

REPRESENTATIVE FOR PETITIONER:
Milo E. Smith, Certified Tax Representative

REPRESENTATIVE FOR RESPONDENT:
Marilyn S. Meighen, Attorney

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

Mac's Convenience Stores LLC,	)	Petition Nos.:	29-006-06-1-4-00063
	)		29-006-06-1-4-00064
	)		29-006-06-1-4-00065
Petitioner,	)		29-006-07-1-4-00066
	)		29-006-07-1-4-00065
	)		29-006-07-1-4-00064
v.)		
	)	Parcel Nos.:	15-11-31-00-00-032.000
	)		15-11-31-03-03-001.000
Hamilton County Assessor,	)		15-11-31-00-00-034.003
)		
	)	County:	Hamilton
Respondent.)		
	)	Assessment Years:	2006 and 2007

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

August 17, 2011

FINAL DETERMINATION

The Indiana Board of Tax Review (the 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

ISSUE

1. The issue presented for consideration by the Board is whether the assessed values of the Petitioner's properties are overstated based on the properties' purchase price.

PROCEDURAL HISTORY

2. Pursuant to Indiana Code § 6-1.1-15-1, the Petitioner's representative Milo Smith, initiated an appeal of the Petitioner's properties' assessments for the 2006 tax year on January 25, 2007. The Hamilton County Property Tax Assessment Board of Appeals (the PTABOA) issued its determinations denying the Petitioner's 2006 appeals on January 16, 2008, and on February 26, 2008, Mr. Smith filed Form 131 Petitions with the Board, seeking review of the PTABOA's decision on the properties' 2006 assessments.
3. On February 26, 2008, Mr. Smith filed for review of the properties' 2007 assessments and on July 21, 2009, the PTABOA denied the Petitioner's 2007 appeals. Mr. Smith subsequently filed Form 131 Petitions with the Board, petitioning the Board to review the PTABOA's decision on the properties' 2007 assessments on July 31, 2009.

HEARING FACTS AND OTHER MATTERS OF RECORD

4. Pursuant to Indiana Code § 6-1.1-15-4 and § 6-1.5-4-1, Dalene McMillen, the duly designated Administrative Law Judge authorized by the Board under Indiana Code § 6-1.5-3-3 and § 6-1.5-5-2, conducted a consolidated hearing on June 2, 2011, in Noblesville, Indiana.
5. The following persons were sworn and presented testimony at the hearing:
For the Petitioner: Milo Smith, Certified Tax Representative

For the Respondent:¹ Terry McAbee, Hamilton County Deputy Assessor

6. The Petitioner presented the following exhibits:

- Petitioner Exhibit 1 – Signed statement from Steven Hull, Senior Tax Accountant for Circle K #2284, dated March 26, 2008,
- Petitioner Exhibit 2 – Petitioner’s property record card for Parcel No. 15-11-31-00-00-034.003,
- Petitioner Exhibit 3 – Excerpt of the 2002 Real Property Assessment Manual.

7. The Respondent presented the following exhibits:

- Respondent Exhibit A – The 2006 property record cards and sales disclosure form for the Petitioner’s three parcels,
- Respondent Exhibit B – Petitioner’s 2007 property record cards for the Petitioner’s three parcels,
- Respondent Exhibit C – CSP Daily News article, dated September 13, 2010,
- Respondent Exhibit D – 2006 and 2007 spreadsheets for Mac’s Convenience Stores in Hamilton County; property record cards and sales disclosure forms for 1821 151st Street East, Westfield, 11601 Allisonville Road, Fishers, 9510 East 126th Street, Fishers, 9611 Allisonville Road, Fishers, and 3202 96th Street East, Indianapolis; and a property record card for 1230 Rangeline Road South, Carmel,
- Respondent Exhibit E - Spreadsheet of land sales of properties around the Petitioner’s parcels; an aerial map; property record cards for 8890 116th Street East, Fishers, 11662 Commercial Drive, Fishers, 11665 Commercial Drive, Fishers, 11655 Fishers Corner Boulevard, Fishers, and 11691 Fishers Corner Boulevard, Fishers; and a sales disclosure form for 11691 Fishers Corner Boulevard, Fishers,
- Respondent Exhibit F – 2008 Town of Fishers 24 hour traffic count map,
- Respondent Exhibit G – 2006 and 2007 spreadsheets for convenience stores in Hamilton County; township map; aerial map; property record cards for 1821 151st Street East, Westfield, 1850 151st Street East, Westfield, 16905 Mercantile Boulevard, Noblesville, 16788 Clover Road, Noblesville, 2220 Greenfield Avenue, Noblesville, 2299 Greenfield Avenue, Noblesville, 14091 Trade Center

