

REPRESENTATIVE FOR PETITIONERS:
Joshua C. Neal, Barrett & McNagny, LLP

REPRESENTATIVE FOR RESPONDENT:
Lori Carney, LaGrange County Assessor

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

Neal & Ruth Johnson,	)	Petition Nos.:	44-013-06-1-5-00133
	)		44-013-06-1-5-00134
Petitioners,)		
	)	Parcel Nos.:	011-27200-41
v.	)		011-27200-19
)		
LaGrange County Assessor,	)	County:	LaGrange
)		
	)	Township:	Milford
Respondent.)		
	)	Assessment Year:	2006

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

May 13, 2009

FINAL DETERMINATION

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

FINDINGS OF FACT AND CONCLUSIONS OF LAW

INTRODUCTION

1. In this assessment appeal, Neal and Ruth Johnson offered a certified appraiser’s opinion about their property’s market value-in-use. Although the LaGrange County Assessor questioned aspects of the appraiser’s analysis, the appraiser explained his underlying

decisions and the Board finds his opinion to be reliable. Because the Assessor did not offer any probative market value-in-use evidence of her own, the Board finds for the Johnsons.

PROCEDURAL HISTORY

2. Neal and Ruth Johnson filed Form 130 petitions contesting the assessments of their two parcels. On May 9, 2008, the LaGrange County Property Tax Assessment Board of Appeals (“PTABOA”) issued its final determinations reducing the parcels’ assessments, although not by as much as the Johnsons had requested.¹ The Johnsons then timely filed Form 131 petitions asking the Board to review their assessments. The Board has jurisdiction over the Johnsons’ appeals under Ind. Code §§ 6-1.1-15 and 6-1.5-4-1.

HEARING FACTS AND OTHER MATTERS OF RECORD

3. On February 12, 2009, Patti Kindler, the Board’s duly designated Administrative Law Judge (“ALJ”), held a consolidated hearing on the Johnsons’ petitions. Neither the Board nor the ALJ inspected the Johnsons’ parcels.

4. The following persons were also sworn and testified at the hearing:

For the Johnsons: Neal Johnson
 Ruth Johnson
 Robert Bohde, Appraiser

For the LaGrange County Assessor:
 Lori Carney, County Assessor
 Joy J. Sharp, Witness

5. The Johnsons offered the following exhibits:

Petitioners’ Exhibit 1 – Aerial photograph showing the subject parcels,
Petitioners’ Exhibit 2 – Page 4 of Petitioners’ Form 130 petition,
Petitioners’ Exhibit 3 – Notification of Final Assessment Determination for parcel 011-27200-19 dated March 4, 2008,

¹ The PTABOA issued a final determination for parcel 011-27200-19 on March 4, 2008. The sketch for the subject house was re-drawn and the PTABOA issued a second final determination on May 9, 2008. The PTABOA also issued its final determination for parcel 011-27200-41 on May 9, 2008.

- Petitioners' Exhibit 4 – Notification of Final Assessment Determination for parcel 011-27200-41 dated May 9, 2008,
- Petitioners' Exhibit 5 – Certified Real Estate Appraisal Report prepared by Robert Bohde,
- Petitioners' Exhibit 6 – Petitions to the Property Tax Assessment Board of Appeals,
- Petitioners' Exhibit 7 – Petitions to the Indiana Board of Tax Review,
- Petitioners' Exhibit 8 – Application for Building and Improvement Location Permit,
- Petitioners' Exhibit 9 – Petitioner's Brief,
- Petitioners' Exhibit 10 – Petitioner's Motion to Exclude Testimony,
- Petitioners' Exhibit 11 – MLS data for comparables used in Bohde's appraisal,
- Petitioners' Exhibit 12 – Property assessment data for three neighborhood homes; Anchor Realty advertisement for 5864 S. 960 E. with hand-written notes.

