

REPRESENTATIVE FOR PETITIONER:
Douglas Rodenbeck, *pro se*

REPRESENTATIVE FOR RESPONDENT:
Phyl Olinger

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

Douglas Rodenbeck,	)	Petition No.:	76-011-07-1-5-00089
	)		76-011-07-1-5-00089A
Petitioner,)		
	)	Parcel No.:	76-06-03-420-650-000-011
	)		76-06-03-420-651-000-011
v.)		
	)	County:	Steuben
)		
Steuben County Assessor,	)	Township:	Pleasant
)		
Respondent.	)	Assessment Year:	2007

Appeals from the Final Determinations of the
Steuben County Property Tax Assessment Board of Appeals

May 31, 2011

FINAL DETERMINATION

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

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Introduction

1. The Petitioner, Douglas Rodenbeck, claimed that the Assessor based the subject parcels’ assessments on misapplied influence factors, inaccurate measurements, and a general misunderstanding of the state’s guidelines for valuing land. While Mr. Rodenbeck

pointed to factors that might affect the parcels' values, he did not offer probative evidence to quantify the parcels' market values-in-use or even to show a likely range of values. Mr. Rodenbeck therefore failed to meet his burden of proof.

Procedural History

2. On September 21, 2008, Mr. Rodenbeck filed a Form 130 petition with the Steuben County Assessor contesting the 2007 assessments for the above-referenced parcels. On December 29, 2009, the Steuben County Property Tax Assessment Board of Appeals ("PTABOA") issued its determination denying Mr. Rodenbeck relief. Mr. Rodenbeck then timely filed Form 131 petitions with the Board. The Board has jurisdiction over Mr. Rodenbeck's appeals under Indiana Code §§ 6-1.1-15 and 6-1.5-4-1.
3. On March 3, 2011, the Board's administrative law judge, Patti Kindler ("ALJ"), held a hearing on Mr. Rodenbeck's petitions. Neither the Board nor the ALJ inspected the subject parcels.

Hearing Facts and Other Matters of Record

4. The following people were sworn in and testified:
Douglas Rodenbeck,

For the Assessor: Marcia Seevers, Steuben County Assessor
 Phyl Olinger, representative for the Assessor
5. Mr. Rodenbeck submitted the following exhibits:
Petitioner Exhibit 1: Rule 2, page 5 of 1989 Real Property Assessment Manual,¹
Petitioner Exhibit 2: Rule 2, page 7 of 1989 Real Property Assessment Manual,
Petitioner Exhibit 3: Summary of Mr. Rodenbeck's contentions submitted at the
PTABOA hearing,
Petitioner Exhibit 4: Plat map,
Petitioner Exhibit 5: Rule 2, page 2 of 1989 Real Property Assessment Manual,
Petitioner Exhibit 6: Map showing special flood hazard areas on Lake James,²

¹ Although Mr. Rodenbeck did not provide information to identify the larger document from which Petitioner Exhibits 1, 2 and 5 are taken, they appear to be excerpts from the 1989 Real Property Assessment Manual promulgated by the now defunct State Board of Tax Commissioners.

² This appears to be the same map that the Assessor introduced as part of Respondent Exhibit 11.