¹ Robin Ward, the Hamilton County Assessor, and Chad Miller, a deputy assessor, were also in attendance but were not sworn as witnesses to give testimony.

Drive, Fishers, 126th Street East, Fishers, 8924 116th Street East, Fishers, 116th Street East, Fishers (Parcel No. 1511310000034003), 8896 116th Street East, Fishers, 7788 East 96th Street, Fishers, 116th Street East, Fishers (Parcel Nos. 1515060101006001, 1515060101001001 and 1515060101002000), 8894 116th Street East, Fishers, 3202 96th Street East, Indianapolis, Michigan Road, Carmel (Parcel No. 1713060012001000) and 0 146th Street, Noblesville (Parcel No. 1811190000007004); and a sales disclosure form for 0 146th Street, Noblesville,

Respondent Exhibit H – Exterior photographs of 1821 151st Street East, Westfield, 1850 151st Street East, Westfield, 16905 Mercantile Boulevard, Noblesville, 16788 Clover Road, Noblesville, 2220 Greenfield Avenue, Noblesville, 2299 Greenfield Avenue, Noblesville, 14091 Trade Center Drive, Fishers, 126th Street, Fishers (Parcel No. 1511300000023002), 8924 116th Street East, Fishers and 7788 East 96th Street, Fishers.

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

Board Exhibit A – Form 131 petitions with attachments,
Board Exhibit B – Notices of Hearing, dated March 31, 2011,
Board Exhibit C – Hearing sign-in sheets.

9. The subject property is comprised of three contiguous properties operated as a gas station and convenience store located at 8896 and 8924 East 116th Street, Fishers, in Hamilton County. Parcel No. 15-11-31-03-03-001.000 (Parcel No. 1) and Parcel No. 15-11-31-00-00-034.003 (Parcel No. 34) are vacant lots and Parcel No. 15-11-31-00-00-032.000 (Parcel No. 32) is improved with a 4,366 square foot convenience store, a 1,172 square foot carwash and a service station canopy.
10. The ALJ did not conduct an on-site inspection of the properties.
11. For 2006, the PTABOA determined the assessed values of the Petitioner's parcels to be \$423,800 for the land and \$619,500 for the improvements, for a total assessed value of

\$1,043,300 for Parcel No. 34; \$144,500 for the land for Parcel No. 1;² and \$810,500 for the land for Parcel No. 32.

12. For 2007, the PTABOA determined the assessed values of the Petitioner's parcels to be \$423,800 for the land and \$636,900 for the improvements, for a total assessed value of \$1,060,700, for Parcel No. 34; \$144,500 for the land for Parcel No. 1; and \$810,500 for the land for Parcel No 32.
13. The Petitioner's representative contends that the total assessed value of the Petitioner's three parcels together should be \$925,000 for both the 2006 and 2007 assessment years.

JURISDICTIONAL FRAMEWORK

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

ADMINISTRATIVE REVIEW AND THE PETITIONER'S BURDEN

15. 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 Township Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also, Clark v. State Board of Tax Commissioners*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998).

² The parties agreed there was a typographical error on the Form 115, which showed the assessed value of record to be \$114,500. *Smith testimony; Meighen argument*. According to Ms. Meighen and Mr. Smith, the assessed value of the Parcel No. 1 for 2006 was the same as the Parcel's \$144,500 assessment for 2007. *Id.*

16. 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 Township 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”).
17. 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 case. *Id.*; *Meridian Towers*, 805 N.E.2d at 479.

