

REPRESENTATIVE FOR PETITIONER: Pro Se

REPRESENTATIVE FOR RESPONDENT: Andrew D. Baudendistel, Attorney

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**BEFORE THE  
INDIANA BOARD OF TAX REVIEW**

Judith Volz,	)	
	)	Petition No. 15-021-07-1-1-00003
Petitioner,	)	
	)	Parcel No. 15-09-09-400-012.000-021
v.	)	
	)	Dearborn County
Dearborn County Assessor,	)	Sparta Township
	)	2007 Assessment
Respondent.	)	

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

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June 13, 2011

**FINAL DETERMINATION**

The Indiana Board of Tax Review (Board) has reviewed the evidence and arguments presented in this case. The Board now enters its findings of fact and conclusions of law.

**ISSUE**

Did the Petitioner prove that the current assessment of \$217,000 is not an accurate market value-in-use for the subject property and did she prove what the correct assessment should be?

## **HEARING FACTS AND OTHER MATTERS OF RECORD**

1. The subject property is a single family residence located at 16196 West County Line Road in Moores Hill.
2. The Petitioner initiated an assessment appeal by filing a Form 130. The Property Tax Assessment Board of Appeals (PTABOA) mailed its decision on November 19, 2008. The Petitioner filed a Form 131 with the Board on December 15, 2008.
3. The PTABOA determined the assessed value was \$24,500 for land and \$192,500 for improvements (\$217,000 total).
4. The Petitioner did not specify what the assessed value should be.
5. Administrative Law Judge Kay Schwade held a hearing for this petition on March 17, 2011. There was no on-site inspection of the subject property by the Administrative Law Judge or the Board.
6. The following persons were sworn as witnesses at the hearing:
  - For the Petitioner – Judith Volz and Chris Volz,
  - For the Respondent – Gary Hensley and Jeffrey Thomas.
7. The Petitioner presented the following exhibits:
  - Exhibit 1 – Property Record Card (PRC) for 16055 Volz Road (Comp 1),
  - Exhibit 2 – PRC for 15778 County Line Road (Comp 2),
  - Exhibit 3 – PRC for 16050 Volz Road (Comp 3),
  - Exhibit 4 – PRC for 16288 W. County Line Road (Comp 4).
8. The Respondent presented the following exhibit:
  - Exhibit A – Appraisal.

9. The following items are recognized as part of the record:
- Board Exhibit A – Form 131 petition with attachments,
  - Board Exhibit B – Notice of Hearing,
  - Board Exhibit C – Hearing Sign-In Sheet.

#### **SUMMARY OF THE PETITIONER’S CASE**

10. The subject property has 8.25 acres of land and a house that is 52 years old. It has not had any additions, but only normal upkeep and maintenance over the years. *Volz testimony.*
11. The assessed value is extremely high. It is unfairly higher than the assessed value of neighboring comparable properties. *Volz testimony.*
12. The subject property is located between Comp 1 and Comp 4. The square footage of Comp 1 is comparable or the same as the subject property, but at 17.76 acres the land size is almost twice that of the subject property. The square footage of Comp 4 is also comparable or the same as the subject property and the land of Comp 4 is about twice the size of the subject property. The assessments of both Comp 1 and Comp 4 are less than the assessed value of the subject property. *Volz testimony; Pet’r Ex. 1, 4.*
13. Comp 2 is “down the road” from the subject property. It has a house, garage, and barn on 80 acres of land classified as farm ground. The square footage is comparable to the subject property. The assessed value of Comp 2 is \$236,000. Comp 3 is also “down the road” from the subject property. It has a barn on 15 acres of land. The assessed value of Comp 3 is \$127,500. *Volz testimony; Pet’r Ex. 2, 3.<sup>1</sup>*
14. The value for all property was down during this time period. Based on the assessed values of the comparable properties, the subject property’s assessed value is too high. The difference between the assessed values is not fair. *Volz testimony.*

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<sup>1</sup> The PRCs show different assessment numbers for the 2007 assessments. Exhibit 2 shows the 2007 assessment for Comp 2 was \$211,900. Exhibit 3 shows the 2007 assessment for Comp 3 was \$130,800.