- Petitioner Exhibit 7: Survey of lots 2-7 in the original plat of Willowdale Subdivision,
- Petitioner Exhibit 8: Page 1 of Beacon property record data for the Wurm property at Lot 4 Willowdale Subdivision,
- Petitioner Exhibit 9: Page 2 of Beacon property record data for the Wurm property at Lot 4 Willowdale Subdivision,
- Petitioner Exhibit 10: Page 1 of Beacon property record data for the Wurm property at Lot 3 Willowdale Subdivision,
- Petitioner Exhibit 11: Page 2 of Beacon property record data for the Wurm property at Lot 3 Willowdale Subdivision,
- Petitioner Exhibit 12: Page 1 of Beacon property record data for the Wurm property at N1/2 Lot 5 Willowdale Subdivision,
- Petitioner Exhibit 13: Page 2 of Beacon property record data for the Wurm property at N1/2 Lot 5 Willowdale Subdivision,
- Petitioner Exhibit 14: Page 1 of Beacon property record data for the Browning property at E1/2 Lot 8 Willowdale Subdivision,
- Petitioner Exhibit 15: Page 2 of Beacon property record data for the Browning property at E1/2 Lot 8 Willowdale Subdivision,
- Petitioner Exhibit 16: Page 1 of Beacon property record data for the Browning property at Lot 7 Willowdale Subdivision,
- Petitioner Exhibit 17: Page 2 of Beacon property record data for the Browning property at Lot 7 Willowdale Subdivision,
- Petitioner Exhibit 18: Page 1 of Beacon property record data for the subject parcel for lot 6,
- Petitioner Exhibit 19: Page 2 of Beacon property record data for the subject parcel for lot 6,
- Petitioner Exhibit 20: Page 1 of Beacon property record data for the subject parcel for S1/2 lot 5,
- Petitioner Exhibit 21: Page 2 of Beacon property record data for the subject parcel for S1/2 lot 5,
- Petitioner Exhibit 22: Steuben County Zoning Ordinance page 4-3,
- Petitioner Exhibit 23: Steuben County Zoning Ordinance page 4-5,
- Petitioner Exhibit 24: Copy of photograph to show the subject parcels flooding,
- Petitioner Exhibit 25: Property record card (“PRC”) for parcel owned by Tax Free Strategies, LLC,
- Petitioner Exhibit 26: Page 1 of PRC for property owned by Cary,
- Petitioner Exhibit 27: Page 2 of PRC for property owned by Cary,
- Petitioner Exhibit 28: Page 1 of Form 131 petition for parcel 76-06-03-420-650.000-011,
- Petitioner Exhibit 29: Page 2 of Form 131 petition for parcel 76-06-03-420-650.000-011,
- Petitioner Exhibit 30: Page 3 of Form 131 petition for parcel 76-06-03-420-650.000-011,
- Petitioner Exhibit 31: Page 1 of Form 131 petition for parcel 76-06-03-420-651.000-011,

- Petitioner Exhibit 32: Page 2 of Form 131 petition for parcel 76-06-03-420-651.000-011,
- Petitioner Exhibit 33: Page 3 of Form 131 petition for parcel 76-06-03-420-651.000-011,
- Petitioner Exhibit 34: Summary of complaints,
- Petitioner Exhibit 35: Mr. Rodenbeck’s hand-drawn illustration of two triangular lots and a hand-drawn diagram showing the location of his cottage and sewer lines.

6. The Assessor submitted the following exhibits:

- Respondent Exhibit 1: Respondent exhibit coversheet,
- Respondent Exhibit 2: Summary of the Assessor’s testimony,
- Respondent Exhibit 3: Power of Attorney Certification and Power of Attorney,
- Respondent Exhibit 4: 2007 PRC for subject parcel 76-06-03-420-650.000-011,
- Respondent Exhibit 5: 2007 PRC for subject parcel 76-06-03-420-651.000-011,
- Respondent Exhibit 6: PTABOA determination for both parcels,
- Respondent Exhibit 7: Plat map of the subject neighborhood with Lot 6 highlighted in yellow,
- Respondent Exhibit 8: Evidence that Mr. Rodenbeck presented at the PTABOA hearing,
- Respondent Exhibit 9: PRCs for two parcels owned by the Brownings,
- Respondent Exhibit 10: PRC for property owned by David Clary,
- Respondent Exhibit 11: Petitioner’s Evidence Request Form and FIA Flood Hazard Boundary Map,
- Respondent Exhibit 12: Chapter 2, pages 59-61, from the Real Property Assessment Guidelines for 2002 – Version A,
- Respondent Exhibit 13: Respondent Signature and Attestation Sheet.

