

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

**Petition:** 03-011-06-1-5-00003  
**Petitioners:** Walter M. and Mary E. Krassick  
**Respondent:** Bartholomew County Assessor  
**Parcel:** 06-84-02-24-200  
**Assessment Year:** 2006

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

**Procedural History**

1. The Petitioners initiated an assessment appeal regarding the subject property with a letter dated December 18, 2006.
2. The Property Tax Assessment Board of Appeals (“PTABOA”) issued notice of its decision for the 2006 assessment on July 31, 2007.
3. The Petitioners appealed to the Board by filing a Form 131 on August 21, 2007.
4. This appeal meets the standards for small claims procedures and neither party elected to transfer. Therefore, small claims procedures apply. Ind. Admin. Code tit. 52, r. 3-1-2.
5. The Board issued a notice of hearing to the parties dated July 16, 2008. A separate order entered on July 24, 2008, confirmed the terms upon which a request to present a pre-recorded version of what Mr. Krassick wanted to say would be allowed. (Mr. Krassick stated this accommodation was necessary because he has emphysema.)
6. Administrative Law Judge Ted Holaday held the Board’s administrative hearing on August 27, 2008.
7. The Petitioners, Walter M. Krassick and Mary E. Krassick, as well as Deputy County Assessor Robert E. Blessing were sworn as witnesses at the hearing.

**Facts**

8. The subject parcel is a residential property located at 3681 South Poplar Drive, Columbus. It is also identified as lot 118 on Grandview Lake.
9. The Administrative Law Judge did not conduct an inspection of the property.

10. The assessed value determined by the PTABOA on Form 115 was \$270,000 for land and \$156,800 for improvements (total \$426,800).<sup>1</sup>
11. On their Form 131, the Petitioners claimed the land value should be \$100,000 and the improvement value should be \$156,800 (total \$256,800). At the hearing, the Petitioners claimed the improvement value should be \$140,392 and the total assessment should only be \$240,000.

### **Contentions**

12. Summary of the Petitioners' case:
  - a. There are two tax appeals regarding the subject property. The first appeal involves errors that have existed for the last 30 years—errors that both the Assessor and the Auditor agree exist, but they will not correct. The second appeal is about land only for the 2006 assessment. *W. Krassick testimony; Petitioners Ex. 1A.*
  - b. The land assessment for 2006 increased by 250% from \$85,000 to \$300,000. *W. Krassick testimony; Petitioners Ex. 1A.*
  - c. Mr. Krassick is a retired real estate broker and engineer. He owned his own real estate company and worked in this field for over 20 years. The “true market value” of this land should be no more than \$100,000. *W. Krassick testimony; Petitioners Ex. 1A.*
  - d. The subject property (lot #118) is located on a cove/ditch that is approximately 50 feet wide and a foot deep.<sup>2</sup> It is the main water source inlet for Grandview Lake. Because this inlet is the water fill source for the lake, there is silt that must be cleaned frequently. The Grandview Association and/or county tax system does not help with the cost of dredging, even though this inlet is assessed and taxes are paid similar to a street or road. *W. Krassick testimony; Petitioners Ex. 1A; Petitioners Video Ex. 5A; Petitioners Video Ex. 6A; Petitioners Video Ex. 7A; Petitioners Video Ex. 13A; Petitioners Ex. 27; Petitioners Ex. 59.*

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<sup>1</sup> The Petitioners stated they also had filed a Petition For Correction Of Error (Form 133) on this property and that the Assessor agreed there were errors regarding the house that should be corrected. The Assessor acknowledged that fact and stated there would be a reduction to the improvement value based on the Form 133, but the numbers and changes had not yet been finalized—even though Mr. Blessing said with the correction of errors the value on the house would only be \$127,000. The Petitioners repeatedly attempted to bring their Form 133 appeal into this case. As explained at the hearing, the Form 133 process is separate and distinct from the Form 131 process. The Board's determination in this matter regarding the Form 131 does not preclude the PTABOA from making whatever correction it determines to be appropriate for the Form 133.

<sup>2</sup> Some evidence about the width of the water at this location is slightly different, but that difference is insignificant to the outcome of this dispute. Similarly, the precise terminology for the water at this location (cove, ditch, or swale) has little, if any, significance. It is clear that at the subject location the water is relatively narrow when compared to most of Grandview Lake.

