertops, and a new sink and faucet. *Id.*
  - c) The other property, located at 2107 Roy Street, was assessed at \$18,100 for March 1, 2004. *Ulman testimony; Pet'r Ex. 6*. On appeal, Mr. Ulman argued that the property should have been assessed at \$12,000. *Ulman testimony*. In 2006, he sold the property for \$12,000 after having it on the market for at least 169 days. *Ulman testimony; Pet'r Ex. 6*.
  - d) Ulman Properties further argued that the subject property's assessment has fluctuated significantly. The Assessor valued the property at \$14,200 in 2001, \$31,600 in 2002, \$23,400 in 2006, \$20,400 in 2007, and \$15,600 in 2008. *Ulman testimony*. The assessments for 2107 Roy Street also fluctuated. *Id.; Pet'r Ex. 6*. But in Mr. Ulman's experience, property values in the area do not really change. His experience with 4324 Spatz Avenue illustrates that point. *Ulman testimony*.

10. Summary of the Assessor's contentions:

- a) While the Assessor disagreed with Ulman Properties' contentions, Ms. Miller conceded that the subject property was worth less than the \$31,600 for which it was assessed, and she recommended that the Board lower its assessment to \$23,400. *Miller testimony*.
- b) To arrive at that number, Ms. Miller used what she characterized as a cost method with a paired-sales analysis because the Assessor was not able to use the income approach in 2004. *Miller testimony*. Ms. Miller collected what she viewed as valid sales data from five comparable properties. *Resp't Ex. C*. She then adjusted each sale price to account for differences between the comparable property and the subject property. *Id*. She adjusted the sale prices for differences in age, condition, grade, and exterior features, using adjustments from the "Level I Manual" that was given to assessors by the Department of Local Government Finance." *Miller testimony; see also, Resp't Ex. C*. After adjusting each comparable sale price and converting it to a price per square foot, Ms. Miller determined that the subject property was worth between \$24,891 and \$25,226. *Resp't Ex. C*. She recommended that the Board lower the property's assessment to \$23,400,<sup>2</sup> because that was the closest that the Assessor's computer system could come to her suggested values. *Miller testimony*. Ms. Miller also asked that any adjustments be made to the subject property's improvement value rather than to its land value. *Id*.

**Record**

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

- a) The Form 131 petition,<sup>3</sup>
- b) A digital recording of the hearing,
- c) Exhibits:<sup>4</sup>

Petitioner's Exhibit 1 – Form 131 petition for the appealed property  
Petitioner's Exhibit 3 – Property record card for 4324 Spatz Avenue  
Petitioner's Exhibit 4 – Form 131 petition for 4324 Spatz Avenue  
Petitioner's Exhibit 6 – Property record card for 2107 Roy Street  
Petitioner's Exhibit 7 – Comparative Market Analysis

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<sup>2</sup> Ms. Miller gave two different recommended values. She originally recommended \$23,500. Later in the hearing, she recommended \$23,400. She repeated \$23,400 when the ALJ asked her to restate the amount. *See Miller testimony*.

<sup>3</sup> Ulman Properties originally filed a Form 131 petition for multiple properties, including the subject property. It later filed a separate petition for the subject property. *See Board Ex. A*.

<sup>4</sup> Ulman Properties did not submit an Exhibit 2 or an Exhibit 5.

Petitioner's Exhibit 8 – Appeal form and market analysis for 2107 Roy Street

Respondent's Exhibit A – Property record card for the subject property  
Respondent's Exhibit B – Photograph of the property  
Respondent's Exhibit C – Assessment calculations  
Respondent's Exhibit D – Property record card for 3916 Central Drive  
Respondent's Exhibit E – Photograph of 3916 Central Drive  
Respondent's Exhibit F – Property record card for 3720 Central Drive  
Respondent's Exhibit G – Photograph of 3720 Central Drive  
Respondent's Exhibit H – Property record for 3915 Central Drive  
Respondent's Exhibit I – Photograph of 3915 Central Drive  
Respondent's Exhibit J – Property record for 3516 Central Drive  
Respondent's Exhibit K – Photograph of 3516 Central Drive  
Respondent's Exhibit L – Property record card for 3712 Central Drive  
Respondent's Exhibit M – Photograph of 3712 Central Drive

Board Exhibit A – Form 131 petition  
Board Exhibit B – Notice of hearing  
Board Exhibit C – Hearing sign-in sheet  
Board Exhibit D – Notice of appearance for F. John Rogers  
Board Exhibit E – Request for copies of documentary evidence and witness list

d) These Findings and Conclusions.

### **Analysis**

#### **Burden of Proof**

12. A taxpayer seeking review of an assessing official's determination must establish 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).
14. If the taxpayer establishes a prima facie case, the burden shifts to the assessor to offer evidence to impeach or rebut 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.

