

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

**Petition No.:** 65-018-07-1-5-00005  
**Petitioners:** Andrei Sharygin and Tatiana Sharygina  
**Respondent:** Posey County Assessor  
**Parcel No.:** 009-01479-00  
**Assessment Year:** 2007

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

**PROCEDURAL HISTORY**

1. The Petitioners initiated an assessment appeal with the Posey County Property Tax Assessment Board of Appeals (the PTABOA) by written document dated June 6, 2008.
2. The PTABOA issued its Form 115 Notification of Final Assessment Determination on December 19, 2008.
3. The Petitioners initiated an appeal to the Board by filing a Form 131 Petition dated January 16, 2009. The Petitioners elected to have their case heard according to the Board's small claims procedures.
4. The Board issued a notice of hearing to the parties dated March 10, 2010.
5. The Board held an administrative hearing on June 10, 2010, before the duly appointed Administrative Law Judge (the ALJ) Rick Barter.
6. The following persons were present and sworn in at hearing:
  - a. For Petitioners: Andrei Sharygin, Petitioner,
  - b. For Respondent: Kristi Carroll, Posey County Assessor,  
Debra Eads, Appraisal Research Corporation,

**FACTS**

7. The property under appeal is an improved residential parcel located at 711 East Fifth Street, Black Township, Posey County, in Mount Vernon, Indiana.

8. The ALJ did not conduct an on-site visit of the property.
9. For 2007, the PTABOA determined the assessed value of the subject property to be \$8,200 for the land and \$19,300 for the improvements, for a total assessed value of \$27,500.
10. The Petitioners requested a total assessed value of \$17,500 for 2007.

## ISSUES

11. Summary of the Petitioners' contentions in support of an alleged error in their assessment:
  - a. The Petitioners contend the subject property's 2007 assessed value is higher than the property's market value-in-use based on their December 28, 2005, purchase of the property for \$17,500. *Sharygin argument; Petitioner Exhibit 1, Page 7*. In support of this contention, the Petitioners offered the Settlement Statement from their purchase; a letter from their realtor; and the Multiple Listing Service (MLS) advertisement for the subject property. *Sharygin argument; Petitioner Exhibit 2, Page 4 through 8*. According to Mr. Sharygin, the property was offered for sale for \$19,900 for 115 days on the MLS, which is available to all real estate agents and the general public. *Sharygin argument; Petitioner Exhibit 1, Page 10*. Further, Mr. Sharygin argued, the Petitioners had no relationship with the seller and the negotiations and transactions were all handled by Indiana-licensed real estate agents. *Sharygin testimony*.
  - b. Mr. Sharygin argues that "a property's sale price and the asking price is the best evidence of the correct assessed value." *Sharygin argument (citing Hurricane Food Inc., v. White River Twp. Assessor, 836 N.E.2d 1069 (Ind. Tax Ct. 2005); Petitioner Exhibit 3*. Because the December 2005 purchase date of the subject property is just days before the January 1, 2006, valuation date for the 2007 assessment, Mr. Sharygin argues, it is therefore probative of the property's correct assessed value. *Sharygin argument*.
  - c. The Petitioners further contend that the property is over-valued based on the purchase prices of five other properties in the area that sold between September 2005 and March 2008. *Sharygin argument*. In support of this contention, the Petitioners submitted a list of properties located in the same general area as the appealed property and MLS data sheets showing the properties' list and sale prices. *Petitioner Exhibit 1, Pages 2 and 11 through 15*. Mr. Sharygin admitted that he did not provide evidence of the comparability of those neighboring properties. *Sharygin testimony*. However, he argues, the five sales show that the purchase price of the subject property was not an anomaly. *Sharygin argument*. In addition, Mr. Sharygin argues, the five sales from 2005 and 2008 were available to the county assessor at the time of the assessment and should have been considered in determining the assessed value of the subject property. *Id.*

12. Summary of the Respondent's contentions in support of the assessment:
  - a. The Respondent contends the 2007 assessed value is correct and that Petitioner's contention that the \$17,500 purchase price represents market value-in-use is not supported by the evidence. *Eads argument*. According to the Respondent's representative, the Petitioners' purchase of the property was not an arms-length transaction because it was a foreclosure property owned by a financial institution. *Eads argument*. Further, Ms. Eads argues, a single sale does not establish the market value of a property. *Id*.
  - b. The Respondent also contends the property is properly assessed based on its income value. *Eads argument*. Under the gross rent multiplier method, a property is valued using the annual income the property produces multiplied by a calculated factor. *Id*. According to Ms. Eads, the \$605 monthly rent that the Petitioners receive for the property supports a much higher value than the purchase price. *Eads argument*. Ms. Eads admitted, however, that she did not have the information to calculate the property's value using the gross rent multiplier method. *Id*.

#### **RECORD**

13. The official record for this matter is made up of the following:
  - a. The Form 131 petition and related attachments.
  - b. The digital recording of the hearing.
  - c. Exhibits:
    - Petitioner Exhibit 1 – Copy of the Petitioners' Form 130 and attachments,
    - Petitioner Exhibit 2 – Copy of the Petitioners' Form 131 and attachments,
    - Petitioner Exhibit 3 – *Hurricane Foods Inc. v. White River Twp. Assessor*, 836 N.E. 2d 1069 (Ind. Tax Ct. 2005),
    - Petitioner Exhibit 4 – *Sharygin v. Posey County Assessor*, Indiana Board of Tax Review, Petition No. 65-018-07-1-5-00001 (2007),
    - Respondent Exhibits – None presented,
    - Board Exhibit A – Form 131 petition and its related attachments,
    - Board Exhibit B – Notice of Hearing,
    - Board Exhibit C – Hearing sign-in sheet.
  - d. These Findings and Conclusions.

