

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

**Petition Nos.:** 92-004-08-1-5-00008  
92-004-09-1-5-00022  
**Petitioner:** Ulman Realty, Inc.  
**Respondent:** Whitley County Assessor  
**Parcel No.:** 92-06-11-509-304.023-004  
**Assessment Years:** 2008 and 2009

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

**Procedural History**

1. Ronald T. Ulman, on behalf of the Petitioner, Ulman Realty, Inc., initiated the 2008 assessment appeal with the Whitley County Property Tax Assessment Board of Appeals (PTABOA) by written document dated July 13, 2009. Mr. Ulman filed the Petitioner's 2009 assessment appeal on May 13, 2010.
2. The PTABOA issued notice of its determination for the 2008 assessment on December 18, 2009, and the PTABOA issued its notice of determination for the 2009 assessment on December 13, 2010.
3. The Petitioner filed its Form 131 petitions with the Board on January 22, 2010, for its 2008 appeal and January 7, 2011, for its 2009 appeal. The Petitioner elected to have its appeals heard pursuant to the Board's small claims procedures.
4. The Board issued a notice of hearing to the parties dated January 26, 2011.
5. The Board held an administrative hearing on April 14, 2011, before the duly appointed Administrative Law Judge (the ALJ) Joseph Stanford.
6. Persons present and sworn in at hearing:

For Petitioner: Ronald T. Ulman, President of Ulman Realty, Inc.,  
For Respondent: Angela S. Adams, Whitley County Assessor,  
William P. Schultz, Respondent's representative.

## Facts

7. The subject property is a 28-foot by 48-foot double-wide manufactured home on a 44-foot by 88-foot lot, located at 308 East Hannah Street in Columbia City, Indiana.<sup>1</sup>
8. The ALJ did not conduct an on-site inspection of the property.
9. For 2008, the PTABOA determined the assessed value of the subject property to be \$2,500 for the land and \$58,300 for the improvements, for a total assessed value of \$60,800 and for 2009, the PTABOA determined the assessed value of the property to be \$2,500 for the land and \$55,000, for the improvements for a total assessed value of \$57,500.
10. For 2008, the Petitioner requested an assessed value of \$500 for the land and \$35,000 for the improvements, for a total assessed value of \$35,500 and for 2009, the Petitioner requested an assessed value of \$500 for the land and \$30,000 for the improvements, for a total assessed value of \$30,500.

## Issues

11. Summary of the Petitioner's contentions in support of an error in its property's assessments:
  - a. The Petitioner's representative contends that the subject property's improvements are over-valued based on the National Automobile Dealers Association (NADA) Guide. *Ulman argument.* According to Mr. Ulman, the NADA Guide, dated September-December 2010, values the Petitioner's manufactured home at \$13,380.95. *Id.*; *Petitioner Exhibit 2.* Mr. Ulman contends that the NADA value includes the home's additional features, which are valued at \$3,307.68. *Id.* In response to cross examination, Mr. Ulman testified that the Petitioner purchased the property from the United States Department of Housing and Urban Development (HUD) in 2004. *Ulman testimony.* However, Mr. Ulman could not remember if the Petitioner paid \$18,000 or \$28,000 for the property. *Id.*
  - b. Mr. Ulman further contends that the Petitioner's property is over-valued based on the size and location of the lot. *Ulman argument.* According to Mr. Ulman, the land on which the manufactured home sits is a very small rear lot that lacks any street frontage. *Ulman testimony; Petitioner Exhibit 1.* Mr. Ulman testified that the front of the house actually faces an unpaved alley and there are no sidewalks. *Id.* Mr. Ulman argues that the home's value is diminished because the manufactured home is

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<sup>1</sup> Mr. Ulman referred to the subject property as a "mobile home." A "mobile home" is a transportable, factory assembled home that was built before June 15, 1976. 2002 REAL PROPERTY ASSESSMENT GUIDELINES, ch. 4 at 3 (incorporated by reference at 50 IAC 2.3-1-2). A "manufactured home" is a home with the characteristics of a mobile home except that it was built after June 15, 1976, in accordance with the Federal Manufactured Home Construction and Safety Standards Act of 1974. *Id.* The home on the subject property was built in 1989. *Petitioner Exhibit 2.* It is therefore correctly referred to as a "manufactured home."

