

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

Petition #: 20-019-02-1-5-00014
Petitioners: Karl L. & Carla R. Shively
Respondent: Jefferson Township Assessor (Elkhart County)
Parcel #: 20-07-16-376-010.000-019
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 Petitioners initiated an assessment appeal with the Elkhart County Property Tax Assessment Board of Appeals (“PTABOA”) by written document dated July 7, 2003.
2. The PTABOA mailed its decision to the taxpayers on March 13, 2004.
3. The Petitioners filed an appeal to the Board by filing a Form 131 with the Elkhart County Assessor on April 15, 2004. The Petitioners elected to have this case heard in small claims.
4. The Board issued a notice of hearing to the parties dated December 10, 2004.
5. The Board held an administrative hearing on January 26, 2005, before the duly appointed Administrative Law Judge Patti Kindler.
6. Persons present and sworn as witnesses at the hearing:
 - a) For Petitioners — Karl L. and Carla R. Shively, taxpayers,
 - b) For Respondent — Dana S. Hunt, Jefferson Township Assessor,
R. Eugene Inbody, Elkhart County Assessor,
Cathy Searcy, Deputy County Assessor.

Facts

7. The property is a residential dwelling situated on 14.75 acres located at 19541 County Road 18, Goshen, Indiana, as is shown on the property record card (“PRC”) for parcel #20-07-16-376-010.000-019.
8. The Administrative Law Judge did not conduct an inspection of the property.

9. Assessed value of subject property as determined by the Elkhart County PTABOA:
- | | | |
|---------------|------------------------|------------------|
| Land \$30,600 | Improvements \$287,100 | Total \$318,100. |
|---------------|------------------------|------------------|
10. Assessed Value requested by Petitioners on the subject Form 131 Petition:
- | | | |
|---------------|------------------------|------------------|
| Land \$30,600 | Improvements \$212,100 | Total \$242,700. |
|---------------|------------------------|------------------|
11. Petitioners' contentions in support of alleged error in assessment regarding grade:
- a) The home was assessed with a grade of "A." The grade should be reduced to "B+2." *Petitioners Exhibit 1.*
 - b) On October 16, 2001, the county officials agreed to lower the subject grade from an "A" to an "A-2" for the 2001 assessment. *Karl Shively testimony; Petitioners Exhibits 1, 6.*
 - c) For the 2002 reassessment, the grade was changed to an "A," or 160 percent grade factor. *Karl Shively testimony; Petitioners Exhibit 19.* The change in the grade factor resulted in a 14 percent overstatement in the assessed value. *Id.*
 - d) The grade factor was discussed with the reassessment company at the informal hearing for the 2002 assessment. They indicated that the grade would be changed, but the change was never made. The company said they would discuss the grade. *Karl Shively testimony.*
 - e) The grade specifications table completed by the township assessor for the 2001 assessment indicates an average grade factor for the subject property at 135.5 percent, between a "B" and a "B+2," based on the numerical value allotted for each grade. *Karl Shively testimony; Petitioners Exhibits 7, 8.*
 - f) The Petitioners compared the subject residence three purported similar properties located within ¼ mile of the subject property. The comparison determined the square foot prices, excluding land and other structures, for the three dwellings. *Karl Shively testimony; Petitioners Exhibit 2.*
 - g) The comparable dwellings (identified as parcels B, C and D) indicate a price per square foot ranging from \$59.38 to \$89.55. *Karl Shively testimony; Petitioners Exhibit 2.* The subject property is assessed at \$101.65 per square foot even though comparable parcels C and D have additional features such as walk out basements, brick construction and masonry fireplaces that are not found in the subject home. *Id.* The grade factor for the subject dwelling should be lower than the home located at 57820 El Dorado Drive (comparable D, graded "A-1"), which has features not found in the subject property, such as additional gables, side-load angled garage, transom windows, and nine foot basement walls. *Petitioners Exhibits 11, 12.* The first comparable property, parcel B, located at 19719 Heritage Way, most closely matches the subject parcel in terms of design and construction materials. It is graded "B." *Karl Shively testimony.*

