

REPRESENTATIVE FOR PETITIONERS:
Sharon LeVeque, Tax Representative

REPRESENTATIVE FOR RESPONDENT:
Debra A. Dunning, Marshall County Assessor

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

Jack and Patricia Borsodi)	Petition Nos.: 50-005-10-1-5-00023
)	50-005-11-1-5-00023A
)	50-005-11-1-5-00023B
Petitioners,)	50-005-10-1-5-00023C
)	
)	
v.)	Parcel Nos.: 50-43-07-000-305.000-005
)	50-43-07-000-104.000-005
)	
Marshall County Assessor,)	
)	County: Marshall
)	
Respondent.)	Assessment Years: 2010 and 2011

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

March 18, 2013

FINAL DETERMINATION

The Indiana Board of Tax Review (Board) has reviewed the facts and evidence, and having considered the issues, now finds and concludes the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

ISSUE

1. The issue presented for consideration by the Board was whether the Petitioners' properties were over-valued for the 2010 or 2011 assessment years.

PROCEDURAL HISTORY

2. Sharon LeVeque, on behalf of Mr. and Mrs. Borsodi, the Petitioners, initiated an appeal of the subject properties' 2010 assessments with the Marshall County Property Tax Assessment Board of Appeals (PTABOA) on September 16, 2010. The Marshall County PTABOA issued its assessment determinations for the 2010 appeal on March 7, 2012.
3. Ms. LeVeque also initiated an appeal of the Petitioners' properties' 2011 assessments with the PTABOA.¹ The Marshall County PTABOA issued its assessment determinations on December 4, 2012.²
4. Pursuant to Indiana Code § 6-1.1-15-1, the Petitioners filed Form 131, Petitions for Review of Assessment, for 2010 and 2011 on April 23, 2012, petitioning the Board to conduct an administrative review of the properties' 2010 and 2011 assessments.

HEARING FACTS AND OTHER MATTERS OF RECORD

5. Pursuant to Indiana Code § 6-1.1-15-4 and § 6-1.5-4-1, the duly designated Administrative Law Judge (the ALJ), Ellen Yuhan, held a hearing on December 19, 2012, in Plymouth, Indiana.
6. The following persons were sworn at the hearing:

¹ None of the documents submitted by the parties indicates the exact date when Ms. LeVeque initiated the Petitioner's 2011 appeal.

² The PTABOA ruling appears to have been issued after the Petitioners filed their 2011 appeal with the Board.

For the Petitioner:

Sharon LeVeque, Taxpayer Representative,

For the Respondent:

Debra A. Dunning, Marshall County Assessor,
Mindy S. Relos, Deputy Assessor, Marshall County.

7. The Petitioner presented the following exhibits for both assessment years:

- Petitioner Exhibit 1 – 2011 property record cards for the subject properties,
- Petitioner Exhibit 2– 2012 property record cards for the subject properties,
- Petitioner Exhibit 3 – Spreadsheet of sales in Lake of the Woods,
- Petitioner Exhibit 4– Property record card for Parcel No. 50-43-06-000-073.000-005 on East Shore Drive and plat map of the property,
- Petitioner Exhibit 5- Property record card for Parcel No. 50-43-06-000-078.000-005 on Cottonwood Lane and an excerpt of the property information data sheets (page 3 of 4),
- Petitioner Exhibit 6– Property record card for Parcel No. 50-43-06-000-093.000-005 on Abbott Street and Multiple Listing Service (MLS) information for the property,
- Petitioner Exhibit 7– Property record card for Parcel No. 50-43-06-000-092.000-005, located at 8686 Abbott Street, and MLS information for the property,
- Petitioner Exhibit 8– Property record card for Parcel No. 50-42-12-000-021.000-009, located at 4084 West Shore Drive and plat map of the property,
- Petitioner Exhibit 10– Property record cards for Parcel No. 50-43-07-000-034.000-005 and Parcel No. 50-43-07-000-035.000-005 on Liberty Street,
- Petitioner Exhibit 13– Property record card for Parcel No. 50-43-06-000-046.000-005 on Sea Lane,
- Petitioner Exhibit 15– Property record card for Parcel No. 50-43-07-000-108.000-005 on Pleasant Point Lane and MLS information for the property,
- Petitioner Exhibit 18– Property record card for Parcel No. 50-42-12-000-029.000-009, located at 4170 West Shore Drive,
- Petitioner Exhibit 19– Property record cards for Parcel No. 50-43-06-000-097.000-005 and Parcel No. 50-43-06-000-098.000-005 on Abbott Street, MLS information and aerial map of the property.