6. The Assessor offered the following exhibits:

- Respondent's Exhibit 1 – Property record card ("PRC") for parcel 011-27200-19 with hand-written notes,
- Respondent's Exhibit 2 – PRC for parcel 011-27200-41 with hand-written notes,
- Respondent's Exhibit 3 – Photograph of the subject dwelling (A),
- Respondent's Exhibit 4 – Photograph of the subject dwelling (B),
- Respondent's Exhibit 5 – Form 115 for parcel 011-27200-19 dated March 4, 2008,
- Respondent's Exhibit 6 – Form 115 for parcel 011-27200-19 dated May 9, 2008,
- Respondent's Exhibit 7 – Form 115 for parcel 011-27200-41 dated May 9, 2008,
- Respondent's Exhibit 8 – Re-sketch of the dwelling,
- Respondent's Exhibit 9 – iDox listing of sales from the subject neighborhood,
- Respondent's Exhibit 10 – Sheet with information and statistics for 17 parcels; PRCs for 17 parcels,
- Respondent's Exhibit 11 – Sheet with statistics for land trending factors,
- Respondent's Exhibit 12 – Trending comments for subject neighborhood,
- Respondent's Exhibit 13 – Document entitled "LaGrange County Neighborhood Factors,"
- Respondent's Exhibit 14 – Document entitled "LaGrange County 2006 Trending Adjustments" with hand-written notes,
- Respondent's Exhibit 15 – Google Aerial view of the subject property,
- Respondent's Exhibit 16 – Plat map of the subject property,
- Respondent's Exhibit 17 – Time adjustment sheet & property card for 5385 S. 930 E.,
- Respondent's Exhibit 18 – Page 2 of 6 from Uniform Residential Appraisal Report with hand-written notes,
- Respondent's Exhibit 19 – PRC and photograph for 44-09-26-300-000.012-013,
- Respondent's Exhibit 20 – Cover sheet describing differences between 44-09-22-400-000.039-013 and subject property; PRC and photograph,
- Respondent's Exhibit 21 – Cover sheet describing differences between 44-09-26-100-020.002-013 and subject property; PRC and photograph,
- Respondent's Exhibit 22 – Certified Mail Receipts dated 1/16/09.

7. The Board recognizes the following additional items as part of the record of proceedings and labels them Board Exhibits:
 - Board Exhibit A – Form 131 petitions with attachments,
 - Board Exhibit B – Notices of hearing,
 - Board Exhibit C – Hearing sign-in sheet,
 - Board Exhibit D – LaGrange County Assessor’s request for continuance dated November 19, 2008,
 - Board Exhibit E – Board’s granting of continuance dated November 21, 2008.

8. The day of the hearing, the Johnsons also filed the Petitioner’s Brief and the Petitioner’s Motion to Exclude Testimony. Those documents are marked as Petitioners’ Exhibits 9 and 10, respectively.

9. The two parcels under appeal are adjacent to each other and the Johnsons use them as one property. And most of the parties’ evidence and arguments address the parcels as a single property. Therefore, unless otherwise indicated, the Board therefore refers to the parcels together as the “subject property.”

10. The subject property is located on Big Long Lake in Wolcottville. It has a house that the Johnsons use as their residence as well as other structures.

11. The PTABOA determined the following values for the subject property:
 - Parcel 011-27200-19
 - Land: \$124,700 Improvements: \$542,7000 Total: \$667,400

 - Parcel 011-27200-41
 - Land: \$69,400 Improvements: \$200 Total: \$69,600.