7. The Board recognizes the following additional items as part of the record of proceedings:

- Board Exhibit A: Form 131 petitions,
- Board Exhibit B: Hearing notices,
- Board Exhibit C: Hearing sign-in sheet.

8. The subject parcels are located on a channel of Lake James in Angola. Parcel 76-06-03-420-650.000-011 is the south half of Lot 5 in the Willowdale addition. It is an unimproved “half-lot.” *Rodenbeck testimony*. Parcel 76-06-03-420-651.000-011 is Lot 6 in Willowdale, and it contains a single-family lake cottage with an attached garage.

9. The PTABOA determined the following values for the subject parcels:

Parcel 76-06-03-420-650.000-011 (Lot 5):

Land: \$31,600	Improvements: \$0	Total: \$31,600
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Parcel 76-06-03-420-651.000-011 (Lot 6):

Land: \$98,300 Improvements: \$25,900 Total: \$124,200

10. At the Board's hearing, the parties indicated that Lot 6's assessment was \$90,100 for the land and \$25,900 for the improvements, for a total of \$116,000. *Rodenbeck testimony; Olinger testimony; See also Resp't Ex. 5.* Based on a survey that Mr. Rodenbeck provided after the PTABOA's hearing, the Assessor unilaterally re-calculated the lot's effective frontage, which led to a lower land value than what the PTABOA had determined. But the PTABOA's determination is the assessment of record, and the Assessor has no authority to unilaterally change an assessment set by the PTABOA. As discussed below, however, Mr. Rodenbeck is entitled to have the assessment for Lot 6 reduced to the value conceded by the Assessor.

11. On his Form 131 petitions, Mr. Rodenbeck requested the following values:

Parcel 76-06-03-420-650.000-011 (Lot 5):

Land: \$15,000 Improvements: \$0 Total: \$15,000

Parcel 76-06-03-420-651.000-011 (Lot 6):

Land: \$65,000 Improvements: \$15,000 Total: \$80,000

Administrative Review and the Parties' Burdens

12. A taxpayer seeking review of an assessing official's determination must make a prima facie case proving both that the current assessment is incorrect and what the correct assessment should be. *See Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); see also, *Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998).

13. In making its case, the taxpayer must explain how each piece of evidence relates to its requested assessment. *See Indianapolis Racquet Club, Inc. v. Washington Twp. Assessor*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004) (“[I]t is the taxpayer's duty to walk the Indiana Board . . . through every element of the analysis”).

14. If the taxpayer makes a prima facie case, the burden shifts to the assessor to offer evidence to rebut or impeach the taxpayer's evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004); *Meridian Towers*, 805 N.E.2d at 479.

Analysis

Parties' Contentions

A. Summary of Mr. Rodenbeck's Contentions

15. The subject parcels' assessments are wrong for two main reasons: (1) the Assessor used the wrong actual and effective frontages in computing for Lot 6's assessment, and (2) both parcels should have higher negative influence factors. *Rodenbeck argument*.
16. The Assessor originally measured the frontage for Lot 6 by following the water's edge, but she used traverse lines to determine the frontage for all the other neighborhood lots. *Rodenbeck testimony*. As Mr. Rodenbeck explained, the traverse line is the line between pins that are set back from the water. *Id.* Although the Assessor's Beacon property data sheet shows the lot's actual frontage as 100 feet, a survey shows that Lot 6 has only 90.6 front feet along the traverse line. *Id.*; *Pet'r Exs. 7, 18*. The Assessor re-calculated the parcel's effective frontage in response to the survey. While she apparently used the traverse-line measurement in that calculation, she unfairly rounded up to the nearest foot while she rounded down for other lots. *Rodenbeck testimony*. In any case, the property record card should be corrected to show the property's true actual frontage, or Mr. Rodenbeck will run into the same problem in future years. *Id.*
17. While the Assessor's correction lowered Lot 6's effective frontage from 72 feet to 66 feet, that is still wrong. *Rodenbeck testimony*. The Assessor misapplied instructions in the state's guidelines for assessing triangular lots. *Id.*; *Pet'r Ex. 1*. The Assessor multiplied the actual frontage at the base of the two triangles that she drew for purposes of assessing Mr. Rodenbeck's lot by 65%. *Id.* But the actual angle at each triangle's apex was 52 degrees. *Rodenbeck testimony*. Thus, the Assessor should have multiplied the frontage at the base of the triangles by 52%. *Id.* The guidelines use a 65% factor, but