- e. Where the subject property is located there is no view, no swimming, no deep water, no beach, no room for a decent dock, no real room to park a boat, and no room for fishing—the water in this location is a narrow, congested area. *W. Krassick testimony; Petitioners Ex. 1A.* “You can’t ski or do anything back in this area.” When taking a boat out from the subject property there is an idle zone that extends to approximately lot #98. It takes about ten minutes to get through the idle zone. *M. Krassick testimony.*
- f. The Petitioners offered the subject property for sale for \$275,000, but after one year they had received no offers. *W. Krassick testimony; Petitioners Ex. 1A.*
- g. In the last few years there have been five homes for sale on this inlet. They were priced at \$350,000 to \$460,000 for the lot and home, but they got no offers. A few years ago, the two homes south of the subject property sold for \$300,000 and \$350,000, but those included the lot, home, furniture and boats. *W. Krassick testimony; Petitioners Ex. 1A.*
- h. The Szotzke property (lot #127) was listed for sale at \$376,000 for two years and there were no offers. It was assessed for \$363,600. It finally sold for \$276,000 at sheriff’s sale. Subsequently, it sold again for something a little higher—around \$300,000. *W. Krassick testimony; Petitioners Ex. 1A.*
- i. When first assessed, all the lots on this ditch/cove north of the subject property (lots #119 through #126) were assessed for \$300,000, even though no lot on this cove or any cove on Grandview Lake has sold for \$300,000. After the Petitioners questioned this assessment and inquired about the method used to determine values, Mr. Blessing, the assistant deputy assessor, influenced the neighbors to accept reduced \$147,000 assessments on their lots, but the Petitioners’ lot remained at \$300,000. *W. Krassick testimony; Petitioners Ex. 1A.*
- j. The lots across the water from the subject property, #126 through #128, are valued at \$85,000, \$147,000 and \$180,000 (depending on the source). *W. Krassick testimony; Petitioners Ex. 1A.*
- k. The subject property has much less value than lots such as #152 through #160, which have at least three football fields of water in front of them, a view, and a beach. Those lots have what people want on a lake front. Nevertheless, they are all assessed much lower than the subject property at a maximum assessment of \$200,000. *W. Krassick testimony; Petitioners Ex. 1A, 5, 6, 8, 9, 10, 11, 12, 15, 16, 17.*
- l. The Petitioners’ evidence includes comparison lots with assessments ranging from \$25,300 to \$91,000 to a maximum of \$200,000. Those lots are located on three different lakes: Harrison, Tipton, and Grandview. Harrison Lake and Tipton Lake are close (within 2 or 3 miles) to Grandview Lake. The evidence also includes residential lots in gated and/or wealthy communities in close

vicinity. Those values are shown on fact sheets published by the Assessor on the internet or by realtor information. *W. Krassick testimony; Petitioners Ex. 1A, 4-22, 24-55, 61-72.*

- m. The Bartholomew County Assessor, Mr. Owens, has an 18-acre property with 2 ponds, 2.5 wooded acres, 14 acres of tillable cropland, and a landscaped home site that is at least 1 acre. He has only valued all that land at \$25,300. *W. Krassick testimony; Petitioners Ex. 1A; Petitioners Video Ex. 15A; Petitioners Ex. 73 at 6.*
- n. The Orben property has a very nice, large lot on the big part of Grandview Lake. It has a great view. It was originally assessed for \$300,000. On October 28, 2007, that assessment was reduced to \$204,000. *W. Krassick testimony; Petitioners Ex. 40.*
- o. It is time that assessors prove what methods they used to assess and appraise property. *W. Krassick testimony; Petitioners Ex. 1A.*
- p. Most assessors use the “International Association of Assessing Officers” methods, which are capitalizing, replacement, and comparing.

The home square footage and the “mathematical model average using the capitalization, replacement, comparative method – renders, for the Krassick – of House (3,467 sq. ft.) (43.5 model avg.) = \$150,815 the home market value and a total assessment of \$300,815 house and land (use comparison and replacement calculations.) Then:

-total	\$300,815
-home	<u>(\$150,815)</u>
-lot value	\$150,000

Then when you “back-out the house assessments (material and labor cost).

The lot assessment during “good” economic times should be \$150,000 at the maximum.

However, the economic situation was, and is now predicted to be very bad for at least 3 to 5 more years. Since we did not consider this economic condition in our calculations, (or the fact that we are on a 50 ft. wide swale.) –the credit is realized.

Recalling the Indiana FACTS sheet comments thus, the lot should be adjusted to reflect the poor economic situation and set at a maximum assessment of \$100,000.

*Petitioners Ex. 1A at 3-5.*

- q. If Grandview Lake lots are assessed at abnormally high value (above their true worth) as the subject property is, it will create a restricted “playground” for the very wealthy. Some people have already been fooled. They feel that the assessed value set by the government agent (assessor) is correct. Prices for lots on Grandview Lake have gone up five-fold. It started when a doctor bought a lot for \$500,000 or \$600,000 that was worth about \$200,000. Within about three months, values went sky high. Now they tear down an old house to build a new one because they think the lot is worth more than the house. But that is not correct. This is the reason for all the foreclosures today. *W. Krassick testimony.*