12. The Johnsons request a total assessment of \$555,000.

OBJECTION AND MOTION TO EXCLUDE

13. The Johnsons filed a motion to exclude the testimony of Lori Carney, the LaGrange County Assessor, and Joy Sharp, a realtor and former member of the PTABOA. The Johnsons alleged that the Assessor had violated the Board's procedural rules because she did not give them summaries of either witness's testimony in advance of the Board's hearing. *See Pet'rs Ex. 10*. At the hearing, the Johnsons objected to Ms. Sharp's testimony but did not object to the Assessor's testimony. The ALJ took the Johnsons' motion and objection under advisement.
14. The Board denies the Johnsons' motion and overrules their objection. The Johnsons correctly point out that the Board's procedural rules require parties to exchange witness and exhibit lists, copies of documentary evidence, and summaries of testimonial evidence in advance of a hearing. 52 IAC 2-7-1(b). While the Assessor gave the Johnsons her witness and exhibit lists and copies of her documentary evidence, she did not give them summaries either of her testimony or of Ms. Sharp's testimony.
15. But a party is not necessarily entitled to have the Board exclude evidence for each technical violation of its rules. Where a violation is relatively minor and little or no prejudice results, exclusion may not be appropriate. Here, the Johnsons did not explain how they were prejudiced by the Assessor's failure to provide a summary of her own anticipated testimony. In fact, the Johnsons did not object when the Assessor testified at the hearing. Importantly and allaying any notion of prejudice, the Assessor testimony merely described and explained her exhibits, which she had timely provided to the Johnsons before the hearing.
16. Ms. Sharp's testimony presents a slightly closer question. At the hearing, the Johnsons did specifically object to Ms. Sharp testifying. And, unlike the Assessor's testimony, the basis for Ms. Sharp's testimony was not readily apparent before the hearing. Nonetheless, Ms. Sharp testified to very little. Nothing she said on direct examination was even probative. As to her qualifications, she testified that she was a realtor, but not a

broker, that she had served on the PTABOA, that she was the past president of the “northeast board,” and that she was currently the state president of “CRS.” *Sharp testimony*. Substantively, she testified that in 2005, real property sold for more than it was selling for at the time of the Board’s hearing, and that assessed values would hopefully decrease in the future. She also felt that the PTABOA had done a “significant job,” and that Mr. Bohde had done an “excellent” job as an appraiser. *Id.*

17. Thus, the Johnsons were on notice about the bulk of what the Assessor testified to, and did not even object to her testimony at the hearing. And Ms. Sharp’s testimony was inconsequential. Under those circumstances, the Board does not believe that excluding either witness’s testimony is a necessary or appropriate remedy. Future litigants, however, should not view this as an invitation to ignore the Board’s rules. In a given case, excluding evidence may be appropriate.

ADMINISTRATIVE REVIEW AND THE PETITIONER’S BURDEN

18. A petitioner seeking review of an assessing official’s determination must establish a prima facie case proving both that the current assessment is incorrect, and specifically 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).
19. In making its case, the petitioner must explain how each piece of evidence relates to its requested assessment. *See Indianapolis Racquet Club, Inc. v. Washington Twp. Assessor*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004).
20. Once the petitioner establishes a prima facie case, the burden shifts to the respondent to impeach or rebut the petitioner’s evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004); *Meridian Towers*, 805 N.E.2d at 479.

ANALYSIS

Parties' Contentions

A. The Johnsons' Contentions

21. The subject property is located on a steep hill on the south shore of Big Long Lake. A detached garage sits atop the hill with at least 40 steps leading down to the subject house. The house has a deck facing the lake and is approximately 45 feet from the water. From the house there are another 45 steps down to the lake. The house has two floors plus an unfinished basement, which acts to support the house because of the steep hill. The basement must be entered from the outside and the Johnsons use it only for storage. The detached garage also has a basement for support. The garage's basement has a bathroom and utility room, and the rest is used for storage. *N. Johnson testimony; Pet'rs Ex. 1.*
22. The Johnsons claim that the subject property is assessed for significantly more than neighboring properties. The subject property is very comparable to neighboring properties on both sides, but those properties are assessed for only half as much as the subject property. *R. Johnson testimony; Pet'rs Ex. 12.*
23. The Johnsons also hired Robert Bohde, a Certified Indiana Appraiser, to appraise the subject property. Mr. Bohde estimated the property's market value at \$555,000 as of January 1, 2005. *Bohde testimony; Pet'rs Ex. 5.* Mr. Bohde certified that he performed his appraisal in conformity with the Uniform Standards of Professional Appraisal Practice ("USPAP"), and he relied on two methodologies—the sales-comparison and cost approaches. *Id.* Mr. Bohde did not use the income approach because he believed that the lack of rental data would have made the results from that approach questionable. *Pet'rs Ex. 5; Bohde testimony.*
24. For his sales-comparison approach, Mr. Bohde searched MLS data for sales ranging from \$300,000 to \$1,000,000 on Big Long Lake and other similar lakes. *Bohde testimony.* The three most comparable properties were lakefront properties on Big Long Lake. They