affixed to a permanent foundation and cannot be easily moved to a larger lot. *Ulman argument.*

- c. Finally, Mr. Ulman contends that the Assessor's comparable properties are not comparable to the subject property, because at least one is a modular home rather than a manufactured home. *Ulman argument.* In addition, Mr. Ulman argues, none of the Assessor's comparable properties are on rear lots; they all have street frontage. *Id.*

12. Summary of the Respondent's contentions in support of the assessments:

- a. The Respondent contends that the subject property's assessments are correct based on comparable sales. *Adams argument.* In support of this contention, the Respondent offered sales information on five properties which sold between 2006 and 2008 for \$43,000 to \$77,000. *Respondent Exhibits 4-8.* Ms. Adams testified that all of the properties sold through repossession. *Adams testimony.* Therefore, she contends the properties' sale prices are lower than the properties' actual market values. *Adams argument.* According to Ms. Adams, the PTABOA declined to change the Petitioner's property's assessments because the Petitioner failed to provide sufficient evidence of an error in the assessments and because there was substantial evidence supporting the property's assessed values for 2008 and 2009. *Id.*
- b. The Respondent further argues that the NADA Guide should not be used to value the Petitioner's property. *Adams argument.* The Respondent's witness contends that Whitley County adheres to the Department of Local Government Finance's (DLGF) memorandum issued in or around 2008 that mobile/manufactured homes on permanent foundations should be assessed as stick-built houses. *Schultz testimony.* According to Mr. Schultz, the best way to do that is to lower the grade of the manufactured homes and put them in their own neighborhood to determine their market value. *Schultz argument.*
- c. In addition, Ms. Adams argues, the NADA Guide does not accurately value the Petitioner's property. *Adams argument.* Ms. Adams contends that because the Guide's pricing includes skirting, the Guide's value does not account for the subject property's permanent foundation or crawl space. *Id; Respondent Exhibit 2.* Moreover, she argues, the Guide's pricing does not include the value of the Petitioner's land. *Adams argument.*
- d. Finally, the Respondent's representative contends the value of the land is correct. *Schultz argument.* According to Mr. Schultz, the lot is priced as a rear lot which has a lower value than a lot with street frontage. *Id.*

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

- a. The Form 131 petitions,

b. A digital recording of the hearing,

c. Exhibits:

Petitioner Exhibit 1 – Photographs of the subject property,  
Petitioner Exhibit 2 – NADA Guide valuation of the subject property,

Respondent Exhibit 1 – Form 115 for March 1, 2008,  
Respondent Exhibit 2 – Form 115 for March 1, 2009, with NADA valuation,  
Respondent Exhibit 3 – Subject property’s property record card and photograph,  
Respondent Exhibit 4 – Market data for 507 Ohio Street,  
Respondent Exhibit 5 – Market data for 308 East Chicago Street,  
Respondent Exhibit 6 – Market data for 774 East Hannah Street,  
Respondent Exhibit 7 – Market data for 512 East Hannah Street,  
Respondent Exhibit 8 – Market data for 553 South Golden Avenue,

Board Exhibit A – Form 131 petition,  
Board Exhibit B – Notice of hearing dated January 26, 2011,  
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 case. *Id.; Meridian Towers*, 805 N.E.2d at 479.

15. The Petitioner failed to establish a prima facie case that the subject property's 2008 and 2009 assessments should be reduced. The Board reached this conclusion for the following reasons:
- a. The 2002 Real Property Assessment Manual defines "true tax value" 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 have traditionally used three methods to determine a property's market value: the cost approach, the sales comparison approach, and the income approach to value. *Id.* at 3, 13-15. In Indiana, assessing officials generally assess real property using a mass-appraisal version of the cost approach, as 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); *PA Builders & Developers, LLC*, 842 N.E.2d 899 (Ind. Tax Ct. 2006). 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 property 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); *see also Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). For the March 1, 2008, assessment, the valuation date was January 1, 2007. 50 IAC 21-3-3. For the March 1, 2009, assessment, the valuation date was January 1, 2008. *Id.*
  - d. Here, Mr. Ulman argues that the manufactured home on the Petitioner's property is over-valued based on the 2010 NADA Guide. Indiana law provides that the NADA Guide is one of the accepted valuation methods for "annually assessed" mobile or manufactured homes, or mobile or manufactured homes that do not qualify as real property. Ind. Code § 6-1.1-31-7; 50 IAC 3.3-5-1(b). But, as the Assessor correctly suggested, the statutes and regulations do not provide for that method to value real property.<sup>2</sup> It is undisputed that the Petitioner's house is attached to a permanent