that is just an example from a lot where the angle at the triangle's apex is 65 degrees. *Id.*; *Pet'r Ex. 1*. It makes no sense to use the same factor for triangular lots with different angles. *Rodenbeck testimony*.

18. The Assessor also arbitrarily and inequitably applied influence factors within the subject neighborhood. *Rodenbeck testimony*. For example, the Assessor applied a 50% negative influence factor to a property owned by John and Nancy Browning to account for excessive frontage, but only applied a 35% factor to the subject parcels to account for their excessive frontage. *Rodenbeck testimony; Pet'r Exs. 18-21*. And the Brownings' two parcels have less combined actual frontage and more depth and usable area than the subject parcels. *Rodenbeck testimony; Pet'r Exs. 14-21*.
19. Similarly, the north half of Lot 5, owned by Vincent and Gail Wurm as trustees for a revocable trust, receives a negative 40% influence factor. *Rodenbeck Testimony; Pet'r Exs. 12-13*. That lot is almost identical to the south half of Lot 5 (one of the subject parcels), except the Wurm lot is a little larger and is improved with a seawall. *Rodenbeck testimony*.
20. The subject parcels also deserve bigger negative influence factors because, unlike the neighboring parcels, they flood. *Rodenbeck testimony; Pet'r Ex. 24*. All the neighboring parcels drain onto the subject parcels. *Id.* The Wurm parcels are on higher ground and are therefore dry. *Rodenbeck testimony*.
21. Further, the subject parcels deserve a larger negative influence factor because of building restrictions. *Rodenbeck argument and testimony*. The assessing guidelines define influence factors and lists adjustments for factors such as location, utility, topography, time, and shape. *Rodenbeck testimony; Pet'r Ex. 2*. A county sewer runs across the side of the cottage on Lot 6, cuts in front of the cottage and goes down in front of the road, rendering most of that lot useless. *Id.* And the setbacks mandated by the county's zoning ordinance prevent Mr. Rodenbeck from building another structure or adding onto his small cottage. *Rodenbeck testimony; Pet'r Ex. 22-23, 35*.

22. Finally, although the Assessor previously attempted to support the subject parcels' assessments with what she described as sales of comparable properties, those parcels were not really comparable to the subject parcels. *Rodenbeck testimony*. The first property, owned by Tax Free Strategies, LLC, is situated on the lakefront in front of Mr. Rodenbeck's home and therefore has a superior view. *Rodenbeck testimony; Pet'r Ex.*
25. Mr. Rodenbeck's home does not have a view of the lake; it has a view of driveways and the backs of other homes. *Rodenbeck testimony*. The Assessor's second purportedly comparable property, owned by David and Julia Clary, is not even in the subject parcels' neighborhood, and unlike the subject parcels, it is level with the channel. *Rodenbeck testimony; Pet'r Exs. 3, 26-27*. On the other hand, the Clary property is not that far away from the subject parcels and it is located on a channel like the subject parcels. *Rodenbeck testimony*. But the Clary property was assessed using a base rate of only \$1,400 per front foot while the subject parcels were assessed using a base rate of \$2,500 per front foot. *Id.*