## SUMMARY OF THE RESPONDENT'S CASE

15. The Respondent engaged Jeffrey Thomas to perform a retroactive appraisal for the subject property. He is an Indiana Certified General Appraiser. His appraisal was considered in regard to the Petitioner's claim that her 2007 assessed value is unfair. *Hensley testimony; Resp't Ex. A.*
16. The appraisal process begins by looking at all sales data in the area and then narrowing those sales down based on the characteristics of the subject property. Finding comparable properties is not as simple as picking the house next door. In rural settings there often is lots of variation in property characteristics such as size, style, quality, etc. *Thomas testimony.*
17. The appraised value is based on purely market factors. They used sales that represent the most probable price agreed upon by a knowledgeable buyer and seller. They exclude any transaction resulting from foreclosure. The appraisal used sales of properties that are comparable to the subject property in quality, location, condition, etc. Those sales occurred during 2007. Comparable sales from 2011 would be lower than they were in 2007. *Thomas testimony.*
18. The appraisal estimates the value was \$212,000 as of March 1, 2007. *Thomas testimony; Resp't Ex. A.*<sup>2</sup>

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<sup>2</sup> A party must explain how his evidence of value relates to the required 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). Otherwise, that evidence is not probative for determining a more accurate assessment. *Id.* The required valuation date changes for every assessment year. For 2007 assessments, that valuation date was January 1, 2006. 50 IAC 21-3-3 (2007). The Respondent did not establish how or why this appraisal relates to the proper date. Nevertheless, because the Petitioner failed to make a prima facie case for any assessment change, the date of the appraisal makes no difference to our determination.

## ADMINISTRATIVE REVIEW AND BURDEN

19. 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 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).
20. In making her 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”).

## ANALYSIS

21. Real property is assessed on the basis of its “true tax value,” which means “the market value-in-use of a property for its current use, as reflected by the utility received by the owner of a similar user, from the property.” Ind. Code § 6-1.1-31-6(c); REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.3-1-2). The cost approach, the sales comparison approach, and the income approach are three generally accepted techniques to calculate market value-in-use. The primary method for assessing officials to determine market value-in-use is the cost approach. MANUAL at 3. Indiana promulgated a series of guidelines that explain the application of the cost approach. REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 – VERSION A. The value established by use of those Guidelines, while presumed to be accurate, is merely a starting point. Other evidence relevant to market value-in-use can rebut that presumption. Such evidence may include actual construction costs, sales information regarding the subject or comparable properties, appraisals, and any other information compiled in accordance with generally accepted appraisal principles. MANUAL at 5.

22. Although the evidence fails to show how the assessment of the subject property was calculated, the Petitioner attempted to compare her assessment to the assessments of four other properties that are either contiguous or “down the road.” To effectively use any kind of comparison approach to value a property, one must show that properties truly are comparable. Conclusory statements that properties are “similar” or “comparable” are not sufficient. *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 470 (Ind. Tax Ct. 2005). One must identify the subject property’s characteristics, explain how those characteristics compare to the alleged comparable properties, and explain how any differences affect market value-in-use. *Id.* at 471. The Petitioner failed to do so.
23. The evidence presented by the Petitioner tends to show that the purportedly comparable properties are not really comparable. Comps 1, 3, and 4 have twice as much land as the subject property. The Petitioner testified that the square footage of Comps 1, 2, and 4 is the same or comparable to the subject property, but she did not prove what the square footage of the subject property is, nor did she explain how that conclusion is justified where Comps 1, 2, and 4 appear to have a wide range of square footages.<sup>3</sup> Additionally, the Petitioner brought up only a few of the property characteristics that impact value. As the Respondent correctly pointed out, the Petitioner ignored many other factors that must be considered. Furthermore, the Petitioner did not offer any explanation about how differences between the properties affect the market values-in-use. The facts and analysis that the Petitioner present are not sufficient to draw any legitimate conclusion about what the relative values of these properties really is.
24. Finally, simply comparing assessments is problematic. It is not enough for the Petitioner to show her property is assessed higher than other property. A taxpayer cannot rebut the presumption that her assessment is correct without presenting evidence of market value-in-use. *Eckerling v. Wayne Twp. Assessor*, 841 N.E.2d 674, 677-678 (Ind. Tax Ct. 2006). *See also Westfield Golf Practice Center v. Washington Twp. Assessor*, 859 N.E.2d 396,

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<sup>3</sup> The Petitioner did not mention it, but the appraisal indicates the subject property has 3,049 square feet. Comp 2 with 3,558 square feet and Comp 4 with 2,480 square feet appear to be the two dwellings with the closest amount of square footage to the subject property. The Petitioner’s conclusion that the square footages are the same or comparable is unjustified.

399 (Ind. Tax Ct. 2007). She must present probative evidence that the assessed value as determined by the assessor is not an accurate market value-in-use. *Westfield Golf*, 859 N.E.2d at 399; *P/A Builders & Developers, LLC v. Jennings Co. Assessor*, 842 N.E.2d 899, 900 (Ind. Tax Ct. 2006) (focus is on determining whether the assessed value is actually correct.) The Petitioner presented absolutely no such evidence.

#### SUMMARY OF FINAL DETERMINATION

25. The Petitioner did not make a prima facie case. The Board finds in favor of the Respondent.

This Final Determination for the above captioned matter is issued on the date first written above.

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Commissioner, 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

#### - 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>>