13. Summary of the Respondent’s case:

- a. When the pricing and values for lots at Grandview Lake were established, the whole lake was considered as one neighborhood. It is very distinctive. Exhibit 22 shows the area. It also shows the amount, year of sale, parcel number and lot number for properties that sold around Grandview Lake. *Blessing testimony.*
- b. All of the Grandview lots were basically priced at \$300,000 for the 2006 assessment. When people appealed they could appeal on particular points about their individual lots, such as size, buildable area, topography, flooding, access, or amount of lake frontage. At that point the PTABOA made adjustments for individual situations. *Blessing testimony.*
- c. Some of the lots at Grandview Lake were reduced to as low as \$149,000. Those were the ones with no access to water or very, very small access way back in a cove—further back than the Petitioners’ property. The Petitioners’ land value was reduced from \$300,000 to \$270,000. *Blessing testimony.*
- d. There was a mistake on the original assessments for lots 150 to 160. They were all supposed to start with \$300,000. Where they mistakenly did not, the values were changed from \$200,000 to \$300,000. *Blessing testimony, Respondent Ex. 19a-j.*
- e. The sales disclosures showed noticeable increases on some of the lots/parcels at Grandview. In 2003 the Skeet’s Retreat property (Grandview lot 130) sold for \$480,000 and in 2005 it sold for \$620,000. *Blessing testimony; Respondent Ex. 11, 22.* The Heffern property (Grandview lot 113) sold for \$268,000 in 1999 and it sold for \$500,000 in 2005. *Blessing testimony; Respondent Ex. 12, 22.* The Gossett property (Grandview lot 114) sold for \$322,000 in 2002 and it sold for \$570,000 in 2005. *Blessing testimony; Respondent Ex. 13, 22.* These were the kinds of increases the Respondent saw around Grandview Lake. Some parcels were almost doubling in value within two or three years. *Blessing testimony.*
- f. In some instances people bought a property and tore down an existing home, either to build a new one or just to get a better view. *Blessing testimony.*

- g. Many of the buyers who are driving the market are from out-of-town, but when determining value assessing officials can't exclude doctors, lawyers and CEO's. As long as a transaction involves a willing buyer and a willing seller, what they pay becomes what the property is worth. There can't be two different pricing ladders—one for local people and one for "rich fools" from Indianapolis. *Blessing testimony.*
- h. Location is important to value considerations. Many people want to live at Grandview Lake because they can do anything aquatically that they want. Tipton Lake is not comparable because there is no water skiing or jet skiing. Harrison Lake is not comparable because it is much smaller. Evidence that the Petitioners offered as comparables is not really comparable where it relates to properties on other lakes or not on a lake at all. *Blessing testimony.*
- i. The Owens property that the Petitioners talked about (Petitioners Video Ex. 15A and Petitioners Ex. 60) is an agricultural parcel. Its land value is based on the rate for agricultural land set by the State. Comparing how much it went up to how much the land value of the subject property went up is "like comparing an apple to grapefruit." The two ponds on that property are small agricultural ponds. They are not comparable to Grandview Lake. *Blessing testimony.*

### **Record**

- 14. The official record for this matter is made up of the following:
  - a. Petition For Review Of Assessment (the Form 131 with attachments, which are the Form 115, Walter Krassick's letter dated December 18, 2006, and the property record card),
  - b. Notice Of Hearing,
  - c. Order Confirming Instructions Regarding Presentation Of Video,
  - d. A digital recording of the hearing,
  - e. Exhibits marked with the + symbol were admitted at the hearing. Those marked with the \* symbol were subject to various objections that will be discussed and ruled upon later in this determination.
    - + Petitioners Exhibit 1 – VHS video presentation marked "2<sup>nd</sup> speech,"
    - + Petitioners Exhibit 1A – Script/notes for statements on the video,
    - + Petitioners Video Exhibit 1A – Information sheet,
    - + Petitioners Video Exhibit 2 – "See Poster,"
    - + Petitioners Video Exhibit 3A – "See Poster,"
    - + Petitioners Video Exhibit 4A – Photograph of poster, which is Exhibit 70,