#### **ANALYSIS**

14. The most applicable governing cases are:
  - a. A Petitioner seeking review of a determination of an assessing official has the burden to establish a prima facie case proving that the current assessment is incorrect, and specifically what the correct assessment would be. *See Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also, Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998).
  - b. In making its case, the taxpayer must explain how each piece of evidence is relevant to the requested assessment. *See Indianapolis Racquet Club, Inc. v. Washington Twp. Assessor*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004) (“[I]t is the taxpayer's duty to walk the Indiana Board . . . through every element of the analysis”).
  - c. Once the Petitioner establishes a prima facie case, the burden shifts to the assessing official to rebut the Petitioner's evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). The assessing official must offer evidence that impeaches or rebuts the Petitioner's case. *Id.*; *Meridian Towers*, 805 N.E.2d at 479.
15. The Petitioners established a prima facie case for a reduction in the assessed value of their property. The Board reached this decision for the following reasons:
  - a. 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 (MANUAL) (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. Indiana assessing officials generally use a mass appraisal version of the cost approach, as set forth in the REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 – VERSION A (the GUIDELINES).
  - b. 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); and *P/A Builders & Developers, LLC*, 842 N. E.2d 899 (Ind. Tax Ct. 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.

- c. Regardless of the method used to rebut an assessment's presumption of accuracy, a party to an appeal must explain how his or her evidence relates to the property's market value-in-use as of the relevant valuation date. *O'Donnell v. Dep't of Local Gov't Fin.*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006); *see also Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). For the March 1, 2007, assessment, that valuation date is January 1, 2006. 50 IAC 21-3-3.
- d. Here the Petitioners presented undisputed evidence that they purchased the subject property for \$17,500. *Sharygin testimony; Petitioner Exhibit 1*. The property had been offered on the open market for 115 days and their purchase of the property was based on negotiations between real estate agents on behalf of both the buyer and seller. *Id.* The seller listed the property for \$19,900 and accepted the Petitioners' offer of \$17,500. *Id.* The Petitioners' additional evidence shows five properties of various sizes and ages sold for similar prices, suggesting that the value of the Petitioners' property reflects a pattern in the community and is not an anomaly. *Petitioner Exhibit 1*. Moreover, the Petitioners' purchase of the subject property on December 28, 2005, falls just three days prior to the valuation date required to prove the property's 2007 value. Thus, the Petitioners raised a prima facie case that their purchase of the subject property, although from a financial institution, represented a market sale.
- e. Once the Petitioners establish a prima facie case, the Respondent's duty to support the assessment with substantial evidence is triggered. *Lacy Diversified Indus. v. Dep't of Local Gov't Fin.*, 799 N.E.1215, 1221-1222 (Ind. Tax Ct. 2003). To rebut or impeach the Petitioners' case, the Respondent has the same burden to present probative evidence that the Petitioners faced to raise their prima facie case. *Fidelity Federal Savings & Loan v. Jennings Co. Assessor*, 836 N.E.2d 1075, 1082 (Ind. Tax Ct. 2005).
- f. Here the Respondent's representative first argues that, because the subject property was a foreclosure, the sale fails to qualify as an arms-length transaction and is therefore not probative of the property's market value-in-use. *Eads argument*. Ms. Eads, however, provided no evidence to support that contention other than arguing that the property was purchased from a bank. *Id.* The mere fact that the property was purchased from a bank or other financial institution by itself is insufficient to rebut the Petitioners' evidence that they purchased their property from an unrelated entity, that the property was listed and offered for sale for a sufficient amount of time and with wide exposure to the public, and that the sale price represented the market in that neighborhood. Thus, barring probative evidence to the contrary, the Board will not assume that the bank sold its property at a price below its market value.
- g. The Respondent's representative also argued that the \$605 per month rent received by the Petitioners for the property supports a much greater value than the property's \$17,500 purchase price. *Eads argument*. While the income approach is a valid method of valuing an income-producing property, Ms. Eads presented no evidence to support her argument. In fact, Ms. Eads admitted that she did not calculate the

property's value using the income approach. She only urges that the Board infer some value from the monthly rent. This the Board cannot do. Thus, Ms. Eads' unsupported contention fails to rebut the Petitioners' evidence. *See Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1118 (Ind. Tax Ct. 1998) (statements that are unsupported by probative evidence are conclusory and of no value to the Board in making its determination).

#### CONCLUSION

16. The Petitioners raised a prima facie case that their property was over-valued for the March 1, 2007, assessment. The Respondent failed to impeach or rebut the Petitioners' evidence. The Board therefore finds in favor of the Petitioners and holds that the property's market value-in-use is \$17,500.

#### FINAL DETERMINATION

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines the assessment should be changed.

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

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Chairman,  
Indiana Board of Tax Review

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Commissioner,  
Indiana Board of Tax Review

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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>.**