

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #s: 45-028-02-1-4-00143
45-028-02-1-4-00144
Petitioner: I 65 and 30 Venture
Respondent: Department of Local Government Finance
Parcel #s: 008081504850002
008081504850001
Assessment Year: 2002

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

Procedural History

1. Informal hearings as described in Ind. Code § 6-1.1-4-33 were held February 12, 2004, in Lake County, Indiana. The Department of Local Government Finance (the "DLGF") determined the Petitioner's property tax assessment for the above captioned parcels and notified the Petitioner on March 31, 2004.
2. The Petitioner filed its Form 139L petitions on May 3, 2004.
3. The Board issued notices of hearing to the parties dated July 22, 2005.
4. Dalene McMillen, a special master duly appointed by the Board, held a consolidated hearing on the above-captioned petitions on August 24, 2005, in Crown Point, Indiana.

Facts

5. The subject properties are located at 1000 East 80th Place, Merrillville, Ross Township in Lake County. Parcel # 008081504850002 (Petition # 45-028-02-1-4-00143) is a paved parking lot situated on 3.156 acres of land. Parcel 008081504850001 (Petition # 45-028-02-1-4-00144), known as the Twin Towers, consists of twin office towers with an interconnecting retail area situated on 8.573 acres of land.
6. The Special Master did not conduct an on-site visit of the properties.
7. The assessed value of the subject properties as determined by the DLGF:

Petition # 45-028-02-1-4-00143 Parcel #008081504850002
Land: \$973,900 Improvements: \$47,300 Total: \$1,021,200

Petition #45-028-02-1-4-00144 Parcel #00808150485000
Land: \$2,581,400 Improvements: \$12,963,200 Total: \$15,544,600

8. The assessed value of the subject properties as requested by the Petitioner at the hearing:

Petition #45-028-02-1-4-00143 Parcel #08081504850002
Land: \$442,357 Improvements: \$47,300 Total: \$489,657

Petition #45-028-02-1-4-00144 Parcel #008081504850001
Total: \$11,400,000

9. The following persons were present and sworn in at the hearing:

For Petitioner: Richard Archer, Tax Representative
 Thomas Janik, Witness

For Respondent: Terry Knee, Assessor/Auditor, DLGF
 Phillip Raskosky II, Assessor/Auditor, DLGF

Issues

10. Summary of Petitioner's contentions in support of an alleged error in the assessment:

Petition # 45-028-02-1-4-00144 (Parcel 0001¹)

- a) The Petitioner submitted an appraisal of the Twin Towers office complex prepared by David M. Heinowski, a certified appraiser. *Pet'r Ex. 3(Parcel #0001)*. Mr. Heinowski is licensed in the State of Michigan and has a permit for temporary practice in Indiana. *Id. at 60*. The appraisal is dated August 5, 2005, and it estimates the value of Parcel #0001 to be \$12,000,000 as of March 1, 2002. *Id. at 53, 55*. The appraisal further trends the March 1, 2002, to reflect a value of \$11,400,000 as of January 1, 1999. *Id. at 56*.
- b) Mr. Heinowski utilized three methods in estimating the market value of Parcel # 0001 – the sales comparison, cost and income approaches to value. *Archer testimony; Pet'r Ex. 3(Parcel #0001) at 33-55*. Mr. Heinowski placed the greatest emphasis on the income capitalization approach. *Id. at 55*. According to Mr. Heinowski, potential investors in large multiple tenant properties rely heavily on the estimated economic performance of a property as gauged by the income approach. *Id.* Mr. Heinowski further noted that the values obtained under the cost and sales comparison approaches

¹ For convenience, the Board will refer to the parcels at issue by the last four digits of their respective parcel numbers.

