

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

**Petition No.:** 52-017-09-1-5-00028  
**Petitioner:** Randy Joseph Wolfe  
**Respondent:** Miami County Assessor  
**Parcel No.:** 52-11-05-103-014.000-017  
**Assessment Year:** 2009

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 Petitioner appealed the assessment of his property for 2009 with the Miami County Property Tax Assessment Board of Appeals (the PTABOA).
2. The PTABOA issued a notice of its decision on October 7, 2010.
3. The Petitioner filed a Form 131 petition with the Board on November 16, 2010. The Petitioner elected to have his case heard according to the Board's small claims procedures.
4. The Board issued a notice of hearing to the parties dated September 7, 2012.
5. The Board held an administrative hearing on October 19, 2012, before the duly appointed Administrative Law Judge (the ALJ) Dalene McMillen.
6. The following persons were present and sworn in at hearing:
  - a. For Petitioner: Randy Wolfe, property owner  
Ronald Wolfe, Petitioner's witness
  - b. For Respondent: Sara McAuliffe, Miami County Assessor  
Brian Thomas, Respondent's witness

**Facts**

7. The property under appeal is a single-family home located at 2381 South Dwight Avenue, Peru, in Miami County.

8. The ALJ did not conduct an on-site inspection of the property under appeal.
9. For 2009, the PTABOA determined the assessed value of the property to be \$16,800 for the land and \$50,600 for the improvements, for a total assessed value of \$67,400.
10. The Petitioner requested an assessed value of \$3,000 for the land and \$26,900 for the improvements, for a total assessed value of \$29,900.

### **Issue**

11. Summary of the Petitioner's contentions in support of an alleged error in his property's assessment:
  - a. The Petitioner contends that the subject property was over-valued for 2009 based on his purchase of the property. *Randy Wolfe testimony*. Mr. Wolfe testified that the property under appeal was listed with a realtor on April 20, 2009, for \$29,800. *Id.*; *Petitioner Exhibits 1 and 5*. The listing agent and the seller chose a price that each felt reflected the market value of the property. *Id.*; *Petitioner Exhibit 1*. Mr. Wolfe purchased the property on May 11, 2009, for \$29,900. *Id.*; *Petitioner Exhibit 1*. According to Mr. Wolfe, the Miami County PTABOA acknowledged in other Board hearings that a property's listing price can show a property's assessed value is overstated. *Wolfe testimony*; *Petitioner Exhibit 1, citing Alexander Bondar Revocable v. Miami County Assessor*, Petition No. 52-016-07-1-5-00087, dated February 24, 2009.
  - b. Similarly, Mr. Wolfe contends that his property was assessed in excess of its market value-in-use based on the property's appraised value. *Wolfe testimony*. In support of this position, Mr. Wolfe submitted an appraisal report prepared by Tom Kreutzer and John M. Oldfather of John M. Oldfather Appraisals. *Petitioner Exhibit 1*. Mr. Kreutzer, is an Indiana Certified Residential Appraiser Trainee and Mr. Oldfather is an Indiana Licensed Residential Appraiser, who certified that they prepared the appraisal in conformance with the Uniform Standards of Appraisal Practices (USPAP). *Id.* In the appraisal report, Mr. Kreutzer and Mr. Oldfather estimated the value of the property to be \$30,400 as of July 9, 2009, based on a sales comparable analysis and cost approach valuation. *Id.*
  - c. Mr. Wolfe further contends the county improperly rejected his appraisal at the PTABOA hearing, because the appraiser used real estate owned (REO) sales to value the subject property.<sup>1</sup> *Wolfe testimony*. Mr. Wolfe argues that county assessors are allowed to use short sales, sheriff sales and foreclosure sales to establish the market

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<sup>1</sup> Wikipedia defines real estate owned or REO as a "class of property owned by a lender – typically a bank, government agency, or government loan insurer – after an unsuccessful sale at a foreclosure action. [en.wikipedia.org/wiki/Real\\_estate\\_owned](http://en.wikipedia.org/wiki/Real_estate_owned).

value-in-use of properties. *Id.* In support of his contention, Mr. Wolfe submitted a copy of a “Journal Gazette Metro” article, indicating that, in Allen County, residents can compare “the property and market value of homes in their neighborhoods by searching and viewing all homes sales, including short sales, sheriff’s sales and foreclosures.” *Petitioner Exhibit 8.* Mr. Wolfe argues that his appraisers used REO sales because they have a large effect on the market in the property’s area. *Wolfe testimony; Petitioner Exhibit 1.* Therefore, Mr. Wolfe concludes, the appraised value of \$30,400 accurately reflected his property’s value in 2009. *Wolfe testimony; Petitioner Exhibit 1.*