- + Petitioners Video Exhibit 5A – Aerial photograph of subject and surrounding properties with added notations,
- + Petitioners Video Exhibit 6A – Two photographs of water area by the subject property with added notations,
- + Petitioners Video Exhibit 7A – Two photographs of the water view from the subject property with added notations,
- + Petitioners Video Exhibit 8A – Two photographs of other Grandview Lake property, identified as lots 152 to 160,
- + Petitioners Video Exhibit 9A – Pro and con “T” chart for capitalizing method of valuation,
- + Petitioners Video Exhibit 10A – Pro and con “T” charts for replacement method and comparative method of valuation,
- + Petitioners Video Exhibit 11A – Annually Adjusting Assessed Values Fact Sheet with added notations,
- + Petitioners Video Exhibit 12A – “See your envelope,”
- + Petitioners Video Exhibit 13A – Photograph of water and notation about width of water where the subject property is located,
- + Petitioners Video Exhibit 14A – Photograph of poster, which is Exhibit 70,
- + Petitioners Video Exhibit 15A – Comparison graph of the subject assessment and Owens’ assessment over time,
- + Petitioners Video Exhibit 16A – Three photographs of purported comparable homes with added notations,
- + Petitioners Video Exhibit 17A – Summary “Two Appeals,”
- + Petitioners Exhibit 2 – Not offered,
- + Petitioners Exhibit 3 – Letter dated July 18, 2008, outlining the Petitioners’ case,
- + Petitioners Exhibit 4 – Valuation data for Miller’s property, Grandview Lake lot 115,
- + Petitioners Exhibit 4A – PRC<sup>3</sup> for Henry parcel 03-84-02-430-000.600-011,
- + Petitioners Exhibit 5 – PRC for Reck parcel 03-84-02-430-000.600-011,
- + Petitioners Exhibit 6 – PRC for Lingner Trust parcel 03-84-02-430-001-300-011,
- + Petitioners Exhibit 7 – PRC for Wallis parcel 03-84-11-410-000.700-016,
- + Petitioners Exhibit 8 – PRC for Paul parcel 03-84-02-430-001.000-011,
- + Petitioners Exhibit 9 – PRC for Rhoades parcel 03-84-02-430-001.200-011,
- + Petitioners Exhibit 10 – PRC for Krassick parcel 03-84-02-240-000.200-011,
- + Petitioners Exhibit 11 – PRC for Little parcel 03-84-02-430-000.800-011,
- + Petitioners Exhibit 12 – PRC for Wantz parcel 03-84-02-430-000.700-011,
- + Petitioners Exhibit 13 – PRC for Combs parcel 03-84-11-210-000.700-016,
- + Petitioners Exhibit 14 – PRC for Madden parcel 03-84-11-410-000.800-016,
- + Petitioners Exhibit 15 – PRC for Meshberger parcel 03-84-02-430-001.100-011,
- + Petitioners Exhibit 16 – PRC for Rhoades parcel 03-84-02-430-001.200-011,
- + Petitioners Exhibit 17 – PRC for Cottrell parcel 03-84-02-430-001.400-011,
- + Petitioners Exhibit 18 – Not offered,

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<sup>3</sup> PRC means property record card.

- \* Petitioners Exhibit 19 – MLS information about 6042 Leatherback Drive, Columbus,
- + Petitioners Exhibit 20 – Valuation data for property 06-84-02.13-1100,
- Petitioners Exhibit 21 – Not offered,
- + Petitioners Exhibit 22 – Photograph of lots 152 to 160 and drawing illustrating their location relative to the subject property,
- + Petitioners Exhibit 23 – Photograph of Krassick lot 118 approximately 1985 and note,
- + Petitioners Exhibit 24 – Valuation data for property 03-84-02-420-000.300-011,
- \* Petitioners Exhibit 25 – MLS information about 4745 Stonebridge Court, Columbus,
- + Petitioners Exhibit 26 – Valuation data for property 03-84-02-240-000.100-011,
- + Petitioners Exhibit 27 – Aerial photograph of subject and surrounding properties, photograph of lots 152 to 160 and drawing illustrating their location relative to the subject property,
- \* Petitioners Exhibit 28 – MLS information about 861 Shoreview Court, Columbus,
- \* Petitioners Exhibit 29 – Valuation data for property 06-84-02.13-1100 (same as Ex. 20),
- \* Petitioners Exhibit 30 – MLS information about 1070 Champion Court, Columbus,
- \* Petitioners Exhibit 31 – MLS information about 3763 Creekside Court, Columbus,
- \* Petitioners Exhibit 32 – MLS information about 790 Shoreline Drive, Columbus,
- \* Petitioners Exhibit 33 – MLS information about 6042 Leatherback Drive, Columbus,
- + Petitioners Exhibit 34 – Valuation data for property 03-84-02-240-000.200-011 (the subject property),
- + Petitioners Exhibit 35 – Valuation data for property 03-84-02-130-001.100-011,
- \* Petitioners Exhibit 36 – MLS information about 470 Oakbrook Drive, Columbus,
- \* Petitioners Exhibit 37 – Realtor advertising sheet for 3525 Woodfield Place,
- \* Petitioners Exhibit 38 – Data for property 25-95-29.44-800 (1070 Pintail Court),
- \* Petitioners Exhibit 39 – MLS information about 245 Plum Court, Columbus,
- \* Petitioners Exhibit 40 – Valuation data for property 09-84-11.13-2600 and map with location of Orben property,
- \* Petitioners Exhibit 41 – Advertisement for \$34,900 lots at Western Shores (Kentucky),
- \* Petitioners Exhibit 42 – MLS information about 6141 Basswood Drive, Columbus,
- + Petitioners Exhibit 43 – Valuation data for Miller’s property, Grandview Lake lot 115 (same as Ex. 4),
- \* Petitioners Exhibit 44 – Valuation data for property 25-95-29.44-900 (1080 Pintail Point, Columbus),