- supported his estimation of value under the income approach. *Id.* at 54-55; *Archer testimony*.
- c) In performing his analysis under the sales comparison approach, Mr. Heinowski examined the sales of three properties he viewed as being comparable to Parcel # 0001. The first property sold in May 2001 for sale price equal to \$68.28 per square foot. The second property sold in May 2000 for a price equal to \$71.05 per square foot. The third property sold in December 1999 for a price equal to \$42.52 per square foot. *Pet'r Ex. 3(Parcel #0001) at 43-46*. In arriving at his final estimation of value, Mr. Heinowski afforded the least weight to his analysis under the sales comparison approach, given that one of the comparable properties was located in a different market segment than Parcel # 0001 and that the sale of a second comparable property was part of a portfolio acquisition. *Id.* at 54; *Archer testimony*.
- d) Mr. Heinowski next estimated the market value of Parcel #0001 using the cost approach. Mr. Heinowski estimated the replacement cost new (RCN) of the improvements to be \$37,325,005 as of December 31, 2004. *Pet'r Ex. 3 (Parcel #0001) at 39*. To determine the RCN of the improvements as of the March 1, 2002, assessment date, Mr. Heinowski divided the December 31, 2004, RCN by a comparative cost multiplier of 1.187. Mr. Heinowski used the cost multiplier for class "A" buildings in the central area of the United States set forth in a publication of Marshall Valuation Services. *Id.* This yielded a March 1, 2002, RCN for the subject improvements of \$31,444,823. *Id.* Mr. Heinowski then used market-derived data to estimate that the subject improvements suffered physical depreciation equal to 67% of their March 1, 2002, RCN. *Id.* at 39-42. The March 1, 2002, RCN less 67% physical depreciation yields a depreciated value for the improvements of \$10,376,792. *Id.*
- e) To determine an appropriate land value, Mr. Heinowski examined the sales and listing prices of seven (7) vacant tracts he considered comparable to the land contained in Parcel #0001. Mr. Heinowski considered adjustments to the sale/listing prices of those tracts based upon whether they differed from the subject property in terms of location, size, shape, zoning, topography and access to public utilities. *Id.* at 36-37. Mr. Heinowski ultimately adjusted the sale/listing prices of several of the tracts based upon differences between those tracts and Parcel #0001 in terms of size and location. *Id.* Based on his analysis of the adjusted sale/listing prices of the comparable properties, Mr. Heinowski concluded that \$200,000 per acre was an appropriate rate to use in valuing Parcel # 0001. *Id.* This yielded a land value of \$1,765,000 (rounded). After adding the land value to the depreciated replacement cost new of the improvements, Mr. Heinowski concluded that the March 1, 2002, market value of the subject property as determined under the cost approach was \$12,150,000 (rounded). *Id.* at 42.
- f) Mr. Heinowski estimated the market value of the subject property to be \$12,000,000 (rounded) as of March 1, 2002, using the income approach to value. *Archer testimony; Pet'r Ex. 3 (Parcel #0001) at 53*. In doing so, Mr. Heinowski examined

the income and expenses for the subject property from 1999 – 2001 to develop a “Pro Forma” income statement for March 1, 2002. *Pet’r Ex. 3 (Parcel #0001) at 43-44.* Mr. Heinowski also examined lease rates for comparable properties and determined that the lease rates for Parcel #0001 were reflective of market rents. *Id. at 48-50.*

- g) Mr. Heinowski applied an overall capitalization rate of 14.64% to the pro forma net operating income of the subject property. To determine the overall rate, Mr. Heinowski first used the band of investment technique to calculate a rate of 9.5% (rounded). *Id. at 52.* According to Mr. Heinowski, that rate was supported by various investor surveys, which cited rates ranging from 8.5% to 11% for the Chicago office market. *Id.* While the subject property is not in the Chicago market, it is influenced by that market. *Id. at 53.* Mr. Heinowski therefore felt that a rate of 9.5% was reasonable. *Id.* Mr. Heinowski then added an effective tax rate of 5.06% to arrive at an overall rate of 14.64%. *Id.*
- h) Mr. Heinowski ultimately gave the greatest weight to his estimation of value under the income approach. Thus, Mr. Heinowski estimated the market value of Parcel #0001 to be \$12,200,000 as of March 1, 2002. *Id. at 55.* Mr. Heinowski then trended that amount to a value as of January 1, 1999, using a comparative cost multiplier of .923, which he derived from the comparative cost indexes provided by Marshall Valuation Services. *Id.* This resulted in a January 1, 1999, value of \$11,400,000. *Id.*

Petition # 45-028-02-1-4-00143 (Parcel #0002)

- i) Parcel #0002 is a parking lot located across the street from the Twin Towers office complex. A street separates the two parcels, but they are otherwise contiguous. *Archer testimony.*
- j) The appraisal presented for the Twin Towers does not include Parcel #0002. The Petitioner, however, contended that the two parcels are similarly situated. *Archer testimony.* The Petitioner requested that Parcel #0002 be valued the same as the land under the Twin Towers. *Archer testimony.*
- k) The Petitioner calculated the land value for Parcel # 0002 based upon a rate of \$150,000 per acre. *Archer testimony.* In support of that proposed rate, the Petitioner submitted one page from an appraisal of another property. *Pet’r Ex. 3 (Parcel #0002).* The Petitioner multiplied the \$150,000 per acre price by 3.156, the size of the parcel, to arrive at a March 1, 2002, land value of \$473,400. *Archer testimony.* The Petitioner multiplied that amount by 93.4426% to adjust the land value to \$442,357 as of January 1, 1999. The Petitioner then added \$47,300 for the paving contained on Parcel # 0002 for a total true tax value of \$489,700 (rounded). *Archer testimony.*