- d. Finally, Mr. Wolfe contends that the county assessor made errors on his property’s property record card. *Wolfe testimony.* According to Mr. Wolfe, the Assessor incorrectly recorded that his house had a second story with forty square feet of living area. *Wolfe testimony; Petitioner Exhibit 3.* In addition, the property record card shows 300 square feet of the basement is finished. *Id.* Mr. Wolfe contends that the basement is completely unfinished. *Id.* However, the Petitioner’s witness, Ronald Wolfe, testified that the Petitioner’s appraisal shows the Petitioner’s house has 1,120 square feet of living area and 600 square feet of finished basement. *Wolfe testimony.*

12. Summary of the Respondent’s contentions in support of the assessment:

- a. The Respondent’s witness, Mr. Thomas, argues that the property’s purchase and listing prices should be given little weight. *Thomas testimony.* According to Mr. Thomas, the International Association of Assessing Officials (IAAO) publication “IAAO Sales Verification & Foreclosure Outline,” dated February 28, 2009, states that a foreclosure is a process and not a sale. *Thomas testimony; Respondent Exhibit D.* It is a proceeding whereby the lender is either trying to gain title to a property or force a sale in order to satisfy an unpaid debt. *Id.* Mr. Thomas argues that, even though a realtor listed the subject property on the market for sale and the Petitioner purchased the property from the realtor, the sale was under duress. *Thomas testimony.* According to Mr. Thomas, the bank was not necessarily trying to sell the subject property for its market value, but was trying to regain as much money as possible in the shortest time period. *Id.*
- b. Similarly, Mr. Thomas contends that the Petitioner’s appraisal should be given little weight. *Thomas testimony.* According to Mr. Thomas, the appraisers estimated the property’s market value based on REO sales and distressed sales in the area. *Thomas testimony; Respondent Exhibit A.* But that “may or may not” be the same as the market value-in-use of the property. *Thomas testimony.* The appraisal report shows the average sales price in Miami County for the second quarter of 2008 was \$63,476, for the third quarter of 2008 it was \$65,916, for the fourth quarter of 2008 it was \$58,154, and for the first quarter of 2009 it was \$52,118. *Id.* The appraisal report also shows the average listing price for Miami County ranged from \$50,217 to \$73,352 in 2008 and 2009. *Thomas testimony; Respondent Exhibit A at 4 and 10.* Because properties in Miami County were selling for between \$50,000 and \$70,000,

Mr. Thomas argues it is “illogical” to think the Petitioner’s property is only worth \$30,400. *Thomas testimony.*

- c. Moreover, Mr. Thomas argued that several of the comparable properties listed in the Petitioner’s appraisal had earlier sales at prices that were much higher than the REO sales cited by the appraisers. *Thomas testimony.* For example, the property at 430 South Elm sold on May 7, 2008, for \$92,500 and again on December 29, 2008, for \$30,000. *Thomas testimony; Respondent Exhibit 1.* The property located at 3242 Schilling Street sold on March 6, 2008, for \$72,900. *Id.* The property sold again on December 30, 2008, for \$53,240, but the REO sale on May 20, 2009, was for \$20,000. *Id.* The property located at 3237 Schilling Street sold on January 2, 2008, for \$111,605, but the REO sale was for only \$43,050 on July 10, 2008. *Id.* The property located at 3240 Schilling Street sold on March 6, 2008, for \$72,500. *Id.* The property sold again on December 30, 2008, for \$57,200, but the REO sale on May 26, 2009, was for only \$24,000. *Id.* The property located at 3324 North Lincoln Street sold on January 22, 2008, for \$52,878, but the REO sale on November 3, 2008, was for only \$32,900. *Id.* And although outside of the relevant timeframe, 3322 North Lincoln Street sold on August 30, 2004, for \$77,925 and 3428 Westover Street sold on October 8, 2004, for \$80,000. *Thomas testimony.*
- d. Mr. Thomas also argues that the Petitioner’s appraisal is flawed because the comparable properties the appraisers used in their sales comparable analysis are located at the former Grissom Air Force Base, while the subject property is located closer to the city of Peru. *Thomas testimony.* According to Mr. Thomas, the Petitioner’s property would be part of the Peru market area, which is a rural neighborhood with some trees and fields surrounding the area. *Thomas testimony; Respondent Exhibit C.* On the other hand, the appraisers’ comparable sales are located in Bunker Hill at the former Grissom Air Force Base, which is a neighborhood of close-set “cracker box” housing. *Id.* Thus, Mr. Thomas argues, the Petitioner’s property and the appraisers’ comparable properties are located in different housing markets. *Thomas testimony.*
- e. Mr. Thomas contends that the property under appeal is correctly assessed based on the assessed values of properties located in the Petitioner’s neighborhood. *Thomas testimony.* In support of this position, the Respondent submitted assessment information for eleven properties located in the area of the Petitioner’s property. *Respondent Exhibit B.* According to the property record cards the assessed values for March 1, 2009, for properties located in the Petitioner’s neighborhood ranged from \$53,000 to \$142,000, while the Petitioner’s property was assessed for \$67,400. *Id.* Thus, Mr. Thomas concludes, the subject property is not over-valued for the area. *Id.* And, in fact, Mr. Thomas argues, the properties’ values as estimated by Zillow.com