- h) The subject dwelling was also compared to three additional dwellings located in Fairfield Farms Addition, which were constructed by the contractor who built the subject dwelling. *Petitioners Exhibit 14*. This comparison resulted in a range of prices per square foot for the comparable properties (identified as E, F and G) from \$81.97 to \$87.60. *Id.* The comparable property from this analysis that is most similar to the subject dwelling is located at 67090 Brentwood and is graded “B+1”; the other two dwellings are graded “B+2” and are superior to the subject property. *Karl Shively testimony; Petitioners Exhibits 14, 23-25*.
 - i) Photographs and PRCs have been presented for the subject property as well as all the comparable properties that show a lower assessed value per square foot than the subject, even though the comparables have items such as side-load garages and walkout basements not found in the subject. *Karl Shively testimony; Petitioners Exhibits 9-11, 15-17, 20-25*.
 - j) The grade of “A-2,” which no longer exists, was requested on the subject Form 131 petition. *Karl Shively testimony; Board Exhibit A*. The “B+2” grade represents the same grade factor percentage as the former “A-2” grade and is reasonable for the subject dwelling. *Id.* The Petitioners’ Comparative Analysis of the purported correct assessment for the subject property employs the use of both “B+1” grade, as well as “B+2” grade. *Petitioners Exhibit 2*.
 - k) The appraised value is not known and would not accurately reflect the appropriate grade because it would include a land valuation. *Karl Shively testimony*.
 - l) The assessing officials did not inspect the interior of the subject property when making the grade factor determination. *Carla Shively testimony*.
12. Respondents’ contentions in support of the assessment regarding grade:
- a) The reassessment company suggested the grade be rated an “A” and the PTABOA determined there was no evidence that the grade should be reduced at its hearing. *Hunt testimony; Inbody testimony*.
 - b) The PTABOA requested the Petitioners provide evidence of the 2000 construction costs for the subject dwelling, but the evidence was not provided, so no change was made to the grade of the property. *Hunt testimony; Attachment to Board Exhibit A, Form 115 at 2*.
 - c) The Petitioners’ exterior photographs are not adequate to support a change in grade because they do not consider the interior components that are considered in determining a property’s grade factor. *Hunt testimony*.
 - d) The purported comparable properties located at 57594 Heritage (Comparable C) and 57820 El Dorado Drive (Comparable D) are not comparable to the subject

property. The property on El Dorado has some structural damage that affects its grade. *Hunt testimony; Respondents' Exhibits 6-8, 12*. The properties located at 67250 and 67310 Ashbrook (Comparables F and G) and 19719 Heritage (Comparable B) are somewhat comparable to the subject property. *Hunt testimony*.

- e) The Petitioners made several comparisons to other properties, but failed to offer proof of the market value for the subject property. *Searcy testimony*. Grade is a subjective factor based on specification sheets; each assessing official may have their own opinion of the proper grade factor, which is why the PTABOA requested construction costs for the subject property, which can be used to determine the proper grade. *Searcy testimony; Attachment to Board Exhibit A, Form 115 at 2*.
13. Petitioners' contentions in support of alleged error in assessment regarding neighborhood factor:
- a) The subject dwelling, located on a rural parcel, was assigned the default Jefferson Township neighborhood code of 0000 with a neighborhood factor of 84 percent. This is not an accurate comparison of sale price to assessed value for homes the same age and grade as the subject. *Karl Shively testimony; Petitioners Exhibit 1*.¹
 - b) The average age of the homes in the subject's neighborhood code is thirty-four years old and assessing officials have stated many times that older homes were more likely to see significant assessed value increases because their assessed values were previously understated compared to their market value. *Karl Shively testimony; Petitioners Exhibit 1*. Therefore, the subject property, which was constructed in 2000, should not be grouped with the older homes in determining the neighborhood code. *Id.*
 - c) The Petitioners presented a neighborhood factor calculation for Jefferson Township using the default code for parcels built only after 1990. *Karl Shively testimony; Petitioners Exhibit 3*. The appropriate neighborhood factor is less than 69 percent based on the last three parcels listed on the exhibit, which are graded "B" or above. *Karl Shively testimony; Petitioners Exhibits 1, 3*.
 - d) The neighborhood factor calculations for both the default code (0000) in which the subject is located and Whispering Valley (0403) support the contention that the higher graded homes were over assessed relative to market value and consequently have a lower market adjustment neighborhood factor. *Karl Shively testimony; Petitioners Exhibits 1, 4-5*.