were also the three highest priced homes on the lake, selling for \$485,000, \$435,000, and \$377,000, respectively. *Id.; Pet'rs Ex. 5*. Mr. Bohde adjusted the sale prices for the three comparable properties to account for differences between those properties and the subject property. But he only made adjustments for differences that would cause a ready and willing buyer to add or subtract value. *Bohde testimony*. Mr. Bohde strived to abstract the amount of his adjustments from the marketplace. *Id.* He explained that using a paired-sales analysis is the best way to quantify adjustments. But he also acknowledged that, when dealing with unique properties, appraisers have to rely on their experience and what they have seen in the marketplace. *Id.* Mr. Bohde ultimately made net adjustments of \$66,800, \$126,200, and \$143,900. *Id.;* *Pet'rs Ex. 5*. Using those adjusted sale prices, he estimated the subject property's market value at \$550,000. *Id.*

25. While the Assessor questioned Mr. Bohde's failure to make certain adjustments and the amounts of some of the adjustments that he did make, Mr. Bohde explained his decisions. For example, Mr. Bohde did not make any adjustments for location because all four properties were on the same lake and were conducive to recreational use. *Bohde testimony*. While he adjusted two of the three comparable properties' sale prices upward to account for those properties being smaller than the subject property and having less lake frontage, he did not adjust the third property's sale price. *Pet'rs Ex. 5*. Although the subject property was also larger than that property, that extra size did not offer significantly more utility. Mr. Bohde explained that it is easier to build on flatter sites, such as the comparable properties. Also, while some buyers may value the view afforded by the subject property's hill, the problems associated with having a house on such a steep hill would dissuade others. *Bohde testimony*.
26. Similarly, although Mr. Bohde described the subject house as two stories and the comparable properties as 1.5 stories (comparables 1 and 2) and 2.5 stories (comparable 3), he did not adjust the comparable properties sale prices for that difference. *Pet'rs Ex. 5*. Again, he felt that the difference in story height did not affect houses' relative utilities because, in each case, the owners would have to use stairs to access bedrooms. *Bohde testimony*. Finally, the Assessor and PTABOA apparently questioned the adjustments

that Mr. Bohde made to reflect age differences between the houses. Mr. Bohde based his age-related adjustment on exterior inspections and adjusted each sale price by \$1,000 per year, splitting that amount between age and condition. *Id.* He explained that newer homes typically do not have extensive interior renovation, so depreciation over the first 20 years is more straight line. *Bohde testimony; Pet'rs Ex. 5.*

27. In his cost-approach analysis, Mr. Bohde estimated the subject property's value at \$556,500, although he ultimately used that approach only as a "supportive technique" for his conclusions under the sales-comparison approach. *Pet'rs Ex. 5.* As they did with his sales-comparison analysis, the Assessor and the PTABOA questioned aspects of Mr. Bohde's cost-approach analysis. And once again, Mr. Bohde explained his decisions.² For example, although the PTABOA indicated that Mr. Bohde had not included the detached garage in his analysis, Mr. Bohde explained that he valued that garage together with a fireplace, appliances and porches, and assigned those items a total value of \$70,000. *Bohde testimony.* The PTABOA also said that it had to correct the square footage for the home's cathedral ceilings. Mr. Bohde acknowledged that the PTABOA's confusion stemmed from a sketch in his appraisal. *Bohde testimony.* The sketch looks as though there is another room above the living room's cathedral ceiling. In reality, the other floor is actually below the living room. *Id.* Mr. Bohde could have eliminated the confusion by describing the house as a ranch-style house with a full walk-out basement. But he believed that the house's utility was more like a two-story house. *Id.*
28. Thus, although the Assessor claimed that Mr. Bohde's appraisal had various discrepancies, she failed to explain how any of those purported discrepancies supported the property's current assessment of \$737,000. *Neal argument.* The Assessor similarly failed to explain how any of her own sales information related to the subject property's value. *Id.*