- are very close to the properties' assessed values.<sup>2</sup> *Id.* For example, 2378 Dwight Avenue has a 2009 assessed value of \$53,000, while Zillow's current "zestimate" is \$73,348 and 2404 South Dwight Avenue had an assessed value of \$93,800, while Zillow shows it is worth \$90,588. *Respondent Exhibit B.* Similarly, 2405 Dwight Avenue was assessed for \$84,400, while Zillow shows it is worth \$76,562; 2458 South Dwight Avenue was assessed for \$107,500, while Zillow shows it has a value of \$81,877; 2465 South Dwight was assessed for \$71,400, while Zillow shows a value of \$67,052; 2480 Dwight Avenue was assessed for \$78,300, while Zillow shows a value of \$73,011; and 2374 South Faith Way Drive was assessed for \$142,000, while Zillow shows a value of \$146,187. *Id.*
- f. Moreover, Mr. Thomas contends the property's 2009 assessment was correct based on the sale of 2449 South Dwight Avenue. *Thomas testimony; Respondent Exhibit B.* According to Mr. Thomas, the neighboring property has 864 square feet of living area and sold for \$62,057 on June 15, 2009; whereas the Petitioner's house has 1,120 square feet of living area, but was assessed for only \$67,400. *Thomas testimony; Respondent Exhibit B.* Thus, Ms. Thomas concludes, the Petitioner's property is accurately assessed. *Thomas testimony.*
- g. In response to questioning, Mr. Thomas testified that the IAAO instructs assessors to use repossession sales to establish the market value-in-use of a neighborhood when the majority of sales in the neighborhood are repossession sales. *Thomas testimony.* For example, Mr. Thomas testified, because Lake County and Fort Wayne have so many housing choices available, some areas were very depressed, and those depressed sales established the market values for properties in those areas. *Id.* Since 2006, however, Mr. Thomas argues, Miami County has had more market sales than repossession or depressed sales to help establish market values in the county. *Id.*
- h. Finally, Mr. Thomas testified that, as a result of the evidence that the Petitioner submitted to the PTABOA, the PTABOA reduced the living area of the Petitioner's house from 1,720 square feet to 1,080 square feet on the first floor and forty square feet on the second floor. *Thomas testimony; Respondent Exhibit E.* Mr. Thomas admitted that the forty square feet identified as a "second floor" is labeled incorrectly and should have been included in the first floor area; however, he argues the house's total living area is correct at 1,120 square feet. *Thomas testimony.*

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<sup>2</sup> According to Mr. Thomas, the website Zillow.com takes sales information from all different jurisdictions and sources from all over the United States and comes up with the market value on a home by "pretty much throwing everything up on the wall and seeing what is sticking." *Thomas testimony.* But, he argues, "they do a pretty accurate job in finding out what is going on in the market." *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 – Letter from Randy Wolfe to the Board, dated November 15, 2010, “Specific Power of Attorney Declaration” from Randy Wolfe to Ronald Wolfe, dated November 8, 2010, page one of the Petition for Review of Assessment by Local Assessing Official – Property Tax Assessment Board of Appeals – Form 130, Notification of Final Assessment Determination – Form 115, Petitioner’s property’s 2009 property record card, letter from Randy Wolfe to the Miami County Assessor, dated September 7, 2010, Petitioner’s written testimony to the PTABOA, multiple listing sheet for the subject property, dated April 20, 2009, U.S. Department of Housing and Urban Development, settlement statement for the subject property, dated May 11, 2009, Petitioner’s original 2009 property record card for Parcel No. 52-11-05-103-014.000-017, Petitioner’s property record card for Parcel No. 52-11-05-103-019.000-017, billing invoice and uniform residential appraisal report prepared by John M. Oldfather Appraisals, dated July 16, 2009, “Definition of Market Value” from [www.agecon.purdue.edu](http://www.agecon.purdue.edu), and the Indiana Board of Tax Review Final Determination in *Alexander Bondar Revocable v. Miami County Assessor*, Petition No. 52-016-07-1-5-00087, dated February 24, 2009,<sup>3</sup>
- Petitioner Exhibit 2 – Three pages of the Petition for Review of Assessment by Local Assessing Official – Property Tax Assessment Board of Appeals – Form 130,
- Petitioner Exhibit 3 – Notification of Final Assessment Determination – Form 115, dated October 7, 2010, and Petitioner’s property’s property record card,
- Petitioner Exhibit 4 – Petition to the Indiana Board of Tax Review for Review of Assessment – Form 131,
- Petitioner Exhibit 5 – Petitioner’s written testimony to the Board, and letter from Randy Wolfe to the Board, dated November 15, 2010,