8. The Respondent presented the following exhibits:

For 2010:

- Respondent Exhibit 1 – Form 130 petitions,
- Respondent Exhibit 2 – Form 115 with PTABOA determinations,
- Respondent Exhibit 3 – Form 131 petitions,

- Respondent Exhibit 4 – Property record cards and photographs of the subject parcels,
- Respondent Exhibit 5 – Aerial photograph of the subject property,
- Respondent Exhibit 6 – 2010 Land Order for Lake of the Woods, NBH#300503,
- Respondent Exhibit 7 – Sales data for Lake of the Woods properties,
- Respondent Exhibit 8 – Sales disclosure form and property record card for Parcel No. 50-43-06-000-078.000-005 on Cottonwood Lane,
- Respondent Exhibit 9 – Sales disclosure form and property record card for 8686 Abbott Street,

For 2011:

- Respondent Exhibit 1 – Form 130 petitions,
- Respondent Exhibit 2 – Form 115 with PTABOA determinations,
- Respondent Exhibit 3 – Form 131 petitions,
- Respondent Exhibit 4 – Property record cards and photographs of the subject parcels,
- Respondent Exhibit 5 – Aerial photograph of the subject property,
- Respondent Exhibit 6 – 2010 Land Order for Lake of the Woods, NBH#300503,
- Respondent Exhibit 7 – Sales data for Lake of the Woods properties,
- Respondent Exhibit 8 – Sales disclosure form and property record card for Parcel No. 50-43-06-000-078.000-005 on Cottonwood Lane,
- Respondent Exhibit 9 – Sales disclosure form and property record card for 8686 Abbott Street,
- Respondent Exhibit 10 – Sales disclosure form and property record card for 4530 Pleasant Point Lane,
- Respondent Exhibit 11 – Sales disclosure form and property record card for 4010 West Shore Drive,
- Respondent Exhibit 12 – Sales disclosure form and property record card for 4026 West Shore Drive.

9. The following additional items are officially recognized as part of the record of proceedings and labeled as Board Exhibits:

- Board Exhibit A – Form 131 Petitions,
- Board Exhibit B – Notice of Hearing-Reschedule, dated October 24, 2012,
- Board Exhibit C – Hearing sign-in sheet.

10. The subject properties are adjacent residential parcels located at 4516 Plum Court, in Bremen, Indiana.

11. The ALJ did not conduct an on-site inspection of the subject property.

12. For 2010, the PTABOA determined the assessed value of Parcel No. 50-043-07-000-104.000-005 (Parcel No. 104) to be \$37,300 for the land and \$68,600 for the improvements, for a total assessed value of \$105,900. The PTABOA determined the assessed value of Parcel No. 50-043-07-000-305.000-005 (Parcel No. 305) to be \$16,200 for the land. There are no improvements on Parcel No. 305.
13. For 2011, the PTABOA determined the assessed value of Parcel No. 104 to be \$51,500 for the land and \$68,600 for the improvements, for a total assessed value of \$120,100. The PTABOA determined the assessed value of Parcel No. 305 to be \$24,800 for the land.
14. For 2010 and 2011, the Petitioners contend the assessed value of the land should total \$38,500 for both parcels together. The Petitioners did not contest the value of the improvements on the property.

JURISDICTIONAL FRAMEWORK

15. The Indiana Board is charged with conducting an impartial review of all appeals concerning: (1) the assessed valuation of tangible property, (2) property tax deductions, (3) property tax exemptions, and (4) property tax credits that are made from a determination by an assessing official or a county property tax assessment board of appeals to the Indiana Board under any law. Ind. Code § 6-1.5-4-1(a). All such appeals are conducted under Indiana Code § 6-1.1-15. *See* Ind. Code § 6-1.5-4-1(b); Ind. Code § 6-1.1-15-4.