## Analysis

15. Ulman Properties failed to make a prima facie case for changing 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 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).
  - b) Assessors typically use a mass-appraisal version of the cost approach to assess individual properties. The Real Property Assessment Guidelines for 2002 – Version A detail that approach. But those Guidelines are merely a starting point for determining value. *Westfield Golf Practice Center, LLC v. Washington Twp. Assessor*, 859 N.E.2d 396, 399 (Ind. Tax Ct. 2007). Thus, while a property's market value-in-use, as ascertained by applying those Guidelines, is presumed to be accurate, that presumption may be rebutted using relevant evidence that is consistent with the Manual's definition of true tax value. *Eckerling v. Wayne Twp. Assessor*, 841 N.E.2d 674, 676 (Ind. Tax Ct. 2006); *see also* MANUAL at 5. That evidence includes market-value-in-use appraisals, actual construction costs, sales information regarding the appealed parcel or comparable properties, and other evidence compiled using generally accepted appraisal principles. *Id.*
  - c) Regardless of the method used to rebut an assessment's presumption of accuracy, a party must explain how its evidence relates to an appealed 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); *see also Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). For March 1, 2004, assessments, that valuation date was January 1, 1999. *See* MANUAL at 2, 4, 12 (setting January 1, 1999, as the valuation date for the 2002 general reassessment and stating that the Manual provides the assessment rules for all assessment from March 1, 2002, through March 1, 2005).
  - d) Here, Mr. Ulman estimated the subject property's value by comparing it to other properties that had sold in the market. That is what the sales-comparison approach to value contemplates. *See* MANUAL at 13 (describing the sales-comparison approach). Mr. Ulman, however, did little to explain his analysis. For example, while he made a few adjustments to the list prices for his purportedly comparable properties, he did not explain how he arrived at those adjustments. Instead, he pointed to his 20 years of experience in buying and selling properties in southeast Fort Wayne and to what he claimed were his accurate estimates of the market values of two other properties. As the Tax Court has repeatedly said, the most effective method to rebut an assessment's presumed accuracy is by offering "a market value-in-use appraisal, *completed in conformance with the Uniform Standards of Professional Appraisal Practice (USPAP)*." *E.g., Eckerling*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006) (emphasis

added). Thus, even licensed appraisers with no interest in an appeal's outcome must do more to support their valuation opinions than simply point to past successes; they must show that they based their opinions on generally accepted appraisal principles. And Mr. Ulman did not do that.

- e) Also, Mr. Ulman prepared his market analysis on June 6, 2005, based on sales and listings from 2004 and 2005. He therefore needed to explain how that analysis related to the subject property's market value-in-use as of the relevant January 1, 1999, valuation date. To address that question, Mr. Ulman simply asserted that, in his 20 years of experience in buying and selling properties in southeast Fort Wayne, property values did not change. He also pointed to his experience with the property at 4324 Spatz Avenue. But Mr. Ulman testified that the Spatz avenue property was one of the first properties he had bought. *Ulman testimony*. Thus, the two sales of that property spanned almost 20 years, and Mr. Ulman had improved the property during that time. The two sale prices therefore do little to show whether the market changed between January 1, 1999, and the date of Mr. Ulman's market analysis. As a result, the Board gives little weight to Mr. Ulman's explanation of how his market analysis related to the subject property's value as of January 1, 1999.
- f) Ulman Properties also pointed to fluctuations in the subject property's assessment between 2001 and 2008. Some of those fluctuations might be explained by two changes in the law: the switch to a market-value-in-use system in 2002 and the institution of annual adjustments that began in 2006. *See Westfield Golf*, 859 N.E.2d at 398-99 (discussing Indiana's change to a market-value-in-use system); *see also* Ind. Code § 6-1.1-4-4.5 (requiring the Department of Local Government Finance to adopt rules for annually adjusting assessments to reflect changes in value in years between general reassessments). Regardless, that fact that the subject property's assessments have varied from year to year does nothing to show the property's market value-in-use, much less to show its market value-in-use as of January 1, 1999.
- g) While the burden never shifted to the Assessor to defend the subject property's assessment, the Assessor, through Ms. Miller, conceded that the assessment should be lowered to \$23,400. The Board accepts her concession.

### **Conclusion**

16. Ulman Properties failed to make a prima facie case for reducing the subject property's assessment. Nonetheless, the Board accepts the Assessor's concession that the assessment should be lowered to \$23,400.

### **Final Determination**

In accordance with the above findings and conclusions, the Indiana Board of Tax Review now determines that the subject property's March 1, 2004, assessment should be changed to \$23,400.

ISSUED: July 27, 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>>