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<sup>3</sup> Petitioner Exhibit 1 was submitted to the Board with the Petitioner’s Form 131 petition filed on November 18, 2010.

- Petitioner Exhibit 6 – Letter from Randy Wolfe to the Miami County Assessor, dated November 15, 2010,
- Petitioner Exhibit 7 – “Evidence in Property Tax Appeals” information from [www.in.gov/ibtr/2420.htm](http://www.in.gov/ibtr/2420.htm),
- Petitioner Exhibit 8 – The Journal Gazette Metro article “Property assessments done” published July 7, 2012,
- Respondent Exhibit A – Petitioner’s billing invoice and uniform residential appraisal report prepared by John M. Oldfather Appraisals, dated July 16, 2010, and property record cards for 430 South Elm Street, Bunker Hill, 3331 North Lincoln Street, Peru, 3242 Schilling Street, Peru, 3237 Schilling Street, Peru, 3322 North Lincoln Street, Peru, 3240 Schilling Street, Peru, 3324 North Lincoln Street, Peru, 3428 Westover Street, Peru, and 2035 Shaw Street, Peru,
- Respondent Exhibit B – Property record cards for 2378 Dwight Avenue, 2381 South Dwight Avenue (Parcel No. 52-11-05-103-014.000-017), 2381 South Dwight Avenue (Parcel No. 52-11-05-103-019.000-017), 2404 South Dwight Avenue, 2405 Dwight Avenue, 2421 Dwight Avenue, 2432 South Dwight Avenue (Parcel No. 52-11-05-103-007.000-017), 2432 South Dwight Avenue (Parcel No. 52-11-05-103-009.000-017), 2449 South Dwight Avenue (Parcel No. 52-11-05-103-006.000-017), 2449 South Dwight Avenue (Parcel No. 52-11-05-103-008.000-017), 2458 South Dwight Avenue, 2465 South Dwight Avenue (Parcel No. 52-11-05-103-004.000-017), 2465 South Dwight Avenue (Parcel No. 52-11-05-103-016.000-017), 2480 Dwight Avenue, 2483 South Dwight Avenue, and 2374 South Faith Way Drive,<sup>4</sup>
- Respondent Exhibit C – Three aerial maps,
- Respondent Exhibit D – International Association of Assessing Officials publication “IAAO Sales Verification & Foreclosure Outline,” dated February 28, 2009,<sup>5</sup>
- Respondent Exhibit E – Petitioner’s property’s 2012 property record card,

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<sup>4</sup> Mr. Wolfe objected to the submission of Respondent Exhibit B, which are property record cards with handwritten valuation information from the Zillow website, on the grounds that the information is unreliable and irrelevant in establishing the value of a property. *Wolfe testimony*. However, Mr. Wolfe’s objection goes to the weight of the evidence rather than its admissibility. *See* 52 IAC 2-7-2.

<sup>5</sup> The Petitioner’s witness, Ronald Wolfe, objected to Respondent’s Exhibits B and D because the information was not presented at the PTABOA hearing. *Wolfe testimony*. However, Indiana Code § 6-1.1-15-4(m) specifically states that “A person participating in a hearing [before the Board] is entitled to introduce evidence that is otherwise proper and admissible without regard to whether that evidence has previously been introduced at a hearing before the county property tax assessment board of appeals.” The Petitioner’s witness’ objection was therefore over-ruled.

Board Exhibit A – Form 131 petition with attachments,  
Board Exhibit B – Notice of Hearing,  
Board Exhibit C – Hearing sign-in sheet.

d. These Findings and Conclusions.