- \* Petitioners Exhibit 45 – Valuation data for property 25-95-29.44-800,
- \* Petitioners Exhibit 46 – MLS information about 1620 South Drive, Columbus,
- \* Petitioners Exhibit 47 – MLS information about 1050 Champion Court, Columbus,
- \* Petitioners Exhibit 48 – MLS information about 3763 Creekside Court, Columbus,
- \* Petitioners Exhibit 49 – Valuation data for property 06-84-02.13-1100,
- \* Petitioners Exhibit 50 – MLS information about 5182 Timber Ridge Drive, Columbus,
- \* Petitioners Exhibit 51 – MLS information about 3525 Woodfield Place, Columbus,
- \* Petitioners Exhibit 51A – Photograph of house,
- \* Petitioners Exhibit 52 – Photograph of house,
- \* Petitioners Exhibit 53 – Photograph of house (same as Ex. 51A),
- \* Petitioners Exhibit 54 – Photograph of house (same as Ex. 52),
- \* Petitioners Exhibit 55 – Photograph of house,
- + Petitioners Exhibit 56 – Photograph of poster, which is Exhibit 70 (same as Video Ex. 4A),
- \* Petitioners Exhibit 56A – “Appeal of Errors Made in Tax Billing for 30 Years” with letter, copy of PRC, and numerous notations,
- \* Petitioners Exhibit 57 – Photograph of part of poster (entire poster is Ex. 71),
- \* Petitioners Exhibit 57A – Tax bills for 2005 payable 2006 and 2006 payable 2007,
- \* Petitioners Exhibit 58 – Advertisement for \$19,900 lakefront lots in Kentucky,
- \* Petitioners Exhibit 58A – Photograph of part of poster (entire poster is Ex. 71),
- \* Petitioners Exhibit 59 – Photograph of part of poster (entire poster is Ex. 71),
- + Petitioners Exhibit 59A – Photograph of water and notation about width of water where the subject property is located (same as Video Ex. 13A),
- \* Petitioners Exhibit 60 – Photograph of Exhibit 72 and comparison graph of the subject assessment and Owens’ assessment over time (same as Video Ex. 15A),
- \* Petitioners Exhibit 61 – Photograph of house,
- + Petitioners Exhibit 62 – Valuation data for property 03-84-02-130-000.500-011,
- \* Petitioners Exhibit 63 – Valuation data for property 03-97-08-000-001.301-001,
- \* Petitioners Exhibit 64 – Valuation data for property 03-94-25-410-002.700-011,
- \* Petitioners Exhibit 65 – MLS information about 3825 Saddle Drive, Columbus,
- \* Petitioners Exhibit 66 – Valuation data for property 03-95-28-420-006.400-005,
- \* Petitioners Exhibit 67 – Valuation data for property 03-84-15-000-000.116-016,
- + Petitioners Exhibit 68 – PRC for Engelking parcel 03-84-02-130-001.000-011,
- + Petitioners Exhibit 69 – PRC for Hicks parcel 03-84-02-130-001.100-011,
- + Petitioners Exhibit 70 – Poster “TRUE VALUE APPRAISAL” with drawing of neighborhood lots, lake, and notes about lot values,
- \* Petitioners Exhibit 71 – Poster with several house photographs, photographs of valuation data for Engum, Hicks, Krassick, Ryan, Hubley, Orben, and notes about lot values,

- + Petitioners Exhibit 72 – Large drawing of Grandview Lake area near the subject property with notes and newspaper clipping,
- + Petitioners Exhibit 73 – Letter (9 pages) dated July 29, 2008, from the Petitioners,
- + Petitioners Exhibit 74 – Annually Adjusting Assessed Values Fact Sheet with added notations (same as Video Ex. 11A),
- + Petitioners Exhibit 74A – Overview of the Indiana Property Tax,
- \* Petitioners Exhibit 75 – Form 131 Petition for the subject property,
- \* Petitioners Exhibit 76 – Article about assessed value,
- + Petitioners Exhibit 77 – Dep’t of Local Gov’t Finance article about agricultural land value,
- Petitioners Exhibits 78 through 87 – Withdrawn,
- + Petitioners Exhibit 88 – Letter dated August 14, 2008, about “Economic Trend Setting” (unsigned),
- \* Petitioners Exhibit 89 – Letter dated February 25, 2008, from the Petitioners,
- Petitioners Exhibit 90 – Withdrawn,
- \* Petitioners Exhibit 91 – “Stated on Natl. T.V. News” August 16, 2008, notes,
  