PARTIES' CONTENTIONS

16. The Petitioners contend that the land on the two parcels that make up their property was over-valued for the 2010 and 2011 assessment years based on sales of comparable properties. The Petitioners presented the following evidence in support of their contentions:

- A. The Petitioners' representative contends that the Petitioners' land was over-valued based on sales of similar properties. *LeVeque testimony*. In support of this contention, Ms. LeVeque submitted a spreadsheet showing channel properties that sold between 2004 and 2011, and the front foot values that she calculated from each sale. *Petitioner Exhibit 3*. According to Ms. LeVeque, the sale prices ranged from \$250 to \$764 per front foot, supporting a lower assessed value for the subject properties. *LeVeque testimony*.
- B. Ms. LeVeque contends that Parcel No. 50-43-06-000-073.000-005, which is a vacant parcel with 57 feet of frontage on the channel located on East Shore Drive, sold for \$15,000 or \$263.16 a front foot, on October 5, 2011. *LeVeque testimony; Petitioner Exhibits 3 and 4*. Parcel No. 50-43-06-000-078.000-005 on Cottonwood Lane, which is a vacant parcel with 80 feet of frontage on the channel, sold on April 4, 2004, for \$20,000, or \$250 a front foot. *LeVeque testimony; Petitioner Exhibits 3 and 5*. According to Ms. LeVeque, the property sold again for \$20,000 on May 29, 2008, and transferred the same day for \$52,500 or \$656.25 per front foot. *Id.* Ms. LeVeque contends that, in 2010, the assessor valued the Cottonwood parcel at \$47,200. *LeVeque testimony; Petitioner Exhibit 5*.
- C. The Petitioners' representative contends that two properties comprise 8686 Abbott Street: Parcel No. 50-43-06-000-093.000-005 and Parcel No. 50-43-06-000-092.000-005.³ Both lots have 80 feet on the channel and sold on January 21, 2004, for \$32,000 each, or \$400 a front foot. *LeVeque testimony; Petitioner Exhibits 3, 6 and 7*. Similarly, the property at 4084 West Shore with 73 feet on the channel sold October 11, 2004, for \$33,000, or \$452.05 a front foot. *LeVeque testimony; Petitioner Exhibits 3 and 8*.
- D. Ms. LeVeque further contends that two parcels on Liberty Street, Parcel No. 50-43-07-000-034.000-005 and Parcel No. 50-43-07-000-035.000-005, with a combined

³ Ms. LeVeque mistakenly identified both parcels as Parcel No. 50-43-06-000-092.000-005 in her sales analysis.

- frontage of 120 feet on the channel sold three times. *LeVeque testimony; Petitioner Exhibits 3 and 10*. The first sale occurred in 2005 for \$40,000, or \$333.33 a front foot. *Id.* The second sale was October 13, 2006, for \$75,000, or \$625 a front foot and in May of 2007, the property sold for \$66,000 or \$550 a front foot. *Id.*
- E. In addition, Ms. LeVeque submitted sales information for Parcel No. 50-43-07-000-108.000-005 on Pleasant Point Lane with 112 front feet. *Petitioner Exhibits 3 and 15*. According to Ms. LeVeque, this property also sold on three different occasions: March 18, 2005, for \$65,000 or \$580 a front foot; November 20, 2007, for \$67,000, or \$598 a front foot; and September 16, 2010, for \$75,400, or \$673 a front foot. *Id.* Further, Parcel No. 50-43-06-000-046.000-005 on Sea Lane with 100 feet of frontage sold on April 4, 2006, for \$60,000 or \$600 a front foot. *LeVeque testimony; Petitioner Exhibits 3 and 13*. And 4170 West Shore, with 97.5 feet of frontage sold on May 24, 2007, for \$77,500. *LeVeque testimony; Petitioner Exhibits 3 and 18*. After subtracting \$3,000 for the value of the improvements, Ms. LeVeque contends, the market value of the land was \$764 a front foot. *Id.* Finally, the property at 8562 Abbott Street with 120 front feet of frontage on the channel sold on October 12, 2005, for \$60,000 or \$500 a front foot. *LeVeque testimony; Petitioner Exhibits 3 and 19*.
- F. The Petitioner's representative argues that the subject property is most consistent with Parcel No. 50-43-06-000-073.000-005 on East Shore Drive, Parcel No. 50-43-06-000-078.000-005 on Cottonwood Lane, 8686 Abbott street and 4084 West Shore Drive because they all have similar frontage on the channel. *LeVeque testimony; Petitioner Exhibit 3*. Those sales ranged from \$250 to \$452 per front foot, which support an assessed value of \$450 per front foot for the Petitioners' properties.⁴ *Id.* Ms. LeVeque further contends that a reduction to \$450 a front foot for 2010 and 2011 is consistent with the properties' 2012 assessments. *Id.* Ms. LeVeque contends that she used older sales because the sales showed the value of vacant lots before improvements were built. *LeVeque testimony*.