B. Summary of the Assessor's Contentions

23. Based on the survey that Mr. Rodenbeck provided after the PTABOA hearing, the Assessor changed the effective frontage for Lot 6 from 72 feet to 66 feet. *Olinger testimony*. Mr. Rodenbeck had agreed that the effective frontage was 65 feet, noting those dimensions on his own paperwork. *Olinger testimony; referring to Pet'r Ex. 1*. The Assessor simply rounded up to 66 feet. *Olinger testimony*.
24. Although Mr. Rodenbeck now contends that the effective frontage should be 52 feet, he is wrong. When valuing a non-rectangular lot like Lot 6, the Real Property Assessment Guidelines for 2002 – Version A direct an assessor to draw subdivisions within the lot, which may include right triangles. *See Olinger testimony*. The assessor then determines the lot's effective frontage, in part, by multiplying the frontage at the base of the triangles by 65% without regard to the degree of the angle at the apex of the triangles. *Id.*
25. Both parcels receive a negative influence factor of 35% for excessive frontage. *Id.* The Assessor deducted an additional \$4,350 from Lot 5's assessment because it lacks public

utilities. *Id.*; *Resp't Ex. 4*. That raises the total deductions for the two parcels to 43%, which exceeds the influence factors applied to some of the neighboring properties. *Id.*

26. Contrary to what Mr. Rodenbeck believes, the Assessor did not apply negative influence factors arbitrarily. *See Olinger testimony*. Although each of the Brownings' lots received a 50% negative influence factor, those lots have a combined 99 feet of effective frontage, while the subject parcels have only 91 total feet of effective frontage. *Id.*; *Resp't Exs. 4-5, 9*.
27. Regarding Mr. Rodenbeck's claims about flooding, the Assessor did not apply a negative influence factor for flooding to any neighborhood parcels. *Olinger testimony*; *Resp't Ex. 11*. The Guidelines advise assessing officials to apply negative influence factors to account for variations from the norm. *Olinger testimony*. And a negative influence factor for flooding susceptibility accounts for a lot or a portion of that lot being in a flood plain not characteristic of the base lot. *Id.*; *Resp't Ex. 12*. Because all of Lake James is susceptible to flooding, no influence factor is warranted. *Olinger testimony*; *Resp't Ex. 11*.

Discussion

28. Indiana assesses real property based on its true tax value, which the 2002 Real Property Assessment Manual defines as "the market value-in-use of a property for its current use, as reflected by the utility received by the owner or a similar user, from the property." 2002 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.3-1-2). Appraisers traditionally have used three methods to determine a property's market value: the cost, sales-comparison, and income approaches. *Id.* at 3, 13-15. Indiana assessing officials generally use a mass-appraisal version of the cost approach set forth in the Real Property Assessment Guidelines for 2002 – Version A.
29. A property's market value-in-use, as determined using the Guidelines, is presumed to be accurate. *See MANUAL* at 5; *Kooshtard Property VI, LLC v. White River Twp. Assessor*, 836 N.E.2d 501, 505 (Ind. Tax Ct. 2005) *reh'g den. sub nom.*; *P/A Builders &*

Developers, LLC, 842 N.E.2d 899 (Ind. Tax Ct. 2006). But a taxpayer may rebut that presumption with evidence that is consistent with the Manual's definition of true tax value. MANUAL at 5. A market-value-in-use appraisal prepared according to the Uniform Standards of Professional Appraisal Practice often will suffice. *Kooshtard Property VI*, 836 N.E.2d at 506 n.6. A taxpayer may also offer actual construction costs, sales information for the subject or comparable properties, and any other information compiled according to generally accepted appraisal principles. MANUAL at 5.