¹ "The neighborhood code of 0000 was the default used in the townships for those properties that were not in a platted subdivision, with homesite applied to the first acre as opposed to a front foot value applied in the subdivisions." *Respondents Exhibit 14*.

- e) The subject property is located between three neighboring subdivisions, each with separate neighborhood codes and factors ranging from 70 percent to 78 percent, while the subject property located less than ¼ mile from these subdivisions has a neighborhood factor of 84 percent. *See Map on Petitioners Exhibit 1.* Two comparable parcels (B and C) are located in the Indian Creek Colony Subdivision, which has a neighborhood factor of 70 percent. *Petitioners Exhibits 1, 20-21.*
 - f) Woodstock and Amberwood Hills Subdivisions (codes 3402 and 0409) contain “A” and “B” grade homes and have a neighborhood factor of 68 percent. *Petitioners Exhibit 4.* Other neighborhoods or subdivisions that contain “A” and “B” grade homes did not have adequate sales data to calculate a factor and were assigned the Jefferson Ridge (2201) factor of 78 percent, which was based upon sales of less than 5 percent of its 215 parcels. *Karl Shively testimony; Petitioners Exhibit 4.*
 - g) Only three parcels listed on the county’s sales ratio study (*Respondents Exhibit 2*) are graded “A-1” to “B+2” and are priced between \$68.00 and \$79.00 per square foot. *Karl Shively testimony; Respondents Exhibit 2.* The two calculations of the assessments submitted by Petitioners at \$82.58 per square foot are in line with those three parcels. *Karl Shively testimony; Petitioners Exhibit 2.*
 - h) The county has grouped 1,976 parcels in the subject default 0000 neighborhood code, which are not delineated or separated by age or grades. It seems reasonable to separate them by some criteria rather than lumping 2,000 parcels together when none of the other neighborhood codes have more than 215 parcels. *Karl Shively testimony; Petitioners Exhibit 4.*
 - i) Two purported alternative calculations for the subject assessment were developed, one which employs the current neighborhood factor of 84 percent in combination with “B+1,” or 130 percent grade factor, the other which employs the requested 78 percent neighborhood factor in combination with “B+2,” or 140 percent grade factor. Both calculations resulted in the same price per square foot of finished living area for the subject of \$82.58. *Petitioners Exhibit 2.*
14. Respondents’ contentions in support of the assessment regarding neighborhood factor:
- a) The subject parcel, with 14.75 acres of agricultural land, is not comparable to residential or subdivision properties with platted lots when determining a neighborhood factor. *Inbody testimony.*
 - b) Printouts from the neighborhood studies and the sales that were included in the development of the neighborhood codes support the neighborhood code of 84 percent for the default neighborhood 0000, which includes properties ranging from rural residential parcels with ¾ acre to houses on 80 acres of agricultural land. *Searcy testimony; Respondents Exhibits 2-3.*

- c) The Petitioners identified seven sales from the neighborhood to develop a purported neighborhood factor of 68.68 percent, which they claim is applicable to the subject property. *Searcy testimony; Petitioners Exhibit 3*. The neighborhood factor was not developed by breaking down the acreage and grade of the parcels because the group would be too small to get an accurate measure and there would not have been enough sales to comply with the REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 – VERSION A. *Id.*
- d) The Petitioners failed to provide information about how the neighborhood factor for any of the other neighborhood codes was derived. No sales ratio studies were submitted so that the Respondents could review the neighborhood data to see what type of properties were included. *Searcy testimony*.
- e) There was an advertised public hearing for all neighborhood codes. Petitioners did not remonstrate against them at that time. *Searcy testimony*.