⁴ However, Ms. LeVeque requested a value of \$550 a front foot after the Respondent presented its case.

G. In her rebuttal case, Ms. LeVeque contends that the Respondent's sales do not support the properties' assessments. *LeVeque testimony*. According to Ms. LeVeque, Cottonwood Lane sold for \$656 a front foot. *Id.* And assuming the Respondent's cost analysis is correct, Ms. LeVeque contends, the sale of 8686 Abbott results in a land value of \$136,600, or \$853 a front foot. *Id.* Moreover 4530 Pleasant Lane sold for \$673 a front foot. *Id.* Ms. LeVeque further contends the property at 4010 West Shore is a lakefront property, not a channel property, and therefore the property is not comparable to the subject properties. *Id.* Similarly, Ms. LeVeque argues, the property at 4026 West Shore is not comparable to the subject properties because it has only thirty feet of frontage. *Id.* Finally, Ms. LeVeque argued that the Respondent used square foot values in its comparable sales analysis, but the value of waterfront property is in its frontage on the water. *Id.*

17. The Respondent contends that the Petitioners' properties' assessed values are correct and equitable. The Respondent presented the following evidence in support of the properties' 2010 and 2011 assessments:

A. Ms. Dunning testified that, for 2010 and 2011, lakefront and channel properties on Lake of the Woods were priced together as one neighborhood, but the county applied a -60% influence factor to channel properties. *Dunning testimony*. In addition, Ms. Dunning testified, for 2010, the PTABOA applied a further -11% influence factor to the Petitioners' two parcels. *Id.*; *Respondent Exhibits 2 and 4*.

B. The Respondent contends that two channel properties sold during the relevant time period for the March 1, 2010, assessment date. *Dunning testimony*. In support of her contention, Ms. Dunning presented a spreadsheet showing sales of channel properties, and the property record cards and sales disclosure forms for each sale. *Respondent Exhibits 7, 8 and 9*. According to Ms. Dunning, a vacant lot, Parcel No. 50-43-06-000-078.000-005 on Cottonwood Lane, sold on May 29, 2008, for \$52,500. *Dunning testimony*; *Respondent Exhibits 7 and 8*. And an improved property at 8686 Abbott with two parcels sold on October 15, 2008, for \$220,000. *Dunning testimony*;

Respondent Exhibits 7 and 9. Ms. Dunning contends that the sales averaged \$8.90 per square foot; whereas the subject properties were assessed at only \$4.91 per square foot in 2010. *Id.* Ms. Dunning argues that, while lake front property is assessed on a front foot basis, using the square foot method considers the depth of the property, which is very important for parking, garages, and sheds. *Dunning testimony.*

- C. Further, the Respondent contends that the two sales used to support the properties' 2010 assessments and three more sales in 2010 and 2011 support the properties' 2011 assessed values. *Dunning testimony.* In support of this contention, Ms. Dunning submitted a spreadsheet of the sales, the property record cards for each property, and the sales disclosure forms from each sale. *Respondent Exhibits 7-12.* According to Ms. Dunning, a single-parcel property at 4530 Pleasant Lane sold on September 16, 2010, for \$75,400. *Dunning testimony; Respondent Exhibit 10.* The property at 4010 West Shore, which included two parcels, sold for \$174,000 on September 28, 2010. *Dunning testimony; Respondent Exhibit 11.* And 4026 West Shore, a one-parcel sale, sold for \$168,000 on June 16, 2011. *Dunning testimony; Respondent Exhibit 12.* According to Ms. Dunning, while 4026 West Shore may have less front footage on the channel than the subject properties, it still has water access. *Dunning testimony; Respondent Exhibit 12.* The five sales averaged \$9.34 per square foot; whereas the land on the subject properties was assessed at only \$7.00 per square foot for 2011. *Id.*
- D. In response to the Petitioners' case, the Respondent's witness, Ms. Relos, contends that the Petitioners' representative's sales of Parcel No. 50-43-06-000-073.000-005 on East Shore Drive, Parcel No. 50-43-06-000-078.000-005 on Cottonwood Lane, 8686 Abbott and 4084 West Shore Drive are not comparable to the subject properties because they are located in the back corner of the channel and are less desirable than the subject properties. *Relos testimony.* Further, Parcel No. 50-43-06-000-073.000-005 on East Shore Drive was sold to an adjacent property owner. *Id.* In addition, Ms. Relos noted that the map of Parcel No. 50-43-06-000-078.000-005 on Cottonwood Lane used by the Petitioners is not the correct map for that parcel. *Relos testimony.*