PETITIONER’S CONTENTIONS

18. The Petitioner’s representative contends that the Petitioner’s properties are over-valued based on the Petitioner’s purchase of the properties. *Smith testimony*. According to Mr. Smith, the three parcels at issue in this appeal and the personal property associated with the properties were purchased for \$1,150,000 on August 1, 2006. *Id.*; *Petitioner Exhibits 1 and 2*. In support of his contention, Mr. Smith offered a letter from Steven Hull, who is a senior tax accountant for Circle K which states that “per our sales disclosure of 02/26/2006, Macs Convenience Stores LLC paid a total of \$1,150,000.00 for this location.”³ *Id.*; *Petitioner Exhibit 1*. Further, Mr. Hull wrote, “for the land that consists of three parcels we paid \$925,000.00 and the equipment was \$225,000.00.” *Petitioner Exhibit 1*. According to Mr. Smith, this value is supported by the property record card which indicates the properties’ purchase price was \$925,000. *Id.*; *Petitioner Exhibit 2*.

³ The Petitioner’s representative and the accountant’s letter both refer to “Circle K” and the evidence suggests that the site is or was operated as a Circle K gas station and convenience store. *Smith testimony*; *Petitioner Exhibit 1*. However, the sales disclosure forms all refer to Equilon Enterprises, LLC, as the seller and Mac’s Convenience Stores, LLC, as the buyer. *Respondent Exhibits A and D*. It is not clear, however, whether Equilon Enterprises or Mac’s Convenience Stores operate the Circle K because the accountant’s letter states that “we” paid \$925,000 for the parcels suggesting the buyer operates the Circle K; whereas Mr. Smith testified it was a sale/leaseback transaction which suggests that the seller operates the Circle K under a lease.

19. In response to questioning, Mr. Smith testified that Circle K sold the properties under appeal to Mac's Convenience Stores and then leased the properties back.⁴ *Smith testimony*. Further, Mr. Smith admitted that other properties at different sites were purchased "at the same time."⁵ *Id.* However, while the Respondent's counsel asked if there was an allocation of a sales price between the multiple sites purchased by the Petitioner, Mr. Smith only testified that "this was an individual sales price of \$1.15 million with \$225,000 personal property for a \$925,000 net on this property." *Id.*

RESPONDENT'S CONTENTIONS

20. The Respondent's witness argues that the Petitioner's purchase price of \$925,000 is an invalid sale because it was part of a transaction in which multiple sites were purchased. *McAbee testimony*. In support of this contention, the Respondent's representative submitted a webpage article, property record cards and sales disclosure forms. *Respondent Exhibits C and D*. According to the September 13, 2010, article from CSP Daily News, the Petitioner purchased 32 former Shell Stations in the Indianapolis area in 2006. *McAbee testimony; Respondent Exhibit C*. Further, Mr. McAbee testified that sales disclosure forms from Hamilton County show that Mac's Convenience Stores purchased the properties under appeal and at least six additional properties on August 1, 2006. *Id.; Respondent Exhibit D*. Thus, Mr. McAbee concludes, the evidence shows that the Mac's Convenience Stores purchased multiple properties in one sales transaction and allocated the sales prices to the various properties it acquired. *McAbee testimony*.
21. To further support the Respondent's argument that the Petitioner's purchase price was an allocated sale price and does not represent the properties' market value, Mr. McAbee submitted assessment and sales information for the six Mac's Convenience Stores located

⁴ "Circle K will sell these properties and... to an investor and then lease them back and that is what happened with this property." *Smith testimony*.