11. Summary of Respondent's contentions in support of assessment:

Petition # 45-028-02-1-4-00144 (Parcel 0001)

- a) The Respondent presented the property record card for Parcel #0001, photographs of the property, a plat map, land calculations, a proposed corrected property record card, and a Notice of Final Assessment for the property. *Raskosky testimony; Resp't Exs. 1-6.*
- b) The Respondent's corrected property record card added an additional 28% influence factor to the land. With the Respondent's corrections, the land value is \$1,820,600. When added to the improvement value of \$12,963,200, the corrected total assessed value is \$14,783,800. *Raskosky testimony; Resp't Ex. 5.*
- c) The Respondent noted that one of the properties relied upon by Mr. Heinowski in his comparable sales analysis was part of a portfolio sale. *Raskosky testimony.* According to the Respondent, use of that sale was improper, because Mr. Heinowski did not explain how he allocated a value to the purportedly comparable property from the overall sale price for the portfolio. *Knee testimony.*
- d) The Respondent contended that the sales and listings used by Mr. Heinowski in his analysis of the land value for Parcel # 0001 were outside of the permissible timeframe for purposes of the 2002 general reassessment. *See Knee testimony.*
- e) The Respondent also questioned the validity of Mr. Heinowski's calculation of depreciation under the cost approach. *Knee testimony.*
- f) With regard to Mr. Heinowski's application of the income approach, the Respondent noted that Mr. Heinowski used a capitalization rate (prior to adding in a tax rate) of 9.5%, which differed from the capitalization rate of 9.8% that he used in appraisals of nearby properties. *Knee testimony.*
- g) Finally, the Respondent contended that Mr. Heinowski did not provide adequate support for the factor he used to adjust his March 1, 2002, estimation of value to a value as of January 1, 1999. *Knee testimony.*

Petition # 45-028-02-1-4-00143 (parcel 0002)

- h) The Respondent presented the property record card for Parcel # 0002, a plat map, land calculations, and the Notice of Final Assessment for the property. *Raskosky testimony; Resp't Exs. 1 - 4.*
- i) Parcel #0002 is located in neighborhood #30893, and it is classified as primary commercial land. The Respondent started with the same base rate of \$431,244 per acre that it used to assesses the land under the Twin Towers (Parcel #0001). Parcel #0002 parcel is smaller than Parcel #0001, however, so the Respondent applied a

decremental percentage of 50% to arrive at a rate of \$342,863 per acre. Multiplying 3.156 acres by the rate of \$342,863 yields an estimated value of \$1,082,060. The Respondent applied an influence factor of negative 10% to arrive at a total land value of \$973,900. Adding \$47,300 for the paving yields a total value of \$1,021,200. *Raskosky testimony; Resp't Exs. 1, 3.*

- j) The Respondent agreed that the subject parcel is used in conjunction with the Twin Towers office complex; however, the parcels are not contiguous because they are separated by a street. *Knee testimony.*
- k) The Respondent was required to examine sales occurring between January 1, 1998, and December 31, 1999, in determining land values for the 2002 general reassessment. With the exception of one sale, the sales provided by the Petitioner occurred outside that timeframe. *Knee testimony.*

Record

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

- a) The Petition,
- b) The recording of the hearing,
- c) Exhibits:

Petition #45-028-02-1-4-00143

Petitioner Exhibit 1 – Form 139L petition,
Petitioner Exhibit 2 – Subject property record card,
Petitioner Exhibit 3 – Land Valuation excerpt (1 page) from MAI appraisal submitted for parcel #008081504850004²

Respondent Exhibit 1 – Subject property record card (PRC),
Respondent Exhibit 2 – Plat map of the subject parcel,
Respondent Exhibit 3 – Land Calculations/Land Summary Sheet,
Respondent Exhibit 4 – Notice of Final Assessment,

Board Exhibit A – Form 139L petition,
Board Exhibit B – Notice of Hearing on Petition,
Board Exhibit C – Hearing sign-in sheet,

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Petitioner Exhibit 1 – Form 139L petition,

² The following items were included in the folder with the Petitioner's exhibits but were not labeled as exhibits: a copy of the hearing notice, a power of attorney, and a document summarizing the Petitioner's opinion of value.

