

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

**Petition #s:** 48-003-02-1-4-00892  
48-003-02-1-4-00893  
48-003-02-1-5-00894  
48-003-02-1-3-00895  
48-003-02-1-4-00896  
48-003-02-1-5-00987

**Petitioner:** John S. Carter  
**Respondent:** Anderson Township Assessor (Madison County)  
**Parcel #s:** 18465130033511  
18465110033510  
1846509003349  
1846508003348  
1846507003347  
18432120024910

**Assessment Year:** 2002

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

**Procedural History**

1. The Petitioner initiated assessment appeals for each of the six (6) indicated parcels with the Madison County Property Tax Assessment Board of Appeals (PTABOA) by written document dated December 16, 2003.
2. The Petitioner received notice of the decisions of the PTABOA on September 15, 2004.
3. The Petitioner filed appeals to the Board by filing six (6) Form 131 petitions with the county assessor on October 15, 2004. The Petitioner elected to have these cases heard in small claims.
4. The Board issued notices of the hearing to the parties dated January 14, 2005.
5. The Board held an administrative hearing on April 26, 2005, before the duly appointed Administrative Law Judge Debra Eads.

6. Persons present and sworn in at hearing:
- a) For Petitioner: John W. Janes, Property Tenant
  - b) For Respondent: Patricia Davis, Chief Deputy Assessor, Anderson Township  
Dennis Plackard, Deputy Assessor, Anderson Township  
Cheryl Heath, Chief Deputy County Assessor  
Lloyd Brumback, Deputy County Assessor

**Facts**

7. The properties in question consist of six (6) parcels with an address of 1629 W 18<sup>th</sup> Street. One parcel has improvements; the remaining five (5) parcels are vacant. For purposes of this Final Determination, the Board will refer to the six (6) parcels collectively as the “subject property.”
8. The Administrative Law Judge (ALJ) did not conduct an inspection of the property.
9. Assessed Value of subject property as determined by the Madison County PTABOA:
- |                               |              |                       |
|-------------------------------|--------------|-----------------------|
| Petition #48-003-02-1-4-00892 | Land \$4,100 | Improvements \$0      |
| Petition #48-003-02-1-4-00893 | Land \$7,000 | Improvements \$0      |
| Petition #48-003-02-1-5-00894 | Land \$2,000 | Improvements \$0      |
| Petition #48-003-02-1-3-00895 | Land \$3,800 | Improvements \$25,900 |
| Petition #48-003-02-1-4-00896 | Land \$7,400 | Improvements \$0      |
| Petition #48-003-02-1-5-00987 | Land \$3,800 | Improvements \$0      |

10. Assessed Value requested by Petitioner:
- |                               |              |                       |
|-------------------------------|--------------|-----------------------|
| Petition #48-003-02-1-4-00892 | Land \$3,000 | Improvements \$0      |
| Petition #48-003-02-1-4-00893 | Land \$3,500 | Improvements \$0      |
| Petition #48-003-02-1-5-00894 | Land \$1,000 | Improvements \$0      |
| Petition #48-003-02-1-3-00895 | Land \$3,000 | Improvements \$17,000 |
| Petition #48-003-02-1-4-00896 | Land \$3,000 | Improvements \$0      |
| Petition #48-003-02-1-5-00987 | Land \$3,500 | Improvements \$0      |

**Issues**

11. Summary of Petitioner’s contentions in support of alleged error in assessment:
- a) The six (6) parcels referenced in these appeals are contiguous parcels and are commonly known as 1629 W. 18<sup>th</sup> Street. *Janes testimony.*
  - b) On May 18, 2000, the property at 1629 W. 18<sup>th</sup> Street was sold at auction to John S. Carter for the total amount of \$34,000. *Janes testimony; Pet’r Exs. 1-2.*
  - c) The documented sale price of \$34,000 is indicative of the total market value of the subject property. *Janes testimony; Pet’r Ex. 3.*

12. Summary of Respondent's contentions in support of the assessment:
- a) The subject land was valued in accordance with the Madison County Land Order. Negative influence factors were given for the vacant lots. One vacant lot was given a negative 80% influence factor; the remaining lots were given negative 50% influence factors. *Plackard testimony.*
  - b) The primary building is assessed at \$18,000. That valuation includes an 80% reduction to the replacement cost new for physical depreciation and a 50% adjustment for obsolescence. The primary building is in Fair condition. There are also three pole buildings. One of the pole buildings is in Poor condition and has been given a 50% obsolescence adjustment. *Plackard testimony.*

### **Record**

13. The official record for this matter is made up of the following:
- a) The Petitions.
  - b) The tape recording of the hearing labeled BTR # 6174.
  - c) Exhibits:

Petitioner Exhibit 1: Real estate auction advertisement for subject property indicated sale date of May 18, 2000

Petitioner Exhibit 2: Seller closing statement for subject property dated May 26, 2000

Petitioner Exhibit 3: Breakdown of the Petitioner's requested value

Respondent submitted no written evidence.