- + Respondent Exhibit 1 – PRC for the subject property showing 2006 assessment,
- + Respondent Exhibit 2 – PRC for the subject property showing 2007 assessment,
- + Respondent Exhibit 3 – Form 115 Notification,
- + Respondent Exhibit 4 – Map showing Krassick’s parcel,
- + Respondent Exhibit 5 – Photograph of water, dock, and the subject property,
- + Respondent Exhibit 6 – Photograph of waterfront around the subject property,
- + Respondent Exhibit 7 – Photograph of water, dock, and the subject property,
- + Respondent Exhibit 8 – Form 133 for 2006,
- + Respondent Exhibit 9 – Form 133 for 2005,
- + Respondent Exhibit 10 – Form 133 for 2004,
- \* Respondent Exhibit 11 – PRC for Skeet’s parcel 03-84-02-420-000.300-011,
- \* Respondent Exhibit 12 – PRC for Heffern parcel 03-84-02-310-002.000-011,
- \* Respondent Exhibit 13 – PRC for Gossett parcel 03-84-02-310-002.100-011,
- \* Respondent Exhibit 14 – PRC for Mickel parcel 03-84-01-320-001.900-011,
- \* Respondent Exhibit 15 – PRC for Owens parcel 03-84-02-310-000.200-011,
- \* Respondent Exhibit 16 – PRC for Duncan parcel 03-84-11-230-000.500-016,
- Respondent Exhibit 17 – Not offered,
- + Respondent Exhibit 18 – GIS aerial view of Owens property,
- + Respondent Exhibit 19a – PRC for McMullen parcel 03-84-02-420-002.000-011,
- + Respondent Exhibit 19b – PRC for Jacks parcel 03-84-02-420-002.100-011,
- + Respondent Exhibit 19c – PRC for Reck parcel 03-84-02-430-000.600-011,
- + Respondent Exhibit 19d – PRC for Wantz parcel 03-84-02-430-000.700-011,
- + Respondent Exhibit 19e – PRC for Little parcel 03-84-02-430-000.800-011,
- + Respondent Exhibit 19f – PRC for Rhoades parcel 03-84-02-430-000.900-011,
- + Respondent Exhibit 19g – PRC for Paul parcel 03-84-02-430-001.000-011,
- + Respondent Exhibit 19h – PRC for Meshberger parcel 03-84-02-430-001.100-011,

- + Respondent Exhibit 19i – PRC for Rhoades parcel 03-84-02-430-001.200-011,
- + Respondent Exhibit 19j – PRC for Cottrell parcel 03-8402-430-001.400-011,
- \* Respondent Exhibit 20 – Parcel Characteristics Report by Neighborhood,
- Respondent Exhibit 21 – Not offered,
- + Respondent Exhibit 22 – Large map of Grandview Lake and surrounding lots,

f. These Findings and Conclusions.

### **Objections to Petitioners Exhibits**

15. The Respondent objected to the relevance of Petitioners Exhibits 19, 25, 28, 30, 31, 32, 33, 36, 37, 39, 42, 44, 45, 46, 47, 48, 50, 51, 51A, 52, 53, 54, 55, 57, 58A, 59, 61, 63, 64, 65, 66, 67, and 71 because they pertain to properties that are not comparable to the subject property. Those objections were taken under advisement at the hearing, but at this point, they are denied because the question of comparability goes to the weight of the evidence, not its admissibility. These documents will be considered as part of the record.
16. The Respondent objected to Petitioners Exhibits 41 and 58 (advertisements for lake lots in Kentucky) as not being relevant. Those objections were sustained at the hearing. Those items were not admitted as evidence that is part of the record.
17. The Respondent objected to Petitioners Exhibit 56A because it was confusing. Exhibit 56A actually has two main parts: a letter and the PRC for the subject property. At the hearing, the letter was admitted—it is not confusing. The objection to the PRC, however, was sustained because the plethora of added notes, changes, and other markings (particularly on the second page) make the copy of the PRC that was offered impossible to understand. The letter will be considered as part of the record, but the PRC will not.
18. The Respondent objected to the handwritten notes with specific value numbers on Petitioners Exhibit 29, but not the balance of this 2-page document. Initially, Mr. Krassick stated that the valuation numbers are also printed on the document and he just made the notes to elaborate. Examination of the document, however, discloses that the numbers are not printed on the document. Alternatively, Mr. Krassick stated that he got the numbers he wrote on the document from the assessor, the auditor, or a realtor. In either event, the validity of the numbers and where they came from goes more to weight of the evidence than its admissibility. The objection is overruled and Petitioners Exhibit 29 in its entirety will be considered as part of the record.
19. The Respondent objected to Petitioners Exhibit 38 because it relates to a property that is not comparable and because it contains additional handwritten notes about lot value. Both of these objections go to the weight of the evidence rather than its admissibility. Consequently, the objection is overruled and Petitioners Exhibit 38 will be considered as part of the record.
20. The Respondent objected to Petitioners Exhibit 40 because the quality of the image makes it difficult or impossible to read some of the information on the documents and the

notes added by Mr. Krassick may or may not accurately restate the information. While the quality of the image makes the document difficult to read, the objection is overruled. Petitioners Exhibit 40 will be considered as part of the record.