30. By contrast, a taxpayer normally cannot rebut an assessment's presumed accuracy simply by contesting the methodology that the assessor used to compute it. *Eckerling v. Wayne Twp. Assessor*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006). Instead, the taxpayer must show that the assessor's methodology yielded an assessment that did not accurately reflect the property's market value-in-use. *Id.* Strictly applying the Guidelines does not necessarily suffice; rather, the taxpayer should offer the types of market-value-in-use evidence contemplated by the Manual. *Id.*
31. Mr. Rodenbeck offered none of the types of evidence contemplated by the Manual. Instead, he disputed how the Assessor calculated the effective frontage for Lot 6 and claimed that both lots were entitled to greater negative influence factors.
32. Mr. Rodenbeck's claim about the Lot 6's effective frontage, however, is simply a challenge to the Assessor's methodology in applying the Guidelines. As the Tax Court explained in *Eckerling*, such methodology based challenges normally do not suffice to rebut an assessment's presumed accuracy.
33. Even if Mr. Rodenbeck generally could make a prima facie case by challenging the Assessor's methodology, he did not show that the Assessor erred in applying the Guidelines. Mr. Rodenbeck pointed to an excerpt from what appear to be regulations that the former State Board of Tax Commissioners promulgated for the 1989 general reassessment. *See Pet'r Exs. 1-2*. That excerpt describes how to assess an irregularly shaped lot similar to Lot 6 by carving out right triangles with their bases along the street. *Id.* The excerpt calls for the lot's effective frontage to be determined by multiplying the

frontage at the base of the triangles by 65%. *Id.* According to Mr. Rodenbeck, the excerpt uses a factor of 65% because the example used to illustrate the process contains triangles with 65 degree angles at their apexes. In Mr. Rodenbeck's view, if a triangle's apex is different, a different factor should be used.

34. The Real Property Assessment Guidelines for 2002-Version A, which are the regulations that apply to the assessment under appeal, belie Mr. Rodenbeck's claim. The Guidelines describe several different types of platted lots that differ from what the Guidelines refer to as a 100% lot, which is essentially a rectangular lot; it has effective frontage and depth lines that form right angles, depth lines that are parallel to each other, and frontage lines that are parallel to the depth lines. GUIDELINES, ch. 2 at 40. In many cases, in order to determine effective frontage and effective depth for those non-rectangular lots, the Guidelines direct assessors to draw subsections within the lot. *Id.* at 40-49. In several instances, the subsections include right triangles with their bases along the street. *Id.* at 44-49. The dimensions of those triangles differ from example to example, and by definition, so do the angles at the triangles' apexes. *See id.* Yet in each case, the Guidelines instruct assessors to determine effective frontage, in part, through multiplying the frontage at the triangle's base by 65%. *Id.*³
35. Mr. Rodenbeck's claim that the subject parcels should receive additional negative influence factors similarly fails. Land values in a given neighborhood are generally determined by collecting and analyzing comparable sales data for the neighborhood and surrounding areas. *See Talesnick v. State Bd. of Tax Comm'rs*, 693 N.E.2d 657, 659 n.5 (Ind. Tax Ct. 1998). But properties sometimes have peculiar attributes not found in the surrounding properties. The term "influence factor" therefore refers to a multiplier "that is applied to the value of land to account for characteristics of a particular parcel of land that are peculiar to that parcel." GUIDELINES, glossary at 10.

³ The same is true for Mr. Rodenbeck's excerpt from the 1989 Manual. That excerpt contains two examples of carved out triangular lots. The triangles have different dimensions and each triangle has a different angle at its apex. Yet in each case, the 1989 Manual instructs assessors to multiply the frontage at the base of the triangles by 65%. *Pet'r Ex. 1 (examples 7 and 9)*.

