

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

**Petition:** 49-801-02-1-5-05957  
**Petitioner:** David & Mary Bodle  
**Respondent:** Washington Township Assessor (Marion County)  
**Parcel:** 8-011519  
**Assessment Year:** 2002

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

**Procedural History**

1. The Petitioners initiated an assessment appeal with the Marion County Property Tax Assessment Board of Appeals (PTABOA) with a Form 130 dated August 1, 2003.
2. The Petitioners received notice of the PTABOA's decision on May 20, 2005.
3. The Petitioners filed a Form 131 with the county assessor on June 16, 2005, that initiated an appeal to the Board. Petitioner elected to have this case heard according to small claims procedures.
4. The Board issued a notice of hearing to the parties dated October 4, 2005.
5. Paul Stultz, the Board's duly appointed Administrative Law Judge (ALJ), held an administrative hearing on November 8, 2005.
6. David Bodle, the property owner, and Joline Ohmart, the Washington Township Assessor, were present and sworn as witnesses at the hearing.

**Facts**

7. The property is a single-family dwelling with a detached garage, located at 5702 N. Delaware Street, Indianapolis, Indiana 46220
8. The ALJ did not conduct an on-site inspection of the property.
9. The assessed value as determined by the Marion County PTABOA is:  
Land \$38,300                      Improvements \$262,200.
10. The assessed value requested by Petitioners is:

Land \$38,300

Improvements \$232,180.

### Issue

11. Summary of Petitioners' contentions in support of alleged error in assessment:
  - a. Petitioners contend their neighborhood factor (NF) of 1.90 is not correct because it was arbitrarily and capriciously established. *Bodle testimony*. Petitioners contend the subject neighborhood should have a NF of 1.68 because comparable neighborhoods have an average NF of 1.68. *Id.* Petitioners are not contesting the value assigned to the property prior to the application of the NF. *Id.*
  - b. Petitioners contend that the Respondent did not follow the applicable rules and considerations for establishing the neighborhoods in the area. According to the Petitioners, nine out of ten factors that should be considered in determining a neighborhood were ignored. *See REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 – VERSION A, ch. 2 at 8 (incorporated by reference in 50 IAC 2.3-1-2).* Petitioners' neighborhood consists of four properties. One neighborhood in the area contains only a single property. *Bodle testimony*. According to Petitioners, in the Delaware/Pennsylvania Street area between 56<sup>th</sup> and 58<sup>th</sup> street there are twelve neighborhoods. *Id.*
  - c. Petitioners contend that the entire area commonly known as Meridian Kessler should be a single neighborhood because the properties are all the same type of houses, same schools, same police and fire protection and same amenities nearby for shopping. *Bodle testimony*. Petitioners define the Meridian Kessler neighborhood as the area between College Street and Meridian Street (east/west boundaries) and between the Canal/Westfield Boulevard and 38<sup>th</sup> Street (north/south boundaries). *Id.*
12. Summary of Respondent's contentions in support of the assessment:
  - a. The current NF of 1.90 is not based on the Petitioners' originally defined neighborhood consisting of four properties. After further consideration, eighteen neighborhoods were used to calculate a NF of 1.90 around July, August, or September of 2003 because there was a problem in the area where the subject is located. The areas that were used to calculate the 1.90 NF are shown on Respondent Exhibits 5A and 5B. *Ohmart testimony*.
  - b. The property originally was assessed for \$360,100. Prior to this hearing, the original NF of 2.01 was lowered to 1.90 and the grade of the subject property was reduced from B+2 to a B. *Id.*

## Record

13. The official record for this matter is made up of the following:
  - a. The Petition,
  - b. The tape recording of the hearing labeled BTR 5990,
  - c. Petitioner Exhibit 1 – Form 131 Petition,  
Petitioner Exhibit 2 – Copies from Guidelines,  
    Ex. 2a – Ch. 2, pages 1, 8, 9, and 10,  
    Ex. 2b – Appendix B, pages 1, 8, and 9,  
Petitioner Exhibit 3 – Indiana Fiscal Policy Institute, Statewide Property Tax  
    Equalization Study, pages 8 thru 12,  
Petitioner Exhibit 4 – Map of SW ¼ Section 01 T16N R3E,  
Petitioner Exhibit 5 – Property Record Card (PRC) for 5750 N. Delaware Street,  
Petitioner Exhibit 6 – PRC for 5738 N. Delaware Street,  
Petitioner Exhibit 7 – PRC for 5701 Pennsylvania Street,  
Petitioner Exhibit 8 – PRC for 5751 Washington Boulevard,  
Petitioner Exhibit 9 – PRC for 5755 N. Pennsylvania Street,  
Petitioner Exhibit 10 – PRC for 5656 N. Pennsylvania Street,  
Petitioner Exhibit 11 – PRC for 5725 N. Washington Boulevard,  
Petitioner Exhibit 12 – PRC for 5358 N. Washington Boulevard,  
Petitioner Exhibit 13 – PRC for 5349 N. Washington Boulevard,  
Petitioner Exhibit 14 – PRC for 340 East 56<sup>th</sup> Street,  
Petitioner Exhibit 15 – Petitioner’s proposed assessed value calculation,  
Respondent Exhibit 1 – Petitioner’s PRC,  
Respondent Exhibit 2 – Original assessment and subsequent changes,  
Respondent Exhibit 3 – Form 115, total assessment determination is \$300,500,  
Respondent Exhibit 4 – Copy of Form 130, page 4, proposed amount to be  
    \$300,900,  
Respondent Exhibit 5 – List and map of neighborhoods with neighborhood factor  
    changed to 1.90,  
Respondent Exhibit 6 – List and map of neighborhoods used by Petitioner for  
    comparisons,  
Respondent Exhibit 7 – Spread sheet used to calculate subject NF,  
Respondent Exhibit 8 – Summary of Respondent’s arguments,  
Respondent Exhibit 9 – Form 131 with attachments,  
Respondent Exhibit 10 – Form 115, pages 1 and 3,  
Board Exhibit A – Form 131 Petition,  
Board Exhibit B – Notice of Hearing on Petition,
  - 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. *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. *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. *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.
15. The Petitioners did not provide sufficient evidence to support their contentions. This conclusion was arrived at because:
  - a. All property within a township must be established as part of a neighborhood defined by the township assessor. A township assessor must define neighborhoods according to: 1) common development characteristics; 2) average age of the majority of improvements; 3) size of lots or tracts; 4) subdivision plats and zoning maps; 5) school and other taxing district boundaries; 6) distinctive geographic boundaries; 7) any manmade improvements that significantly disrupt the cohesion of adjacent properties; 8) sales statistics; and 9) other characteristics deemed appropriate to assure equitable determinations. GUIDELINES, ch. 2 at 8. A neighborhood is a geographical area exhibiting a high degree of homogeneity in residential amenities, land use, economic and social trends, and housing characteristics. In other words, it is the market or economic base for the subject property. The neighborhoods determined for establishing land values will be the same neighborhoods used in determining neighborhood factors for depreciation purposes. GUIDELINES, app. B at 8.
  - b. Neighborhood factors account for physical characteristics such as type and layout of streets, availability of support services, and utilities. They account for economic characteristics such as demand for property and mortgage interest rates. They also account for governmental characteristics such as police protection, fire protection, and zoning. Finally, they account for social characteristics such as crime rates, owner-occupant ratios, and family size. *Id.*