Petitioner Exhibit 2 – Subject property record card,
Petitioner Exhibit 3 – Appraisal report prepared by David M. Heinowski,
Petitioner Exhibit 4 – Copy of a depreciation schedule from Marshall Valuation Service,³

Respondent Exhibit 1 – Subject property record card (PRC),
Respondent Exhibit 2 – Two photographs of the subject,
Respondent Exhibit 3 – Plat map of the subject parcel,
Respondent Exhibit 4 – Land Calculations/Land Summary Sheet,
Respondent Exhibit 5 – PRC with proposed land correction,
Respondent Exhibit 6 – Notice of Final Assessment,

Board Exhibit A – Form 139L petition,
Board Exhibit B – Notice of Hearing on Petition,
Board Exhibit C – Hearing sign-in sheet,

d) These Findings and Conclusions.

Analysis

13. The most applicable 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 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).
- 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 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”).
- 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.

³ The following items were included in the folder with the Petitioner’s exhibits, but were not labeled as exhibits: a copy of the hearing notice, and a power of attorney.

14. The Petitioner did provide sufficient evidence to support its contentions with regard to the assessment of Parcel # 0001. This conclusion was arrived at because:
- a) The 2002 Real Property Assessment Manual (“Manual”) defines the “true tax value” of real property 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). As set forth in the Manual, the appraisal profession traditionally has used three methods to determine a property’s market value: the cost approach, the sales comparison approach, and the income approach. *Id.* at 3, 13-15. In Indiana, assessing officials primarily use the cost approach, as set forth in the Real Property Assessment Guidelines for 2002 – Version A (“Guidelines”), to assess real property.
 - b) A property’s market value-in-use, as ascertained through application of the Guidelines’ cost approach, is presumed to be accurate. *See* MANUAL at 5; *see also*, *Kooshtard Property VI, LLC v. White River Twp. Assessor*, 836 N.E.2d 501, 505 (Ind. Tax Ct. 2005) *reh’g den. sub nom. P/A Builders & Developers, LLC*, 2006 Ind. Tax LEXIS 4 (Ind. Tax 2006). A taxpayer, however, may use an appraisal prepared in accordance with the Manual’s definition of true tax value to rebut the presumption that an assessment is correct. MANUAL at 5; *Kooshtard Property VI*, 836 N.E.2d at 505-06 n.1 (“[T]he Court believes (and has for quite some time) that the most effective method to rebut the presumption that an assessment is correct is through the presentation of a market value-in-use appraisal, completed in conformance with the Uniform Standards of Professional Appraisal Practice [USPAP].”).
 - c) The Manual further provides that for the 2002 general reassessment, a property’s assessment must reflect its value as of January 1, 1999. *See* MANUAL at 4. Consequently, in order to present evidence probative of a property’s true tax value, a party relying on an appraisal performed substantially after January 1, 1999, should explain how the value estimated by that appraisal relates to the property’s value as of January 1, 1999. *See Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005) (holding that an appraisal indicating a property’s value as of December 10, 2003, lacked probative value in an appeal from a 2002 assessment).
 - d) Mr. Heinowski performed his appraisal in accordance with the “Competency Provision and Rules 1-5 of [USPAP].” *Pet’r Ex. 3 (Parcel #0001) at 59*. Mr. Heinowski estimated the market value of the subject property using three generally accepted methods of appraisal - the sales comparison, cost and income approaches to value. *Id. at 32-60*. In his expert opinion, Mr. Heinowski estimated the value of the subject property to be \$12,200,000 as of the assessment date of March 1, 2002. *Pet’r Ex. 3 at 55*. Mr. Heinowski then applied a comparative cost multiplier to trend his March 1, 2002, estimation of value to a value as of January 1, 1999, of \$11,400,000. *Id.* Thus, under the above cited portions of the Manual and applicable case law, Mr. Heinowski’s appraisal is sufficient to establish a prima facie case that the current

assessment is incorrect and that the true tax value of the subject property is \$11,400,000.

