

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

**Petition:** 79-156-05-1-4-00001  
**Petitioner:** Lynn-Ann Investments, LP  
**Respondent:** Fairfield Township Assessor (Tippecanoe County)  
**Parcel:** 156-05300-0488  
**Assessment Year:** 2005

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

**Procedural History**

1. The Petitioner initiated an assessment appeal with the Tippecanoe County Property Tax Assessment Board of Appeals (PTABOA) by filing Form 130 on May 5, 2005.
2. The PTABOA mailed the notice of its decision on November 1, 2005.
3. The Petitioner filed an appeal to the Board by filing a Form 131 with the county assessor on November 30, 2005, and elected small claims procedures.
4. The Board issued a notice of hearing to the parties dated January 4, 2007.
5. Administrative Law Judge Paul Stultz held the hearing in Lafayette on February 6, 2007.
6. Persons present and sworn as witnesses at the hearing:  
For Petitioner – Brenda Canaan,  
For Respondent – Jan Payne, Fairfield Township Assessor,  
Ginny Whipple, GnA Assessment Professionals.

**Facts**

7. The subject property is a two-story residential type commercial building occupied by a jewelry store on the first floor and an apartment on the second floor. It is located at 500 North 6<sup>th</sup> Street in Lafayette.
8. The Administrative Law Judge (ALJ) did not conduct an inspection of the property.

9. The PTABOA determined the assessed land value is \$52,800, the improvements value is \$135,500, and the total assessed value is \$188,300.
10. The Petitioner requested \$35,000 for land and \$110,000 for improvements. According to the Petitioner, the total assessed value should be \$145,000.

### **Contentions**

11. Summary of Petitioner's contentions:
  - a) The subject property was appraised for \$175,000 as of August 4, 2004. Ms. Canaan purchased the property in December 2004 for that same amount. The 2005 assessment is greater. *Canaan testimony; Pet'r Ex. 1.*
  - b) Because the local assessing officials denied the appeal and stated that the comparables used in the 2004 appraisal were flawed, the subject property was appraised again in November 2005. The value established by the more recent appraisal is only \$145,000. *Canaan testimony; Pet'r Ex. 3.*
  - c) According to a local realtor, the subject property is located in a mixed-use area of residential and commercial properties that makes locating comparable properties difficult. *Canaan testimony.*
  - d) A local realtor researched sales of properties in the area from 1998 to the present time. The letter from Dan Hartley with Re/Max of Lafayette, Inc. indicates that the subject property should sell for approximately \$177,510. This opinion is based on a sale of the property at 508 North 6<sup>th</sup> Street, which neighbors the subject property, and a sale of the property located at 420-422 North 7<sup>th</sup> Street. *Canaan testimony; Pet'r Ex. 5.*
  - e) Using the 1998 sales, the local realtor estimated the value of the subject property based on the square foot price of comparable properties. Based on the 3,016 square feet of the subject property, using the square foot price for the Perrin Avenue property, the value of the subject property should be no more than \$149,835. Using the square foot price of the Ferry Street property, the value of the subject property should be no more than \$138,555. It does not appear that any adjustments were made to the sale prices for the differences between the subject property and the comparables. *Canaan testimony; Pet'r Ex. 6, 7.*
  - f) The property located on Charles Street sold for \$127,900 on July 13, 2001. *Canaan testimony; Pet'r Ex. 8.*
  - g) The sales of properties from 1998 through 2005 indicate that over time the market has been up and down. Currently, the market is down. For families looking to move, the area is not close to any schools. The crime rate is high. A large number of sexual offenders live in the area. *Canaan testimony.*

- h) The assessed value for 2006 is \$196,300. The neighborhood is changing, but the market has not increased. The property would not sell for the 2006 assessed value. *Canaan testimony; Pet'r Ex. 9.*