⁵ "I believe they did purchase other properties at the same time, but they were different parcels at different sites and I believe a couple of them might even have been in this county." *Smith testimony*.

in Hamilton County. *McAbee testimony; Respondent Exhibit D.* According to Mr. McAbee, the six properties have buildings which range from 850 square feet to 2,490 square feet; whereas the subject properties have a 4,355 square foot building located on the parcels. *Id.* The comparable properties also sit on smaller sites, except for one property that has 0.56 of an acre more land than the subject properties. *Id.* Further, the comparable properties have buildings that are all older than the subject property. *Id.* The subject properties have a building that was constructed in 2001; whereas the six comparable properties' buildings were constructed between 1983 and 1995. *Id.* Moreover the subject properties are located in a highly traveled area of Fishers.⁶ *Id.*; *Respondent Exhibit F.* Mr. McAbee testified that the allocated sales price for the comparable properties in Hamilton County was \$451.81 to \$1,558.82 per square foot in 2006 and 2007; whereas the subject properties' allocated sale price was only \$211.86 per square foot.⁷ *Id.* Thus, Mr. McAbee concludes, the Petitioner's allocated price for the subject properties is below the properties' market value. *McAbee testimony.*

22. The Respondent's witness also contends the subject properties' assessments are correct based on the assessed values of other similar properties. *McAbee testimony; Respondent Exhibits G and H.* According to Mr. McAbee, the true tax value per square foot for thirteen convenience stores located in the area of the subject properties was \$212.20 to \$1,518.94 per square foot with an average of \$467.66 per square foot in 2006 and \$204.59 to \$1,524.35 per square foot with an average of \$450.73 per square foot in 2007. *Id.* The Petitioner's property was assessed for \$457.70 per square foot in 2006 and \$461.68 per square foot in 2007. *Id.* Mr. McAbee argues that this shows the Petitioner's property is assessed consistently with other convenience stores in the area. *McAbee testimony.*

⁶ The 2008 Town of Fishers 24 hour traffic count map show that approximately 40,219 cars drive in the area where the Petitioner's property is located. *Respondent Exhibit F.*

⁷ Mr. McAbee testified that the buildings on the properties located at 11601 Allisonville Road and 9611 Allisonville Road were removed in 2006. *McAbee testimony; Respondent Exhibit D.* Thus, he argues, the county concluded that the Petitioner's allocated purchase prices at those two sites were only for the land. *Id.*

23. Mr. McAbee argues that if the purchase of the Petitioner's properties is compared specifically to the purchase of a nearby gas station and convenience store, it shows the Petitioner's sales price is an allocated value that does not represent the subject properties' market values. *McAbee testimony*. According to Mr. McAbee, 2299 Greenfield Avenue is a 3,810 square foot convenience store and car wash on 2.94 acres that was built in 1992. *McAbee testimony; Respondent Exhibit G*. The property sold for \$1,266,670 or \$332.46 per square foot on September 11, 2002. *Id.* The subject properties include a 4,366 square feet convenience store and a carwash on two acres built in 2001 that purportedly sold for \$925,000 or \$211.86 per square foot on August 1, 2006. *Id.* Because the county's data does not indicate there was a decline in values between 2002 and 2006, Mr. McAbee argues, the evidence shows that the Petitioner's allocated purchase price under-values the properties under appeal. *Id.*
24. Finally, the Respondent's witness argues that land sales in the area support a conclusion that the Petitioner's allocated purchase price is below the properties' market value. *McAbee testimony*. In support of this contention, the Respondent's witness submitted a spreadsheet, an aerial map, property record cards and one sales disclosure form for 11691 Fishers Corner Boulevard. *Respondent Exhibit E*. According to the Respondent's witness, four vacant lots in the area of the Petitioner's properties sold in 2001 and 2002 for between \$544,872 to \$1,033,333 per acre, or an average of \$705,704 per acre. *Id.* Mr. McAbee argues that the 2001 and 2002 sales would be relevant to the properties' 2006 and 2007 assessments because land sales in the area were "fairly stagnant" from 2001 to 2007. *McAbee testimony*. A fifth property, a 5.5 acre parcel, sold in 2007 for \$481,818 per acre. *Id.* However, Mr. McAbee argues, larger tracts normally sell for less per acre. *Id.* According to Mr. McAbee, based on these sales, the land alone on the Petitioner's properties are more valuable than the Petitioner's allocated purchase price for the land and improvements. *Id.* Mr. McAbee argues that this further demonstrates that the Petitioner's allocated purchase price does not reflect the property's market value. *Id.*