² The appraisal report that the Petitioners offered as their Exhibit 5 is missing the page that lays out Mr. Bohde's cost-approach analysis. That missing page is included in the copy of Mr. Bohde's appraisal that the Petitioners attached to their Form 131 petitions. *See Board Ex. A.* Because the parties testified about that page, the Board treats it as if it were included in Petitioners' Exhibit 5.

B. The Assessor's Contentions

29. The Assessor both attacked Mr. Bohde's appraisal and offered her own market-derived evidence to support the subject property's assessment. She also pointed to adjustments that the PTABOA made to the property's original assessment, arguing that the PTABOA changed the original assessment to bring it more in line with the market and Mr. Bohde's appraisal.

1. Mr. Bohde's appraisal

30. Mr. Bohde did not adequately adjust his comparable properties' sale prices. *Carney argument*. There were inconsistencies in his adjustments. For example he adjusted two of the comparable properties sale prices by only \$12,000 to account for differences between their garages and the subject property's detached garage, yet he valued the subject property's detached garage at \$70,000 in his cost approach. *Carney testimony; Pet'rs Ex. 5*. And he made different adjustments to each property's sale price for the number of bathrooms and amount of finished living area. *Id.* Similarly, his adjustments for differences in the houses respective ages also did not add up. *Id.*

31. To further support her claim, the Assessor offered property record cards for Mr. Bohde's three comparable properties. The first property sold for \$485,000 on November 2, 2005. Its house is inferior to the subject house in design and grade, and it is only 1.5 stories. *Carney testimony; Resp't Exs. 18-19*. The comparable house also lacks "heat gravity." *Id.* Similarly, the comparable property has less lake frontage and depth than the subject property. Mr. Bohde did not adjust the comparable property's sale price for the difference in story height or the lack of "heat gravity." *Carney testimony; Resp't Ex. 18*. He similarly did not adjust the sale price for site-related differences. *Id.* And he made only a \$6,000 adjustment to account for the comparable house's lack of a basement. *Id.*

32. The second comparable property sold for \$435,000 on July 7, 2005. Once again, it differs from the subject lot in terms of lake frontage and depth. *Carney testimony; Resp't*

Exs. 18, 20. Its house was built in 1930, but with extensive remodeling it has an effective age of 1995. *Id.* The comparable house is only 1.5 stories with no basement, and it is smaller than the subject house. Also, the comparable house has two decks and a balcony whereas the subject property has three open-frame porches, an enclosed porch, a deck, and a detached garage with a basement and recreational finish. *Id.* Again, Mr. Bohde did not adjust the comparable property's sale price to reflect the differences in story height, and he made only a \$6,000 adjustment for the lack of a basement. *Id.*

33. The third comparable property sold for \$377,000 on September 9, 2005. That property's record card shows a house with 100 square feet more than what Mr. Bohde listed in his appraisal. *Carney testimony; Resp't Exs. 18, 21.* Similarly, the record card shows the house as being two stories over a basement, while Mr. Bohde listed it as being 2.5 stories. *Id.* And the house was built in 1960, while the appraisal lists it as being only 14 years old. The Assessor, however, acknowledged that the house could be a 1960's house with new siding. *Carney testimony.* The Assessor did not testify about what, if any, errors she thought Mr. Bohde made in adjusting the third comparable property's sale price, although she circled two spaces in Mr. Bohde's sales-comparison grid where he did not make any adjustments and two others where he made adjustments of \$5,000 and \$12,000. *Resp't Ex. 18.*
34. Also, while Mr. Bohde testified that the subject property's steep grade affected its value, all of the land in the area has topography issues. *Carney testimony.* In fact, Mr. Bohde's appraisal says that the steep grade does not impact the subject property's appeal or value. *Id.*³
35. The Assessor also apparently took issue with Mr. Bohde's cost-approach analysis. Mr. Bohde's appraisal shows no allowances for extra open-frame porches other than a 526-foot frame porch. And it lists a total of 3,363 square feet as compared to the 3,902 square feet listed on the subject property's record card. Similarly, Mr. Bohde listed the house's