12. Summary of Respondent's contentions:

- a) The comparables used in the 2004 appraisal are not appropriate. Comparable #1 is a residential property, but the subject property is a commercial property. Comparable #3 was a distressed sale for \$185,000 on February 27, 2001. Comparable #3 sold again on March 16, 2001, and on July 30, 2003, both times for \$323,000. Because these two comparables are inappropriate, the remaining comparables used in the 2004 appraisal are suspect. *Whipple testimony.*
- b) The 2005 appraisal also used flawed comparables. The appraisal reports that Comparable #1 sold in September 2004 for \$175,000. Comparable #1 does not have a sales disclosure filed for a \$175,000 sale in September 2004. It actually sold in January 2006, after the date of the appraisal. Comparable #2 is a condominium and is not a similar property. Comparable #3 may or may not be comparable. *Whipple testimony.*
- c) The Petitioner did not trend the appraisal values back to the valuation date, January 1, 1999. The Petitioner has not established a prima facie case. *Whipple testimony.*

**Record**

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

- a) The Petition and post-hearing submission by either party,
- b) A digital recording of the hearing,
- c) Petitioner Exhibit 1 – Appraisal of the subject property as of August 4, 2004,  
Petitioner Exhibit 2 – Form 131,  
Petitioner Exhibit 3 – Appraisal of the subject property as of November 11, 2005,  
Petitioner Exhibit 4 – Statement of the Petitioner's contentions,  
Petitioner Exhibit 5 – Letter from Dan Hartley with Re/Max with two sale listings attached,  
Petitioner Exhibit 6 – MLS listing for property at 522 Perrin Avenue,  
Petitioner Exhibit 7 – MLS listing for property at 635 Ferry Street,  
Petitioner Exhibit 8 – MLS listing for property at 1801 Charles Street,  
Petitioner Exhibit 9 – Notice of Assessment for the subject property as of March 1, 2006,  
Respondent Exhibit 1 – Form 130,  
Respondent Exhibit 2 – Property record card,

Board Exhibit A – Form 131 Petition with attachments,  
Board Exhibit B – Notice of Hearing,  
Board Exhibit C – Hearing Sign-In Sheet,

d) These Findings and Conclusions.

14. After the hearing, the ALJ asked the Respondent to submit a copy of the Form 130 Petition and the subject property record. The Respondent submitted those items, which are identified as Respondent’s Exhibit 1 and 2. The Petitioner had an opportunity to respond, but the ALJ received no such response.

### Analysis

15. 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).
16. 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”).
17. The Petitioner did not provide sufficient evidence to make a case.
- a) The 2002 Real Property Assessment Manual (hereinafter MANUAL) provides that for the 2002 general reassessment, a property’s assessment must reflect its value as of January 1, 1999. 2002 REAL PROPERTY ASSESSMENT MANUAL at 4 (incorporated by reference at 50 IAC 2.3-1-2). Consequently, a party relying on an appraisal to establish the market value-in-use of a property must provide some explanation as to how the appraised value demonstrates or is relevant to that property’s value as of January 1, 1999. *See Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). The Petitioner did not provide any evidence showing how the 2005 appraisal, the 2004 appraisal, or her purchase price relates to that valuation date. Consequently, the appraisals and purchase price have no probative value. *Id.*
- b) The Petitioner relied on a realtor's opinion of value and sale prices of purportedly comparable properties in an attempt to establish that the current assessment is too high. To establish probative evidence based on comparability, the Petitioner must explain the characteristics of the subject property, how those characteristics compare to those of the purportedly comparable properties, and how any differences affect the market value-in-use of the properties. *Long*, 821 N.E. 2d at 471. The Petitioner failed to do so. Without such an explanation, the realtor's opinion and purported comparable properties have no probative value.

- c) The testimony that the area is not close to any schools, has a high crime rate and a large number of sexual offenders was entirely conclusory. Furthermore, even if those neighborhood problems exist, the Petitioner failed to establish the extent to which they might reduce the market value-in-use of the subject property. Such statements are not probative evidence. They do not make a case for any assessment change. *See Whitley Prods. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).
- d) When a taxpayer fails to provide probative evidence for an assessment change, the Respondent's duty to support the assessment with substantial evidence is not triggered. *See Lacy Diversified Indus. v. Dep't of Local Gov't Fin.*, 799 N.E.2d 1215, 1221-1222 (Ind. Tax Ct. 2003); *Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).

### **Conclusion**

- 18. The Petitioner 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: May 1, 2007

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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>.