Record

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

- a) The Petition, and all subsequent pre-hearing and post-hearing submissions by either party.
- b) The tape recording of the hearing labeled #5337.
- c) Exhibits:
 - Petitioners Exhibit 1: Brief of Contentions,
 - Petitioners Exhibit 2: Analysis of Comparable & Subject Assessments,
 - Petitioners Exhibit 3: Analysis of Neighborhood Factor for default 0000,
 - Petitioners Exhibit 4: Jefferson Township Neighborhood Factor Table,
 - Petitioners Exhibit 5: County’s Calculation for Neighborhood Code 0403,
 - Petitioners Exhibit 6: Form 115 – Notice of Final Assessment for 2001,
 - Petitioners Exhibit 7: Grade Specification Table from 2001,
 - Petitioners Exhibit 8: Petitioners’ 2001 Grade Analysis,
 - Petitioners Exhibit 9: Front and Side View Photographs of Subject Parcel,
 - Petitioners Exhibit 10: Photographs of 19719 Heritage Way (comparable A),
 - Petitioners Exhibit 11: Photographs of 57820 El Dorado (comparable property D),
 - Petitioners Exhibit 12: Petitioners’ Analysis of 2001 Assessment Appeal,
 - Petitioners Exhibit 13: Photographs of 57594 Heritage Way (comparable C),
 - Petitioners Exhibit 14: Comparative Analysis of comparables E, F, and G,
 - Petitioners Exhibit 15: Photographs of 67090 Brentwood Drive (comparable E),
 - Petitioners Exhibit 16: Photographs of 67250 Ashbrooke (comparable F),

Petitioners Exhibit 17: Photographs of 67310 Ashbrooke (comparable G),
 Petitioners Exhibit 18: Subject Form 130 petition,
 Petitioners Exhibit 19: PRC for subject parcel,
 Petitioners Exhibit 20: PRC for 19719 Heritage Way (comparable B),
 Petitioners Exhibit 21: PRC for 57594 Heritage Way (comparable C),
 Petitioners Exhibit 22: PRC for 57820 El Dorado Drive (comparable D),
 Petitioners Exhibit 23: PRC for 67090 Brentwood Drive (comparable E),
 Petitioners Exhibit 24: PRC for 67250 Ashbrooke (comparable F),
 Petitioners Exhibit 25: PRC for 67310 Ashbrooke (comparable G),
 Respondents Exhibit 1: Subject PRC,
 Respondents Exhibit 2: Sales Ratio Study for Neighborhood 0000,
 Respondents Exhibit 3: Calculation of Residential Neighborhood Factor,
 Respondents Exhibit 4: Photographs of the subject property,
 Respondents Exhibit 5: Schedule F from the REAL PROPERTY
 ASSESSMENT GUIDELINES FOR 2002 – VERSION A,
 app. C at 9,
 Respondents Exhibit 6: PRC for 57820 El Dorado Drive,
 Respondents Exhibit 7: Sales Disclosure form for 57820 El Dorado Drive,
 Respondents Exhibit 8: Photographs of 57820 El Dorado Drive,
 Respondents Exhibit 9: PRC for 57930 El Dorado Drive,
 Respondents Exhibit 10: Sales disclosure form for 57930 El Dorado
 Drive,
 Respondents Exhibit 11: Photographs of 57930 El Dorado Drive,
 Respondents Exhibit 12: PRC for 57594 Heritage Way,
 Respondents Exhibit 13: PRC for 19719 Heritage Way,
 Respondents Exhibit 14: Rebuttal of Petitioners' evidence,

d) These Findings and Conclusions.

Analysis

16. 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.

ISSUE 1 – IS THE GRADE CORRECT?

17. Petitioners did not provide sufficient evidence to support their contentions regarding grade. This conclusion was arrived at because:

- a) Grade is defined as “[t]he classification of an improvement based on certain construction specifications, design and quality of materials and workmanship.” GUIDELINES, glossary at 9. A grade factor is the “factor or multiplier applied to a base grade level for the purpose of interpolating between grades or establishing an intermediate grade.” *Id.* The assessor must first determine the base quality grade for the residential neighborhood, which becomes a starting point in determining the actual quality grade for each improvement within that neighborhood.
- b) There are two methods for assigning quality grades to residences.
Method I: The assessor firsts finds several improvements that are typical for the type of materials, workmanship, and design found in the majority of improvements within the neighborhood. The assessor then compares the materials, workmanship, and design used in these representative improvements to the construction specifications given in the quality grade classification tables and the pictures of graded improvements in the Guidelines. The assessor selects the quality grade that the representative improvements most closely resemble. This then becomes the base quality grade to be used as a starting point in determining the actual quality grade for each improvement within that neighborhood.
Method II: A second method of establishing the base quality grade for a neighborhood is to compare the actual construction costs of the improvements in the neighborhood, trended to January 1, 1999, to the construction costs given in the Guidelines. If the trended actual costs match the costs in the table of the Guidelines, then the base quality grade for the neighborhood is “C”. If the trended costs are higher or lower than the costs in the tables of the Guidelines, then the base quality grade for the neighborhood should be something other than a quality grade of “C”. In this case, the base quality grade would be determined by dividing the trended actual costs by the costs determined from the manual. The result of this calculation should be compared to the quality grade factors in Table A-I and Table A-2 to determine the corresponding quality grade. GUIDELINES, app. A at 5.
- c) The Petitioners first focus on the fact that county assessing officials lowered the subject grade factor from “A” to “A-2” for the 2001 tax year. A general reassessment occurred in 2002 and the manner in which grade is determined was revised. Changes were made to assessing procedures to emphasize a comparison