Board Exhibit A: Subject 131 petitions

Board Exhibit B: Notices of Hearing dated January 14, 2005

- 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. *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.

15. The Petitioner did provide sufficient evidence to support his contentions. This conclusion was arrived at because:

- a) The Petitioner contends the assessment is too high. To support his contention, the Petitioner submitted a closing statement demonstrating that he purchased all six (6) parcels referenced in these findings for \$34,000 on May 18, 2000.
- b) The sale of a subject property generally provides compelling evidence of that property's market value. The 2002 Real Property Assessment Manual (hereinafter “Manual”), however, 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 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 the property's value as of January 1, 1999. *See Long v. Wayne Township Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005) (holding that an appraisal indicating the value for a property on December 10, 2003, lacked probative value in an appeal from the 2002 assessment of that property). The same arguably is true with regard to evidence of the sale price of a subject property, where the sale is consummated on a date substantially removed from January 1, 1999.
- c) In this case, however, there is at least some evidence from which to infer a relationship between the May 18, 2000, sale price and the subject property's market value as of January 1, 1999. The sale occurred less than eighteen (18) months subsequent to January 1, 1999. The Real Property Assessment Guidelines for 2002 – Version A (“Assessment Guidelines”) direct local assessing officials to set base rates for land within neighborhoods based, in part, upon representative sales disclosure statements. The REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 – VERSION A, ch. 2 at 8 (incorporated by reference at 50 IAC 2.3-1-2). The Assessment Guidelines limit the disclosure statements that may be used to those dated no more than eighteen (18) months prior to or subsequent to the January 1,

1999 valuation date. *Id.* Thus, the Assessment Guidelines implicitly recognize that a sale occurring within an eighteen month window of the relevant valuation date has some intrinsic relationship to a property's value as of January 1, 1999. This is true even though the Assessment Guidelines indicate that, in analyzing sales disclosure statements "adjustments should be made as necessary to approximate the value of the subject land on January 1, 1999." *Id.*

- d) The Petitioner therefore established a prima facie case that the current assessment is incorrect, and that the correct assessment is \$34,000.
- e) The burden thus shifted to the Respondent to impeach or rebut the Petitioner's evidence concerning the sale price of the subject property. *Meridian Towers*, 805 N.E.2d at 479. The Respondent presented testimony that it applied negative influence factors to the land and obsolescence adjustments to the improvements. *Plackard testimony*. That testimony, however, merely serves as an explanation of the calculation that the Respondent used to determine the property's value under the Assessment Guidelines. The Respondent did not explain why those calculations were more indicative of the subject property's market value than the property's May 18, 2000, sale price.
- f) The Respondent also questioned John Janes regarding the circumstances under which the auction at which the Petitioner bought the subject property was conducted. Janes testified that there was no minimum bid required at the auction and that he did not know what prompted the auction. *Janes testimony; Pet'r Ex. I.*
- g) The Manual provides the following definition of "market value":

'The most probable price (in terms of money) which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing for title from seller to buyer under conditions whereby:

- The buyer and seller are typically motivated;
- Both parties are well informed and advised and act in what they consider their best interests;
- A reasonable time is allowed for exposure in the open market;
- Payment is made in terms of cash or in terms of financial arrangements comparable thereto;
- The price is unaffected by special financing or concessions.'

MANUAL, at 10.

- h) It is apparent from this definition that a property's sale price at auction may not reflect its market value for reasons such as a lack of exposure to the open market or the seller being under some type of compulsion. The Respondent, however,

did not present any evidence that the seller was under compulsion or was not otherwise typically motivated. Moreover, there is evidence that the property was exposed to the open market for a reasonable period of time. In fact, the auction flier submitted by the Petitioner lists two separate “open house” dates for the property prior to the auction. *Id.* While Janes testified that there was no minimum bid, the Respondent did not explain why that factor necessarily disqualified the auction as an arbiter of market value.

- i) Thus, the Respondent neither sufficiently impeached the probative value of the sale price of the subject property nor presented its own evidence of the property’s market value. The Board therefore finds that the May 18, 2000, sale price is the best evidence of the subject property’s true tax value.
- j) Based on the foregoing, the preponderance of the evidence demonstrates that the current assessment is incorrect, and that the correct assessment is \$34,000.

### **Conclusion**

- k) The Petitioner made a prima facie case. The Respondent did not rebut or impeach the Petitioner’s evidence. The Board finds in favor of the Petitioner.

### **Final Determination**

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

ISSUED: \_\_\_\_\_

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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>>.