³ Ms. Carney did not point to the portion of the appraisal she was referring to. On page 1 of 6, the appraisal says: "The site does have an extremely steep grade from the road to the water level. *This does impact its appeal and value.*" *Pet'rs Ex. 5 at page 1 of 6* (emphasis added).

basement as having 528 square feet compared to the 536 square feet listed on the record card. The appraisal also lists the detached garage, fireplaces, appliances and porches in single \$70,000 line item. But the detached garage is 30 x 30 feet with a basement below, a heated bay on top, a full bath, a game room, and two additional rooms. Also, the appraisal lists 65% depreciation for the subject house even though the house was only built in 2001. *Carney testimony*.

2. Assessor's valuation evidence

36. The Assessor also offered her own market-derived evidence. For example, she offered various documents addressing how neighborhood factors were determined and how assessments were trended forward from their 2002-general-reassessment levels. *See Carney testimony; see also Resp't Exs. 9-14, 17*. Among other things, those documents contain information about a number of property sales from the Johnsons' neighborhood. *Resp't Exs. 9-10, 17*. One of those properties sold three times between 2005 and 2006. The first sale was for \$200,000 on September 1, 2005. *Carney testimony; Resp't Ex. 17*. Less than three months later, the property sold again for \$220,000. That equals a 5%-per-month increase. *Id.* The same property later sold for \$287,000 on December 4, 2006. That represents a 2.54%-per-month increase over the preceding sale price. *Id.* Together, those documents show that property values have increased dramatically from one year to the next and that the county's trending factors were fair and equitable. *Carney testimony*.

3. PTABOA adjustments

37. After receiving Mr. Bohde's appraisal report, the PTABOA made several corrections to the subject property's assessment. *Carney testimony; Resp't Exs. 5-8*. The PTABOA tried to get the property's assessment closer to Mr. Bohde's valuation opinion. *Carney testimony*. For example, the PTABOA reduced the property's excess-frontage percentage and the house's quality grade. *Id.* Without going through the property record card line by line, however, it is difficult to identify a dollar value for each adjustment. The

PTABOA tried to stay within a value that it thought was reasonable in light of the market and Mr. Bohde's appraisal. *Id.*

Discussion

38. Indiana assesses real property based on its true tax value, 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.” 2002 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.3-1-2). Appraisers traditionally have used three methods to determine a property's value: the cost, sales-comparison, and income approaches. *Id.* at 3, 13-15. Indiana assessing officials generally use the mass-appraisal version of the cost approach set forth in the Real Property Assessment Guidelines for 2002 – Version A.
39. A property's market value-in-use, as determined using the Guidelines, is presumed to be accurate. See MANUAL at 5; *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*, 842 N.E.2d 899 (Ind. Tax 2006). But a taxpayer may rebut that presumption with evidence that is consistent with the Manual's definition of true tax value. MANUAL at 5. A market value-in-use appraisal prepared according to USPAP often will suffice. *Id.*; *Kooshtard Property VI*, 836 N.E.2d at 506 n.6. A taxpayer may also offer actual construction costs, sales information for the subject or comparable properties and any other information compiled according to generally accepted appraisal practices. MANUAL at 5.

A. The Johnsons Made a Prima Facie Case

40. The Johnsons made a prima facie case for reducing the subject property's assessment. Through Mr. Bohde's testimony and appraisal report, the Johnsons offered precisely the type of market-value-in-use evidence contemplated by the Manual and Tax Court. In estimating the subject property's market value, Mr. Bohde used two generally accepted

valuation approaches and prepared his appraisal report in conformity with USPAP. He also estimated the property's value as of January 1, 2005, the proper valuation date for the 2006 assessment at issue in this appeal. *See* 50 IAC 21-3-3.