According to Ms. Relos, that property also sold twice within one week. *Id.* The first sale paid off a land contract for \$20,000; the second sale was for \$52,500. *Id.*

E. Finally, Ms. Relos contends that Ms. LeVeque listed the same Parcel No. 50-43-06-000-092.000-005 on her spreadsheet twice. *Relos testimony.* According to Ms. Relos, however, the second parcel should be Parcel No. 50-43-06-000-093.000-005 – which is the second parcel involved in the property’s 2004 purchase for \$64,000. *Relos testimony; Respondent Exhibit 9.* The purchaser of the property built a house and sold the property for \$185,000 in June of 2006. *Id.* It sold again in October of 2008 for \$220,000. *Id.* In addition, Ms. Relos argues that the Petitioners’ representative made no time adjustment to her sales to relate the sales to the proper valuation dates. *Relos testimony.* Because of the numerous errors in the Petitioners’ evidence such as incorrect parcel numbers, incorrect addresses, and incorrect dates for some sales, Ms. Relos argues, Ms. LeVeque’s conclusion of value has little credibility or reliability. *Id.*

BURDEN OF PROOF

18. Generally, a taxpayer seeking review of an assessing official’s determination has the burden of proving that its property’s assessment was wrong and what the correct assessment should 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). Pursuant to Indiana Code § 6-1.1-15-17.2, however, the burden of proof shifts to the assessor in cases where the assessment under appeal has increased by more than 5% over the previous year’s assessment.
19. Here, the Petitioners’ representative and the Respondent agreed that the assessed values of both parcels decreased from 2009 to 2010; therefore, the burden of proof in the Petitioners’ 2010 assessment appeals is on the Petitioners.

20. For 2011, however, the hearing officer determined that the assessment for Parcel No. 104 increased from \$105,900 in 2010 to \$120,100 for 2011, and the assessment for Parcel No. 305 increased from \$16,200 to \$24,800. Judge Yuhan therefore concluded that the Respondent had the burden of proof in their 2011 assessment appeals. However, the ALJ mistakenly compared the PTABOA’s determination on the properties’ values in 2011 to the PTABOA’s determination on the properties’ values in 2010.
21. The burden shifting law states that “if the assessment that is the subject of the review or appeal increased the assessed value of the assessed property by more than five percent (5%) over the assessed value determined by the county assessor or township assessor (if any) for the immediately preceding assessment date” the assessor has the burden of proving the assessment was correct. Thus, the Board compares “the assessment that is the subject of the review” – which is the PTABOA determinations in these appeals – to “the assessed value determined by the county assessor” in the previous year. Therefore, to determine whether the properties’ values increased by more than 5%, the Board compares the PTABOA determination for 2011 to the property’s assessed value in 2010:

PTABOA 2011	Assessment 2010
Parcel No. 104	Parcel No. 104
L-51,500	L-51,500
<u>I-68,600</u>	<u>I-68,600</u>
T-120,100	T-120,100
Parcel No. 305	Parcel No. 305
L-24,800	L-24,800

Because the PTABOA determination of the properties' 2011 assessments did not increase the properties' values above the properties' 2010 assessments as "determined by the county assessor," the Petitioners retain the burden of proof for their 2011 appeal also.⁵

ANALYSIS

22. In Indiana, assessors value real property based on the property's market value-in-use, which the 2002 Real Property Assessment Manual defines 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." MANUAL at 2. Thus, a party's evidence in a tax appeal must be consistent with that standard. *Id.* A market-value-in-use appraisal prepared according to USPAP will often be probative. *Kooshtard Property VI v. White River Twp. Ass'r*, 836 N.E.2d 501,506 n. 6. (Ind. Tax Ct. 2005). A party 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.