ANALYSIS

25. The 2002 Real Property Assessment Manual defines “true tax value” 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). The appraisal profession traditionally has used three methods to determine a property’s market value: the cost approach, the sales-comparison approach and the income approach to value. *Id.* at 3, 13-15. In Indiana, assessing officials generally value real property using a mass-appraisal version of the cost approach, as set forth in the Real Property Assessment Guidelines for 2002 – Version A.
26. A property’s assessment under the Guidelines is presumed to accurately reflect its true tax value. *See* MANUAL at 5; *Kooshtard Property VI, LLC v. White River Twp. Assessor*, 836 N.E.2d 501, 505 (Ind. Tax Ct. 2005); *P/A Builders & Developers, LLC*, 842 N.E.2d 899 (Ind. Tax 2006). 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 the Uniform Standards of Professional Appraisal Practice often will suffice. *Id.*; *Kooshtard Property VI*, 836 N.E.2d at 505, 506 n.1. A taxpayer may also offer actual construction costs, sales information for the subject property or comparable properties and any other information compiled according to generally accepted appraisal practices. MANUAL at 5.
27. Regardless of the method used to rebut an assessment’s presumption of accuracy, a party must explain how its evidence relates to the subject property’s market value-in-use as of the relevant valuation date. *O’Donnell v. Department of Local Government Finance*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006); *see also Long v. Wayne Township Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). For the March 1, 2006, assessment, the valuation date was January 1, 2005, and for the March 1, 2007, assessment, the valuation date was January 1, 2006. 50 IAC 21-3-3.

28. The Petitioner’s representative contends that the Petitioner’s properties are over-valued based on the allocated sales price of the properties. *Smith testimony*. According to Mr. Smith, the Petitioner purchased the three parcels as one property on August 1, 2006, for \$1,150,000. *Smith testimony*. That price included \$225,000 for the personal property. *Id.*; *Petitioner Exhibit 1*. Thus, Mr. Smith argues, the subject properties should be assessed for no more than \$925,000. *Smith testimony*.
29. The purchase price of a property can be the best evidence of a property’s value. *See Hubler Realty Co. v. Hendricks County Assessor*, 938 N.E.2d 311, 315 (Ind. Tax Ct. 2010) (finding that the Board’s determination assigning greater weight to the property’s purchase price than its appraised value was proper and supported by the evidence). However, a sale does not necessarily indicate the market value of a property unless that sale happens in a competitive and open market under all conditions requisite to a fair sale, in which the buyer and seller are typically motivated. MANUAL at 10. “‘Fair market value’ is what a willing buyer, under no compulsion to buy, would pay a willing seller, under no compulsion to sell.” *Second National Bank of Richmond v. State*, 366 N.E.2d 694, 696 (Ind. Ct. App. 1977). Here, the Petitioner’s representative testified that the Petitioner’s purchase of the property was a sale-leaseback transaction. *Smith testimony*. According to Mr. Smith, “[the seller of the property] will sell these properties to an investor and then lease them back and that is what happened with this property.” *Id.*
30. While not conclusive of the issue, sale-leaseback transactions are often financing transactions. *See Pacific Southwest Realty Co. v. County of Los Angeles*, 1 Cal. 4th 155, 169 (Cal. 1991) (under California’s property tax regulations, a sale-leaseback transaction is “rebuttably presumed” to be a financing transaction that does not trigger “reappraisal” under Proposition 13); *Federated Department Stores, Inc. v. Board of Tax Review*, 291 A.2d 715 (Conn. 1971) (trial court held that leaseback arrangement indicated a security agreement that did not reflect the property’s actual rental income; on appeal, the Supreme Court allowed admission of evidence to prove the “genuineness” of the lease); *Cole Hospital, Inc. v. Champaign County Board of Review*, 446 N.E.2d 562, 564 (Ill. App. Ct.

1983) (Court found that hospital which entered into sale/leaseback facility was the “owner” of the property as the lessee because the sale/leaseback was simply a way to secure financing to build a new facility when it could not obtain bank financing). Thus, because Mr. Smith admitted that the property was sold to an investor and leased back to the seller, it was incumbent on the Petitioner to provide some evidence that the sale/leaseback transaction was a market sale rather than simply a method of obtaining additional financing for the business.