- e) Because the Petitioner established a prima facie case for a change in assessment based upon the appraisal prepared by Mr. Heinowski, the burden shifted to the Respondent to impeach or rebut that appraisal. *See Meridian Towers*, 805 N.E.2d at 479.
- f) The Respondent sought to impeach Mr. Heinowski's opinion of value by pointing to what it viewed as several flaws in the appraisal. As an initial matter, several of the Respondent's claims were vague and conclusory, such as its claims that Mr. Heinowski's calculation of physical depreciation was invalid, and that he did not provide adequate support for the factor by which he adjusted his March 1, 2002, estimation of value to a value as of January 1, 1999. The Board therefore assigns no weight to those contentions.
- g) The Respondent, however, also made three more specific claims: that Mr. Heinowski erred in relying on a portfolio sale in his sales comparison analysis; that Mr. Heinowski's calculation of a capitalization rate was inconsistent with the rate he used in other appraisals; and that Mr. Heinowski erred in using sales occurring after December 31, 1999, to compute an appropriate land value under the cost approach.
- h) The Board gives little credence to the Respondent's first claim. In arriving at his final estimation of value, Mr. Heinowski placed the least emphasis on his sales comparison analysis. *Pet'r Ex. 3(Parcel #0001) at 54*. He did so, in part, precisely because one of the sales was a portfolio sale. *Id.* The Board similarly assigns little or no weight to the Respondent's claim regarding Mr. Heinowski's choice of a capitalization rate under the income approach. The Respondent based its attack entirely on the fact that Mr. Heinowski used a slightly higher rate in valuing other properties. Mr. Archer, however, explained that the difference was attributable to the fact that those properties were used for different purposes than the Parcel #0001, and that the investor surveys relied upon by Mr. Heinowski in determining his capitalization rate are based upon property types. *Archer testimony*. Finally, the fact that Mr. Heinowski examined sales occurring after 1999 in determining an appropriate land value under the cost approach does not detract from the reliability of his appraisal. Mr. Heinowski adjusted his ultimate opinion of value to reflect a value as of January 1, 1999, through use of a comparative cost multiplier. *Pet'r Ex. 3 at 55*.
- i) The Respondent also presented a revised property record card in support of its position. The Respondent, however, did not explain the methodology behind the valuation reflected on that card. The Respondent similarly failed to explain why the valuation on the revised property record card is more probative of the subject property's true tax value than is Mr. Heinowski's opinion of value, other than to point to various flaws within Mr. Heinowski's appraisal. As explained above, however, the purported flaws identified by the Respondent do not significantly detract from Mr. Heinowski's opinion of value.

- j) Based on the foregoing, the Respondent failed to impeach or rebut the appraisal submitted by the Petitioner. The preponderance of the evidence supports a finding that the current assessment is incorrect, and that the correct assessment is \$11,400,000 as determined by the appraisal.

Petition # 45-028-02-1-4-00143 (Parcel 0002)

15. The Petitioner did not provide sufficient evidence to support its contentions regarding the assessment of Parcel #0002. This conclusion was arrived at because:
- a) The Petitioner contended that the subject land should be valued at \$150,000 per acre. The basis for the Petitioner's claims is somewhat unclear. On one hand, the Petitioner submitted one page of an appraisal (hereinafter referred to as the "appraisal excerpt") of a third property. The appraisal excerpt valued the 7.569 tract that was the subject of that appraisal at the rate of \$150,000 per acre. *Archer testimony; Pet'r Ex. 3 (Parcel # 0002).* On the other hand, the Petitioner contended that Parcel #0002 is similarly situated to the Parcel containing the Twin Towers (Parcel # 0001). Thus, the Petitioner contended that the two properties should be valued at the same rate. *Archer testimony.* Mr. Heinowski's appraisal of Parcel #0001, however, values that parcel at the rate of \$200,000 per acre. *See Pet'r Ex. 3 (Parcel #0001) at 37.*
- b) The Board will first address the Petitioner's reliance upon the appraisal excerpt. As explained above, a taxpayer may establish a prima facie case based upon an appraisal quantifying the market value of a property through use of generally recognized appraisal principles. *See MANUAL at 5; see also Kooshtard Property VI, 836 N.E.2d at 505-06 n.1.* This general rule, however, presupposes that the appraisal upon which the taxpayer relies addresses the property that is the subject of the taxpayer's appeal. That is not the case with the appraisal excerpt submitted by the Petitioner.
- c) Nonetheless, the Petitioner apparently relied upon the information contained in the appraisal excerpt as evidence of comparative sale/listing prices supporting a value for the subject property of \$150,000. The sales comparison approach is based on the assumption that potential buyers will pay no more for the subject property than it would cost them to purchase an equally desirable substitute improved property already existing in the market place. *Id.* The appraiser locates sales of comparable improved⁴ properties and adjusts the selling prices to reflect the subject property's total value. *Id.* The adjustments represent a quantification of characteristics that cause prices to vary. *Id.* The appraiser "considers and compares all possible differences between the comparable properties and the subject property that could affect value," using objectively verifiable evidence to determine which items have an influence on value in the market place. *Id.* The appraiser quantifies the contributory values of the items affecting value in the market place and uses those contributory values to adjust the sale prices of comparable properties. *Id.*