23. Here, the Petitioners' representative argued that the Petitioners' land was over-valued for 2010 and 2011 based on sales of other properties on the channels attached to Lake of the Woods. In making this argument, the Petitioners' representative essentially relies on a sales comparison approach to establish the market value-in-use of the property. *See* MANUAL at 3 (stating that the sales comparison approach "estimates the total value of the property directly by comparing it to similar, or comparable, properties that have sold in the market.") In order to effectively use the sales comparison approach as evidence in a property assessment appeal, however, the proponent must establish the comparability of the properties being examined. Conclusory statements that a property is "similar" or

⁵ Even if the Board had analyzed the Petitioners' appeals with the burden on the assessor for 2011, the Board has held that the assessor's failure to prove that the assessment was correct requires lowering the property's value to the previous year's level. To the extent that the taxpayer seeks any further reduction, the Board has repeatedly held that a taxpayer has the burden of proving a lower value. *See e.g. Kaehr v. Steuben County Assessor*, Ind. Bd. of Tax Rev., Petition No. 76-011-07-1-5-00235 (Mar. 13, 2012). Thus, the failure to raise a prima facie case by the assessor here would have resulted in a return to the previous year's assessed value, which was identical to the assessments at issue. Therefore, the Petitioners had the burden to prove a lower value regardless of how the judge assigned the burden in hearing.

“comparable” to another property do not constitute probative evidence of the comparability of the two properties. *Long v. Wayne Township 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. Similarly, the proponent must explain how any differences between the properties affect their relative market values-in-use. *Id.*

24. In support of her argument, Ms. LeVeque submitted sales information for ten channel properties that sold between 2004 and 2011, which ranged in value from \$250 to \$764 per front foot. Based on the sales, the Petitioners’ representative contends the subject property’s land should be valued at \$450 a front foot, resulting in an assessed value of \$31,500 for the land on both parcels for 2010 and 2011. Ms. LeVeque later asked for \$550 a front foot or \$38,500 for both parcels. The Petitioners’ representative, however, made no attempt to show how the properties were similar or how the properties differed. Ms. LeVeque only testified that her sales were all channel properties. But whether properties are similar enough to be considered “comparable” depends on a number of factors including the size, shape, topography, accessibility and use of the properties. *See Beyer v. State*, 280 N.E.2d 604, 607 (Ind. 1972) (“One need only examine the multitudinous factors which make separate tracts of land similar or dissimilar to realize that the variation in the character of land is limitless. No two tracts of land are identical”).
25. Even if Ms. LeVeque had sufficiently shown that her sales were comparable to the subject properties, the bulk of her “comparable” sales were too remote from the assessment dates to be probative of the properties’ values for the purpose of the Petitioners’ appeals. Here, eight of the ten sales that Ms. LeVeque offered to prove the Petitioners’ properties’ values for 2010 and 2011 occurred between 2004 and 2007. However, 50 IAC 27-3-2 states that “county assessors shall use sales of properties occurring after January 1, of the calendar year immediately preceding the March 1 assessment date in performing value calibration analysis and sales ratio studies under this article for the county. For example, sales beginning on January 1, 2009, shall be used for the March 1, 2010, assessment.” Because the Petitioners’ representative made no attempt

to relate the various sale prices to the subject properties' market value-in-use as of the proper valuation date, Ms. LeVeque's comparable sales have little probative value. And of the two sales that were within the relevant time period, Ms. Relos' unrebutted testimony was that Parcel No. 50-43-06-000-073.000-005 on East Shore Drive was sold to an adjacent property owner. And while Parcel No. 50-43-07-000-108.000-005 on Pleasant Point Lane sold for \$75,400, or \$673 per front foot, the Respondent's evidence shows that the sale equated to \$7.13 per square foot while the Petitioners' properties were assessed for \$4.91 per square foot for 2010 and \$7.00 per square foot for 2011. Thus, the Petitioners' evidence fails to sufficiently show that their two lots were over-valued either for the 2010 or 2011 assessment years.

26. Where the Petitioners failed to support their claim for reduction for their properties' assessments with probative evidence, the Respondent's duty to support the properties' assessed values is not triggered. *Lacy Diversified Indus. LTD v. Department of Local Government Finance*, 799 N.E. 2d 1215, 1221-1222 (Ind. Tax Ct. 2003)

CONCLUSION

27. The Petitioners failed to raise a prima facie case that their properties were over-assessed for the 2010 or the 2011 assessment years. The Board finds in favor of the Respondent.

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 Petitioners' properties should not be changed for the 2010 or 2011 assessment years.

Chairman, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

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>>