31. In addition, the evidence suggests that the purchase of the subject properties was one part of a multiple property purchase. Mr. Smith testified that “I believe they did purchase other properties at the same time, but they were different parcels at different sites.” *Smith testimony*. In fact, the Respondent presented evidence that at least six other gas station and convenience stores were purchased by the Petitioner from Equilon Enterprises, LLC, on February 24, 2006. *Respondent Exhibit D*. However, Mr. Smith argued the purchase of the subject properties was an individual sale with “an individual sales price of \$1.15 million with \$225,000 of personal property for a \$925,000 net on this property.” *Id*.
32. There are many documents that would have better evidenced the purchase of the properties, such as the purchase agreement or settlement statement. Here, however, the Petitioner’s representative chose to submit only a hearsay letter from the seller’s accountant stating the subject properties’ real estate and personal property had been purchased for \$1,150,000 on February 26, 2006,⁸ and a copy of the properties’ property record card with a notation that the properties were purchased for \$925,000. The letter however, is captioned “Purchase Price Allocation” which could refer to the allocation of a purchase price of \$1,150,000 between the real estate and the personal property. It could also refer to an allocation of a larger purchase price to the subject properties. Because the Petitioner’s representative chose not to present more reliable evidence of the properties’ purchase, the Board holds that the evidence supports a finding that the Petitioner’s

⁸ The sales disclosure form for this transaction submitted by the Respondent identifies a sale date of February 24, 2006. *Respondent Exhibit A*.

purchase of the properties was simply a part of a larger sale transaction. Therefore, without probative evidence of how the sale price was allocated to the properties, the evidence submitted by the Petitioner has little probative value.

33. Finally, even if the Board found that the Petitioner's \$1,150,000 allocated purchase price was a reliable indicator of the market value of the Petitioner's properties, the Petitioner presented little probative evidence in support of its allocation of the price between the properties' real estate and personal property. Mr. Smith could have submitted the Petitioner's personal property tax return showing that the Petitioner reported \$225,000 of personal property at the site, but he did not. He simply offered a hearsay letter with the bald statement "for the land that consists of three parcels we paid \$925,000.00 and the equipment was \$225,000.00."
34. Absent evidence to the contrary, the Board often presumes that the purchase of a property represents its market value-in-use. Here, however, there are too many issues with the purchase and too little information provided by the Petitioner to make such an inference. Thus, the Board finds that the Petitioner failed to raise a prima facie case that its properties were over-valued for the 2006 or 2007 assessment year.
35. To the extent that the Petitioner's "allocated sale price" could be seen as raising a minimal prima facie case that the properties were over-valued for the March 1, 2006, or March 1, 2007, assessment year, the Board finds that the Respondent rebutted that evidence. Here, the Respondent showed that at least six other properties were purchased by the Petitioner from Equilon Enterprises, LLC, on February 24, 2008. Rather than seven individual sales between the same entities and seven different closings, the Board finds it more likely that the properties were all purchased together in a single transaction. Further, the Respondent showed that the sale price the Petitioner "allocated" to the subject properties was not even half the price per square foot of the next lowest sale price and less than 14% of the highest price per square foot, despite the fact that the subject properties had the largest and newest building and the second largest parcel of land.

Thus, the Respondent sufficiently proved that the properties' "allocated" sale price did not reflect the properties' market value-in-use.

SUMMARY OF FINAL DETERMINATION

36. The Petitioner's representative failed to raise a prima facie case that the Petitioner's properties were over-valued for the March 1, 2006, or March 1, 2007, assessment year. Even if the Petitioner's evidence could be seen as sufficient to raise a prima facie case, the Respondent rebutted the Petitioner's case. The Board therefore finds in favor of the Respondent and holds that the subject properties' assessed values for 2006 and 2007 should not be changed.

The Final Determination of the above captioned matter is issued by the Indiana Board of Tax Review on the date 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>.