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<sup>2</sup> The Board can only speculate as to the reasons for this. As the Assessor stated, the NADA Guide does not include a value for the foundation, or a crawl space, if one exists. And it does not include the land value. Further, it could be argued that a mobile or manufactured home affixed to a permanent foundation, sitting on land owned by the homeowner, simply has more value in the market a home sitting on rented land that would have to be transported again to qualify as real property.

foundation. Thus, the Petitioner's manufactured home is considered real property, and should be assessed using Schedule A of the Real Property Assessment Guidelines. GUIDELINES, ch. 4 at 3.

- e. Further, the NADA Guide valued the property as of September through December 2010. Therefore, even if the Board found the NADA Guide provided some evidence of the market value-in-use of the Petitioner's home, Mr. Ulman provided no evidence of the property's value as of the relevant valuation dates of January 1, 2007, for the March 1, 2008, assessment and January 1, 2008, for the March 1, 2009, assessment. Thus, Mr. Ulman's evidence fails to raise a prima facie case that the value of the improvements on the Petitioner's property was over-stated for either assessment year.
- f. Mr. Ulman also testified that he purchased the subject property in 2004 for either \$18,000 or \$28,000. While the rules of evidence generally do not apply in the Board's hearings, the Board requires some evidence of the accuracy and credibility of the evidence. Statements that are unsupported by probative evidence are conclusory and of no value to the Board in making its determination. *Whitley Products, Inc. v. State Board of Tax Commissioners*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998); and *Herb v. State Board of Tax Commissioners*, 656 N.E.2d 890, 893 (Ind. Tax Ct. 1995). Because Mr. Ulman could not testify for certain as to the price for which the Petitioner purchased the subject property, the testimony regarding the purchase of the property has insufficient accuracy and credibility to raise a prima facie case that the Petitioner's property was over-valued for either the 2008 or 2009 assessment year. Furthermore, like the 2010 NADA Guide, there is no evidence in the record as to how the Petitioner's 2004 purchase price relates to the relevant valuation dates.
- g. Finally, the Petitioner contends that its parcel is a rear lot and therefore its property has less value than other manufactured homes with street frontage. However, the subject property's property record card shows that the property was assessed as a rear lot. More importantly, the Petitioner failed to show that its land assessment did not adequately reflect the market value-in-use of the subject property. Therefore, the Petitioner failed to raise a prima facie case that its property was over-valued based on the size or characteristics of its lot.<sup>3</sup>
- h. The Petitioner failed to raise a prima facie case that its property was over-valued for the March 1, 2008, or March 1, 2009, assessments. Where the Petitioner has not supported his claim with probative evidence, the Respondent's duty to support the assessment with substantial evidence is not triggered. *Lacy Diversified Indus. LTD v.*

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<sup>3</sup> Mr. Ulman also testified that he requested a continuance for one of the PTABOA hearings, which was refused. Because the Board's proceedings are *de novo*, the failure to appear or present evidence at the PTABOA hearing has no significance. See Ind. Code § 6-1.1-15-4(m) ("A person participating in a hearing [before the Board] is entitled to introduce evidence that is otherwise proper and admissible without regard to whether that evidence has previously been introduced at a hearing before the county property tax assessment board of appeals.")

**Conclusion**

16. The Petitioner failed to raise a prima facie case that its property's 2008 or 2009 assessment was incorrect. The Board therefore finds in favor of the Respondent on both appeals.

**Final Determination**

In accordance with the above findings of fact and conclusions of law, the Indiana Board of Tax Review determines that the assessed values of the subject property for the March 1, 2008, and March 1, 2009, assessments 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>.