of the property's features to those of other homes in the same neighborhood. GUIDELINES, app. A at 5. The grade used for a prior assessment has no probative value. Each tax year is separate and distinct. Evidence of a prior year's assessment is not probative in this appeal. *Barth, Inc. v. State Bd. of Tax Comm'rs*, 699 N.E.2d 800, 805 n. 14 (Ind. Tax Ct. 1998). Similarly, Petitioners claim that the reassessment company agreed to change the grade or at least to review and discuss it. Respondent Inbody testified that such a review did take place, but no change was made. There is no documentation of such an agreement. The testimony offered to establish such an agreement is, by itself, not sufficient to prove such a deal was ever concluded.

- d) Petitioners also submitted photographs and PRCs for six purported comparable properties and the subject property and discussed each property's features individually. The grades listed on the Petitioners' purported comparable properties include: two "A-1" grade parcels; two "B+2" grade parcels; one "B+1" grade parcel; and one "B" grade parcel. The subject property is graded "A." The Petitioners argued that the subject dwelling is most comparable to Comparable B, which is located at 19719 Heritage Way and is graded a "B." The Petitioners further argued that three additional comparables located in the Fairfield Farms Addition, built by the same contractor who constructed the subject dwelling, support the subject grade reduction. In this analysis, the Petitioners claimed the dwelling located at 67090 Brentwood (Comparable E), which is graded a "B+1," is most similar to the subject dwelling.
- e) A Petitioner is required to submit probative evidence of "what his grade should have been" in order to meet his prima facie burden. *See Clark v. Dep't of Local Gov't Fin.*, 779 N.E.2d 1277, 1282 (Ind. Tax Ct. 2002).
- f) The properties identified as comparable by the Petitioners vary significantly in grade, ranging from "A-1" to "B." Further, the neighborhood factors on the PRCs indicate several of these properties are located in different neighborhoods. As discussed, grade is determined based on properties within the same neighborhood. GUIDELINES, app. A at 5. Comparability must be based upon specific facts, not just conclusory statements. The Petitioners failed to establish these properties are comparable to their dwelling. Therefore, their comparables have no probative value.
- g) Petitioners identified two purported comparable properties graded "B+2." Rather than contending these properties support the proposed revised grade, the Petitioners argued that both dwellings with "B+2" grades had "superior design features" to the subject property. Additionally, the two properties identified by the Petitioners as the most comparable to the subject have different grades ("B" and "B+1"). The Petitioners offered no explanation as to the manner in which properties graded "B" and "B+1" support the claimed grade of "B+2." *Long v. Wayne Township Assessor*, Cause No. 49T10-0404-TA-20, slip op. at 6-8 (Ind. Tax Ct. January 28, 2005) (requiring that petitioners explain characteristics of

their property, how those characteristics compared to those of the purportedly comparable properties, and how any differences affected the relevant market value).

- h) The PTABOA requested construction costs in order to determine the proper grade, but the costs were not provided. The use of construction costs is an approved method of determining the appropriate grade factor for a property. GUIDELINES, app. A at 5. Instead of providing actual construction costs as requested, the Petitioners submitted an analysis of the price per square foot of assessed value for the subject and compared it to the assessment price per square foot for the purported comparable properties. Petitioners failed to explain the manner in which this calculation of square foot price establishes the grade of the property.
- i) The Petitioner's unsubstantiated conclusions do not constitute probative evidence. *Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).
- j) The Petitioners had the burden of proving specifically what the correct assessment should be. This burden was not met. Therefore, there is no change made as a result of this issue.

ISSUE 2 – IS THE NEIGHBORHOOD FACTOR CORRECT?