36. A taxpayer seeking a negative influence factor has the burden to produce “probative evidence that would support an application of a negative influence factor and a quantification of that influence factor.” *Talesnick*, 756 N.E.2d at 1108. Even under Indiana’s previous true tax value system, where a property’s value was determined not by reference to objectively verifiable measures of wealth, such as market value, but instead simply by reference to the State Board of Tax Commissioner’s administrative regulations, taxpayers could quantify influence factors with “market data in order to effectively reflect the actual deviation from the market value assigned a piece of property through the Land Order.” *Id.* (quoting *Phelps Dodge v. State Bd. of Tax Comm’rs*, 705 N.E.2d 1099, 1106 (Ind. Tax Ct. 1999)). Under our current market value-in-use system, the need for market data to quantify an influence factor is even greater.
37. As already explained, however, Mr. Rodenbeck offered no market data to support his claims. Even if one accepts Mr. Rodenbeck’s testimony that the subject parcels are the only parcels in the neighborhood that flood and that he is limited in building on the subject parcels while other neighborhood parcels do not have similar restrictions, Mr. Rodenbeck did not attempt to quantify how those factors affect the market values-in-use of the subject parcels. Nor did he even offer evidence to show a likely range of values for those parcels. Indeed, the only attempt that Mr. Rodenbeck made to quantify an appropriate negative influence factor was his claim that the subject parcels should have at least a 50% negative influence factor to account for excess frontage, because that is what the Brownings received for their parcels. Of course, as the Assessor pointed out, the Browning parcels have more effective frontage than the subject parcels, so it is not surprising that they would receive a greater influence factor for excess frontage. Regardless, simply pointing to an influence factor applied to one or two other properties normally will not suffice to prove the appealed property’s value, even if properties are all generally comparable to each other.
38. Finally, Mr. Rodenbeck claimed that the Assessor used a lower base rate to assess a parcel owned by David Clary, which although located in a different assessment neighborhood, is relatively close to the subject parcels and sits level with the channel.

Even if one assumes that the subject parcels' market values-in-use could be estimated by using the assessment—instead of sale price—for comparable a property, Mr. Rodenbeck failed to meaningfully compare the subject parcels to the Clary property beyond their relative locations and their relative elevations above the channel. Various other factors go into analyzing a parcel of land's market value-in-use. *See Blackbird Farms Apartments v. Dep't of Local Gov't Fin.*, 765 N.E.2d 711, 714 (Ind. Tax Ct. 2002)(quoting *Beyer v. State*, 280 N.E.2d 604, 607 (Ind. 1972)("Years ago, Indiana's Supreme Court emphasized that 'whether or not properties are similar enough to be considered 'comparable' . . . depends on a number of factors including (but not limited to) size, shape, topography, accessibility, use, and (in the case of establishing a comparable sale), closeness of the time of the sale to the present action.")). And Mr. Rodenbeck did not attempt to compare the properties with respect to those factors.

39. Because Mr. Rodenbeck failed to offer any market data to support his claims, he failed to make a prima facie case. Where a taxpayer has not supported his claim with probative evidence, the assessor has no duty to support an assessment with substantial evidence. *Lacy Diversified Indus. LTD v. Department of Local Gov't Fin.*, 799 N.E.2d 1215, 1221-1222 (Ind. Tax Ct. 2003). Here, though, the Assessor admitted that Lot 6's assessment, as determined by the PTABOA, was wrong because that parcel's actual frontage is only 91 feet (rounded). In fact, the Assessor had already taken steps to change Lot 6's assessment from \$124,200 to \$116,000. While the Assessor lacked authority to unilaterally change the PTABOA's determination, she conceded that the determination was wrong and that Lot 6 should be assessed for the lower amount. Based on the Assessor's concession, the Board finds that Lot 6's assessment should be lowered to \$116,000. The Board further agrees with Mr. Rodenbeck that the property record card for Lot 6 should be changed to reflect the correct amount of the lot's actual frontage.

SUMMARY OF FINAL DETERMINATION

40. Because Mr. Rodenbeck offered no probative market-based evidence to rebut the presumption that the subject parcels' assessments were accurate, he failed to make a prima facie case. Based on the Assessor's concession, however, the Board orders: (1)

that parcel 76-06-03-420-651.000-011's assessment be officially changed to \$116,000, and (2) that the same parcel's property record card be changed to reflect 91 feet of actual frontage.

This Final Determination of the above captioned matter is issued by the Indiana Board of Tax Review on the date first written above.

Chairman, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

IMPORTANT NOTICE

- APPEAL RIGHTS -

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5, as amended effective July 1, 2007, by P.L. 219-2007, and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice. The Indiana Tax Court Rules are available on the Internet at <<http://www.in.gov/judiciary/rules/tax/index.html>>. The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>. P.L. 219-2007 (SEA 287) is available on the Internet at <<http://www.in.gov/legislative/bills/2007/SE/SE0287.1.html>>.