21. The Respondent objected to Petitioners Exhibit 49 because the location of the property is not shown and because some of the information is illegible. Again, these objections go to the weight of the evidence, rather than its admissibility. The objection is overruled and Petitioners Exhibit 49 will be considered as part of the record.
22. The Respondent objected to Petitioners Exhibit 57A, claiming that the Petitioners' tax bills for the subject property for 2005 are not relevant. This objection was overruled at the hearing. Petitioners Exhibit 57A will be considered as part of the record.
23. Petitioners Exhibit 60 consists of two photographs. There was no objection to the top photograph. But the Respondent objected to the bottom photograph of a comparison graph of the subject assessment and the Owens' assessment over time, which is the same document as Petitioners Video Exhibit 15A (to which the Respondent made no objection). The Respondent argues that a comparison with agricultural land is irrelevant. That argument goes more to weight than admissibility. Consequently, the objection is overruled and all of Petitioners Exhibit 60 will be considered as part of the record.
24. The Respondent objected to Petitioners Exhibit 75 (the Form 131), claiming it is not relevant. This objection was denied at the hearing. Exhibit 75 will be considered as part of the record.
25. The Respondent objected to Petitioners Exhibit 76, which Mr. Krassick incorrectly characterized as "state law." Clearly the document is not a copy of state law. It is an article and comments about assessed value. The Respondent objected that the comments on state law are irrelevant. Nevertheless, this objection was overruled at the hearing. Exhibit 76 will be considered as part of the record.
26. The Respondent objected to Petitioners Exhibit 89 as not being relevant to this appeal. It is correspondence from the Petitioners that relates to their Form 133 appeal and how much money would be owed for refunds from taxes paid for prior years. This objection was sustained at the hearing. Exhibit 89 will not be considered as part of the record.
27. The Respondent objected to Petitioners Exhibit 91, claiming that the purported quotes from news media are not relevant. That issue, however, goes more to weight of the evidence than to its admissibility. The objection is overruled. Petitioners Exhibit 91 will be considered as part of the record.

### **Objections to Respondent Exhibits**

28. The Petitioners objected to Respondent Exhibits 11 through 16 because the properties to which these documents pertain are not comparable to the subject property. Those objections were taken under advisement at the hearing, but at this point, they are denied

because the question of comparability goes to the weight of the evidence, not its admissibility. These documents will be considered as part of the record.

### Analysis

29. This case involves a Form 131 Petition, *not* a Form 133 Petition For Correction of Error. The statutory authority for a Form 131 Petition is Ind. Code § 6-1.1-15-1. A Form 131 Petition must be filed promptly—within 45 days after notice of an assessing official’s action. In this particular case, the Form 131 was filed with the Indiana Board on August 21, 2007. Attached to the Form 131 is a copy of a Form 115 Notification Of Final Assessment Determination for the subject property for the 2006 assessment that shows it was mailed to the Petitioners on July 31, 2007. Thus, this appeal is timely for the 2006 assessment, but there is absolutely nothing in the record indicating it would be timely for any earlier period. The Petitioners’ added notation that the appeal should go back approximately 10 to 12 years for error in calculation and square footage is a nullity. As the Petitioners were advised at the hearing, nothing regarding any assessment prior to the one for March 1, 2006, can or will be addressed in this case.
30. 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).
31. In making a 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”).
32. 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.
33. The Petitioners did not make a prima facie case for any assessment change because:
  - a. Real property is assessed on the basis of its "true tax value," which does not mean fair market value. It means "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." Ind. Code § 6-1.1-31-6(c); MANUAL at 2. There are three generally accepted techniques to calculate market value-in-use: the cost approach, the sales comparison approach, and the income approach. The primary method for assessing officials to determine market value-in-use is the cost approach. *Id.* at 3. To that end, Indiana promulgated Guidelines that explain the application of the cost approach. The value established by use of the Guidelines, while presumed to be accurate, is merely a starting point. A taxpayer is permitted to offer evidence

relevant to market value-in-use to rebut that presumption. Such evidence may include actual construction costs, sales information regarding the subject or comparable properties, appraisals, and any other information compiled in accordance with generally accepted appraisal principles. MANUAL at 5.