41. Although the Johnsons also pointed to what they claimed was a disparity between the subject property's assessment and the neighboring properties' assessments, they did little to develop that claim. Ultimately, they based their request on Mr. Bohde's valuation opinion.

B. The Assessor did not Impeach or Rebut the Johnsons' Evidence

42. The burden therefore shifted to the Assessor to impeach or rebut Mr. Bohde's valuation opinion. *Meridian Towers*, 805 N.E.2d at 479. The Assessor sought to do both but did not succeed in doing either.
43. The Assessor first tried to impeach Mr. Bohde's appraisal by claiming that he failed to adjust his comparable properties' sale prices to reflect various ways in which those properties differed from the subject property. In most instances, Mr. Bohde explained why he did not make the adjustments that the Assessor thought should be made. For example, he explained that there was little difference in utility between a 2-story house and a 1.5-story house. He also generally explained how he quantified his adjustments, acknowledging that in some instances, appraisers have to simply rely on their experience. While Mr. Bohde did not offer great detail about how he quantified his adjustments, it was enough to convince the Board that his adjustments were generally reliable. And the Assessor offered nothing to show that those adjustments failed to reflect how the market would view the differences between the properties.
44. The Assessor made similar claims about Mr. Bohde's cost-approach analysis. Once again, while the Assessor questioned Mr. Bohde's calculations, she did not offer any evidence as to what the correct calculations should have been. And while the Assessor pointed out that some of Mr. Bohde's measurements differed from the measurements on

the subject property's record card, she offered nothing to show which measurements were more likely correct. More importantly, Mr. Bohde only relied on the cost approach as a "supportive technique." Thus, even if he made some of the errors that the Assessor claims, those errors did not significantly detract from his ultimate valuation opinion.

45. The Board's inquiry does not end with Mr. Bohde's appraisal because the Assessor offered market-derived evidence of her own. The Board therefore must examine the Assessor's evidence to determine whether it is more probative of the subject property's market value-in-use than Mr. Bohde's valuation opinion.
46. The Assessor submitted sales data for properties in the Johnsons' neighborhood, statistical analyses for computing neighborhood factors, and information purporting to show the monthly appreciation rate for property in the area. But the Assessor did not attempt to explain how any of that information related to the subject property's value. *See Long*, 821 N.E.2d at 471-72 (Ind. Tax Ct. 2005)(holding that sales data lacked probative value where taxpayers failed to explain how the characteristics of their property compared to the characteristics of purportedly comparable properties or how any differences between the properties affected their relative market values-in-use).
47. In the end, the Assessor appeared to offer her sales evidence less to show the subject property's value through a sales-comparison analysis than to show that properties in the area were assessed using a methodology that led to fair, equitable, and accurate assessments. Even if that were true, the fact that an assessor's mass-appraisal methodology led to relatively accurate assessments for other properties does little to show that the methodology resulted in an accurate assessment for a specific property under appeal. It certainly does not outweigh an appraiser's valuation opinion. Indeed, the Assessor's position distills to a claim that the property was correctly assessed under the Guidelines. But the Tax Court has held that strictly applying the Guidelines is not enough to rebut the presumption that an assessment is correct. *Eckerling*, 841 N.E.2d at 678. It follows that, once a taxpayer has offered probative market value-in-use evidence

to rebut an assessment's accuracy, an assessor cannot overcome that evidence by showing that she correctly applied the Guidelines.

48. Thus, by offering Mr. Bohde's appraisal, the Johnsons proved that the subject property's assessment is wrong and that its true tax value for the March 1, 2006, assessment date was \$550,000.

SUMMARY OF FINAL DETERMINATION

49. The Johnsons made a prima facie case that their two parcels should be assessed at \$555,000. The Assessor failed to impeach or rebut the Johnsons' evidence. The Board therefore finds for the Johnsons and orders that the parcels be assessed for a total of \$555,000.

The Indiana Board of Tax Review issues this Final Determination of the above captioned matter on the date first written above.

Chairman, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

IMPORTANT NOTICE

- 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>>.