18. The Petitioners did not provide sufficient evidence to support their contentions regarding the neighborhood factor. This conclusion was arrived at because:
- a) The Petitioners contended the subject property's neighborhood factor should be 78 percent. *Karl Shively testimony; Petitioner Exhibit 2.*²
 - b) A neighborhood is defined as “[a] geographical area exhibiting a high degree of homogeneity in residential amenities, land use, economic and social trends, and housing characteristics.” GUIDELINES, glossary at 14.
 - c) “The neighborhood factor accounts for the impact on value caused by physical characteristics in the neighborhood such as type and layout of streets, availability of support services, and utilities. It also takes in to [sic] account the economic characteristics such as demand for property and mortgage interest rates; governmental characteristics such as police protection, fire protection, and zoning; and social characteristics such as crime rates, owner-occupant ratios, and family size.” GUIDELINES, app. B at 8. The neighborhood factor is determined “based upon an analysis of residential properties that have sold within the

² On the Form 131 petition, the Petitioners contended the neighborhood factor should be 75 percent. *Board Exhibit A*. The Petitioners testified at the administrative hearing the correct neighborhood factor should be 70 percent. *Karl Shively testimony*.

neighborhood.” *Id.* The factor is computed by dividing “the total adjusted sale prices (improvements only) by the total Improvement Value.” *Id.* at 9.

- d) The Petitioners claimed the assessing officials erroneously grouped the subject dwelling into the Jefferson Township default neighborhood code with older and lower graded homes, which resulted in an excessive neighborhood factor of 84 percent for the subject property. Petitioners submitted an analysis of dwellings built after 1991 located in the Jefferson Township default neighborhood code with the subject that were graded “C” to “B+2” as proof that newer homes with higher grades had a lower percentage of sale price to assessed values. Petitioners base their calculation of neighborhood factor on the sales of homes located in neighborhood code 0000, as did the Respondents.
- e) The Respondent determined the neighborhood factor based on sales of 44 homes in neighborhood code 0000. Rather than basing calculation on the sales of all homes in neighborhood code 0000, the Petitioners merely selected seven properties to support their argument, contending the other sales should be excluded due to age and grade. The Petitioners, however, did not demonstrate that the additional sales used by the Respondents failed to meet the criteria for inclusion in neighborhood code 0000. Neighborhoods are defined on the basis of residential amenities, land use, economic and social trends, and housing characteristics, not merely grade and age. GUIDELINES, glossary at 14.
- f) The Petitioners cannot selectively choose only those sales in the neighborhood that support their position. “All improved residential properties that have sold with [sic; within] the neighborhood” must be initially included in the calculation of the neighborhood factor. GUIDELINES, app. B at 8 (emphasis added).
- g) Further, the Petitioners’ analysis is flawed because it compares the sales price, less land, to the “old” assessed values rather than the current assessed values. The neighborhood factor is computed by dividing “the total adjusted sale prices (improvements only) by the total Improvement Value.” GUIDELINES, app. B at 9. Accordingly, that analysis fails to establish error in the neighborhood factor.
- h) Petitioners further identified six surrounding neighborhoods that received neighborhood factors ranging from 68 percent to 78 percent. Petitioners claimed the dwellings located in the surrounding neighborhoods were comparable to the subject property in grade and year of construction, and therefore the subject property should be grouped in those neighborhoods, rather than in the default code neighborhood with properties of various ages, grades and acreages. Mere proximity, however, does not establish that neighborhoods are comparable. *Goodhost, L.L.C. v. Dep’t of Local Gov’t Fin.*, 786 N.E.2d 813 (Ind. Tax Ct. 2003). The Petitioners presented no comparison of the site amenities or land use to establish these neighborhoods are comparable to their own neighborhood. For example, as Respondent established, the subject property is a rural residential parcel. It is not located in a subdivision as are the purported comparable

properties. Further, none of the purported comparable neighborhoods have tracts of 14.75 acres, the size of the Petitioners' parcel.

- i) Petitioners' analysis based on the neighborhood factors assigned to other neighborhoods fails to establish error in their own neighborhood factor. Accordingly, the Petitioners failed to make a prima facie case of error concerning the neighborhood factor.

Conclusions

- 19. The Petitioners failed to make a prima facie case. The Board finds in favor of the Respondents.

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: _____

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.