- c. Petitioners' evidence does not establish that the entire Meridian Kessler area must be a single neighborhood. The Petitioners presented only 10 PRCs. The Petitioners offered conclusory statements that the Meridian Kessler area has the same type of houses, same schools, same police and fire protection and same amenities nearby for shopping. Unless they are supported by substantial evidence, such conclusory statements do not qualify as probative evidence. *Lacy Diversified Indus. v. Dep't of Local Gov't Fin.*, 799 N.E.2d 1215, 1221 (Ind. Tax Ct. 2003); *Whitley Products v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998). Based on the factors outlined above and the limited evidence presented, the Petitioners failed to prove the entire area of Meridian Kessler is a single neighborhood. For example, the Petitioners failed to establish the entire Meridian Kessler area has common development characteristics. The Petitioners did not offer sales statistics or other probative evidence to establish that the neighborhoods were identified incorrectly.<sup>1</sup> Without a detailed analysis of the entire area, the record fails to prove that the Respondent abused discretion in establishing neighborhoods.
- d. The evidence establishes that some areas in Meridian Kessler have a lower NF, but that fact does not prove the NF used for the subject property must be changed. Again, the kind of conclusory statements that were offered do not qualify as probative evidence. *Id.* The evidence does not prove the Respondent abused discretion in assigning neighborhoods, nor does it prove an error in calculating the NF currently assigned to the subject property.
- e. Furthermore, even if Meridian Kessler were a single neighborhood, the Petitioners failed to prove what the correct NF should be. Determining the NF is an 8-step process. GUIDELINES, app. B at 8. The Petitioners did not follow that process as a basis for their proposed NF. They argue the NF should be changed to 1.68 because it is the average of surrounding properties, but they do not explain how that number conforms to any authorized method for determining a NF. Accordingly, Petitioners failed to show what the correct NF should be.
- f. The Petitioners claim that a NF cannot vary by more than 20% from an adjacent neighborhood. They apparently rely upon the following provision: "The township shall establish a maximum allowable percentage variance between the *base lot value* for neighborhoods having the same classification and substantially similar characteristic. The maximum allowable percentage variance should not exceed twenty percent (20%)." GUIDELINES, ch. 2 at 9 (emphasis added). This language, however, does not support the Petitioners' claim. The Petitioners failed to establish any substantial support for such a limit on NF variations. Furthermore, the evidence in this case does not establish that base lot values for neighborhoods having the same classification and substantially similar characteristics vary by more than 20%.

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<sup>1</sup> These are only two of the factors listed in the Guidelines.

- g. The Petitioner failed to provide probative evidence that the assessed value is not representative of the market value-in-use of the property. The most effective method to show the assessed value is incorrect is through the presentation of a market value-in-use appraisal that conforms with the Uniform Standards of Professional Appraisal Practice (USPAP). *Kooshtard Property VI, LLC v. White River Twp. Assessor*, 836 N.E.2d 501, 506 n.6 (Ind. Tax Ct. 2005). In addition, taxpayers can utilize “actual construction costs, sales information regarding the subject or comparable properties, ... and any other information compiled in accordance with generally acceptable appraisal principals.” *Eckerling v. Wayne Twp. Assessor*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006).
- h. In challenging their assessment, Petitioners offered no market value evidence. Rather, they have focused strictly on the Respondent’s methodology. The Petitioners failed to prove that methodology resulted in an assessment that does not accurately reflect market value-in-use. Therefore, the Petitioners did not make a prima facie case that their assessment was in error. *Id.*
- i. The burden of proof did not shift to the Respondent to rebut Petitioners’ evidence.

### **Conclusion**

- 16. The Petitioners failed to make a prima facie case. The Board finds in favor of Respondent.

### **Final Determination**

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

ISSUED: **April 19, 2006**

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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](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>.