⁴ The methodology also applies where one seeks to determine the value of an improved tract of land as if it were vacant for purposes of applying the cost approach.

- d) Thus, in order to use the sales comparison approach as evidence in a property assessment appeal, the proponent must establish the comparability of the properties being examined. Conclusory statements that a property is “similar” or “comparable” to another property do not constitute probative evidence of the comparability of the two properties. *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 470 (Ind. Tax Ct. 2005). Instead, the proponent must identify the characteristics of the subject property and explain how those characteristics compare to the characteristics of the purportedly comparable properties. *Id.* at 471. When seeking to establish comparability of land, the relevant characteristics to compare include things such as size, accessibility and topography. See *Blackbird Farms Apts., LP v. Dep’t of Local Gov’t Fin.*, 765 N.E.2d 711, 715 (Ind. Tax Ct. 2002). Similarly, the proponent must explain how any differences between the properties affect their relative market values-in-use. *Long*, 821 N.E.2d at 470-71.
- e) It is unclear whether the Petitioner sought to compare the properties listed in the appraisal excerpt to Parcel #0002 or to the appraised property itself. In either case, the Petitioner’s attempt fails. The appraisal excerpt appears to represent a portion of the appraiser’s analysis estimating the value of the appraised land, as vacant, using the sales comparison approach. The excerpt, however, does not contain a description of the comparable properties upon which the appraiser relied, other than information concerning their respective sizes and sale/listing prices. *Pet’r Ex. 3 (Parcel #0002)*. The Petitioner did not present any information regarding those properties independent of the appraisal excerpt. Thus, the Petitioner’s analysis falls far short of the type of comparison of relevant features required by the court in *Long*. The same is true with regard to the appraised tract of land. Once again, the appraisal excerpt contains no information about that tract other than its size and appraised value.
- f) The Petitioner’s attempt to compare Parcel #0002 to the parcel containing the Twin Towers (Parcel #0001) suffers from the same shortcomings. Other than Mr. Archer’s testimony that the two lots are “similarly situated,” the record is devoid of any information from which to compare the relevant features of the two parcels. Mr. Archer’s testimony, however, is precisely the type of conclusory statement eschewed by the Court in *Long*.
- g) Based on the foregoing, the Petitioner failed to establish a prima facie case for a change in the assessment of Parcel #0002.

Conclusions

Petition # 45-028-02-1-4-00144 (parcel 0001)

16. The Petitioner made a prima facie case. The Respondent failed to rebut the Petitioner’s evidence. The Board finds in favor of the Petitioner. The assessed value shall be \$11,400,000 as determined by the appraisal.

Petition # 45-028-02-1-4-00143 (parcel 0002)

17. The Petitioner failed to make a prima facie case. The Board finds in favor of the Respondent.

Final Determinations

Petition # 45-028-02-1-4-00144 (parcel 0001)

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should be changed.

Petition # 45-028-02-1-4-00143 (parcel 0002)

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should not be changed.

ISSUED: _____

Commissioner,
Indiana Board of Tax Review

IMPORTANT NOTICE

- Appeal Rights -

You may petition for judicial review of this final determination pursuant to the provisions of Indiana Code § 6-1.1-15-5. The action shall be taken to the Indiana Tax Court under Indiana Code § 4-21.5-5. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice. You must name in the petition and in the petition's caption the persons who were parties to any proceeding that led to the agency action under Indiana Tax Court Rule 4(B)(2), Indiana Trial Rule 10(A), and Indiana Code §§ 4-21.5-5-7(b)(4), 6-1.1-15-5(b). The Tax Court Rules provide a sample petition for judicial review. The Indiana Tax Court Rules are available on the Internet at <<http://www.in.gov/judiciary/rules/tax/index.html>>. The Indiana Trial Rules are available on the Internet at <http://www.in.gov/judiciary/rules/trial_proc/index.html>. The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>.