- b. A taxpayer must show that the assessment is not a reasonable measure of market value-in-use in order to prevail. *See* Ind. Admin. Code tit. 50, r.2.3-1-1(d) (stating that failure to comply with the Guidelines does not in itself show the assessment is not a reasonable measure of value); *Westfield Golf Practice Center v. Washington Twp. Assessor*, 859 N.E.2d 396, 399 (Ind. Tax Ct. 2007) (explaining that beginning in 2002, Indiana overhauled its property tax system—the new benchmark is market value-in-use. “As a result, the new system shifts the focus from examining how the regulations were applied ... to examining whether a property’s assessed value actually reflects the external benchmark of market value-in-use.”); *O’Donnell v. Dep’t of Local Gov’t Fin.*, 854 N.E.2d 90, 94-95 (Ind. Tax Ct. 2006) (explaining that a taxpayer who focuses on alleged errors in applying the Guidelines misses the point of Indiana’s new assessment system). Evidence and arguments regarding a strict application of the Guidelines are not enough to rebut the presumption that the assessment is correct. *See Eckerling v. Wayne Township Assessor*, 841 N.E.2d 674 (Ind. Tax Ct. 2006) (stating “when a taxpayer chooses to challenge an assessment, he or she must show that the assessor's assessed value does not accurately reflect the property's market value-in-use.”)
- c. Certain facts regarding the Petitioners’ lot were established without any serious dispute. The location is on a cove that is approximately 50 feet wide and a foot deep. This inlet is the lake’s water source and has a problem with silt, which must be cleaned frequently. Where the subject property is located there is no view, no swimming, no skiing, no deep water, no beach, and no room for a decent dock or parking a boat. The water in this location is a narrow, congested area. The lake has an idle zone in this area—when a boat leaves from the subject property it takes about ten minutes to get out of the idle zone. The Petitioners argue that these facts make their location on Grandview Lake less desirable and less valuable than others without such problems or limitations. Assuming, *arguendo*, that they are correct and these factors have a negative impact on value, they still must quantify that impact. The Petitioners must prove that the current assessed value is wrong and what the correct market value-in-use really would be. *Meridian Towers*, 805 N.E.2d at 478.
- d. As noted above, there are several kinds of evidence the Petitioners could have used to prove their case. The Tax Court has stated that “the most effective method to rebut the presumption that an assessment is correct is through the presentation of a market value-in-use appraisal, completed in conformance with the Uniform Standards of Professional Appraisal Practice (USPAP).” *French Lick Twp. Tr. Assessor v. Kimball Int’l, Inc.*, 865 N.E.2d 732, 736 (Ind. Tax Ct. 2007); *Kooshtard Prop. VI, LLC v. White Twp. Assessor*, 836 N.E.2d 501, 506 n.6

(Ind. Tax Ct. 2005). The Petitioners, however, did not offer an appraisal to support their claim.

- e. Sales information regarding the subject property is another possibility for proving a case. Mr. Krassick testified that they offered the property for sale for \$275,000, but after one year they received no offers. The Petitioners provided no documentation or details about what efforts were made to market the property. They did not establish when they attempted to sell. And timing would be important because both parties offered evidence about how lot prices at Grandview Lake have increased dramatically. Timing is also important because any evidence of value must be related to the required valuation date, which for a 2006 assessment is January 1, 2005. *See* Ind. Code § 6-1.1-4-4.5; Ind. Admin. Code tit. 50, r. 21-3-3; *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). Without more specific evidence, the unsuccessful attempt to sell does not help to prove what the market value-in-use really should be.
- f. Sales information regarding comparable properties is another way to prove a case. MANUAL at 5. A big part of the case was focused in this direction. Mr. Krassick testified that in the last few years five homes on this inlet were offered for sale. The asking prices ranged from \$350,000 to \$460,000 for each property (lot and home), but they got no offers. He also testified that the Szotzke property was listed at \$376,000 for two years and got no offers. It finally sold for only \$276,000 at a sheriff's sale (even though it was assessed for \$363,000). The Petitioners presented a vast amount of evidence relating to the asking prices, selling prices, and assessments for various properties, including some at Grandview Lake, some at other lakes, some at "wealthy, gated communities," and even an agricultural property. Most of this evidence was in the form of MLS information from realtors, computer generated valuation data, and PRCs. Although they offered several conclusory statements about such properties being comparable, or similar, or better than the subject property, the Petitioners failed to provide the kind of detailed facts, analysis, and explanation that might have made such evidence probative.<sup>4</sup> The limited information Petitioners provided is not enough to prove comparability. "[Petitioners'] conclusory statement that something is comparable does not constitute probative evidence. Because [Petitioners] did not present evidence that the [other properties] were comparable to its own, [they] did not present a prima facie case." *Blackbird Farms Apts., LP v. Dep't of Local Gov't Fin.*, 765 N.E.2d 711, 715 (Ind. Tax Ct. 2002). Consequently, none of this evidence proves the Petitioners' current assessment is wrong or an alternative amount for what the value should be.

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<sup>4</sup> "A taxpayer's statements that another property "is similar" or "is comparable" are nothing more than conclusions. Conclusory statements do not constitute probative evidence. Rather, specific reasons must be provided as to why a taxpayer believes a property is comparable." *Long*, 821 N.E.2d at 470 (citations omitted). The Petitioners were responsible for explaining the characteristics of their own property, how those characteristics compared to those of the purportedly comparable properties, and how any differences affected the relative market value-in-use of the properties. It is not the Board's responsibility to review all the evidence submitted by the Krassicks to determine whether those properties were indeed comparable. *Id.* at 471.

34. When a taxpayer fails to provide probative evidence supporting the position that an assessment should be changed, the Respondent's duty to support the assessment with substantial evidence is not triggered. See *Lacy Diversified Indus. v. Dep't of Local Gov't Fin.*, 799 N.E.2d 1215, 1221-1222 (Ind. Tax Ct. 2003); *Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).

### Conclusion

35. The Petitioners failed to make a prima facie case. The Board finds in favor of the Respondent.

### Final Determination

In accordance with the above findings and conclusions, the assessment will not be changed.

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

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Commissioner, Indiana Board of Tax Review

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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>>