### **Burden of Proof**

14. Generally, a taxpayer seeking review of an assessing official's determination has the burden of proving that its property's assessment is wrong and what its 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). Effective July 1, 2011, however, the Indiana General Assembly enacted Indiana Code § 6-1.1-15-17, which has since been repealed and re-enacted as Indiana Code § 6-1.1-15-17.2.<sup>6</sup> That statute shifts the burden to the assessor in cases where the assessment under appeal has increased by more than 5% over the previous year's assessment. Here because the property's assessed value did not increase more than 5% over its previous year's assessment, the Petitioner retains the burden of proof.

### **Analysis**

15. The Petitioner provided sufficient evidence to establish a prima facie case that his property was over-assessed in 2009. The Respondent rebutted the Petitioner's evidence. The Board reached this decision for the following reasons:
- a. 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). Appraisers have traditionally 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 assess real property using a mass-appraisal version of the cost approach, as set forth in the REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 – VERSION A.
  - 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); *PA Builders & Developers, LLC*, 842 N.E.2d 899 (Ind. Tax Ct. 2006). A party may rebut that presumption with

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<sup>6</sup> HEA 1009 §§ 42 and 44 (signed February 22, 2012). This was a technical correction necessitated by the fact that two different provisions had been codified under the same section number.



- 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 (USPAP) often will suffice. *Id.*; *Kooshtard Property VI*, 836 N.E.2d at 506 n.6. A party may also offer evidence of actual construction costs, sales information for the subject property or comparable properties, and any other information compiled according to generally accepted appraisal principles. MANUAL at 5.
- c. Regardless of the method used to prove a property's true tax value, 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. Dep't of Local Gov't Fin.*, 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, 2009, assessment date, the valuation date was January 1, 2008. 50 IAC 21-3-3.
- d. Here, the Petitioner contends that his property was over-valued in 2009 based on the property's purchase price and its appraised value. *Randy Wolfe testimony*. According to Mr. Wolfe, he purchased the property under appeal on May 11, 2009, for \$29,900. *Id.*; *Petitioner Exhibit 1*. The sale of a property is often the best evidence of the property's market value-in-use. *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 evidence). In this case, however, the purchase took place on May 11, 2009, which is more than sixteen months after the January 1, 2008, valuation date for the 2009 assessment year. The Petitioner made no attempt to relate the property's 2009 purchase price to the January 1, 2008, valuation date. Thus, the Board gives little weight to the Petitioner's purchase price.
- e. The Petitioner also presented an appraisal prepared by Tom Kreutzer and John Oldfather that estimated the value of the property to be \$30,400 as of July 9, 2009. *Randy Wolfe testimony*; *Petitioner Exhibit 1*. Mr. Kreutzer is an Indiana Certified Residential Appraiser Trainee and Mr. Oldfather is an Indiana Certified Residential Appraiser. *Petitioner Exhibit 1*. The appraisers certified that they prepared the property's appraisal in accordance with the Uniform Standards of Professional Appraisal Practices (USPAP). *Id.*
- f. Like the Petitioner's purchase of the property, the Petitioner's appraisal on its face is too far removed from the proper valuation date to be probative of the property's market value-in-use for 2009. However, pursuant to 50 IAC 21-3-3, local assessing officials are instructed to use sales of properties occurring between January 1, 2007, and December 31, 2008, in performing sales ratio studies for the March 1, 2009, assessment date. Because the appraisers used four 2008 sales in their sales comparable analysis and because the appraisers did not adjust any of the comparable sales for the date of the sale or listing – suggesting that the appraisers did not believe that property values changed sufficiently during that time period to warrant an

adjustment – the Board finds that the Petitioner raised a prima facie case that his property was over-assessed. *See Meridian Towers*, 805 N.E.2d at 479.

- g. Once the Petitioner raises a prima facie case that its property was over-valued, the burden shifts to the assessing official to rebut the Petitioner’s evidence. *See American United Life Insurance Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). To rebut or impeach the Petitioner’s case, the Respondent has the same burden to present probative evidence that the Petitioner faced to raise its prima facie case. *Fidelity Federal Savings & Loan v. Jennings County Assessor*, 836 N.E.2d 1075, 1082 (Ind. Tax Ct. 2005).
- h. Here, the Respondent’s witness argued that the Petitioner’s appraised value was flawed because it was based on REO sales. *Thomas testimony*. However, the Respondent’s own evidence shows that properties sold by a bank can be arms-length transactions. *See Respondent Exhibit D, pg 5*. “Lender buys and adds property to Real Estate Owned (REO)” and “Property held in the lender portfolio may then be sold on the open market as an arms-length sale to a third party.” *Id.* In fact, the IAAO paper offered by the Respondent simply cautions that “as with any other sale, it is critical that foreclosure related sales be properly verified to determine which, if any, can be used in modeling, valuation or ratio studies. The special conditions of a foreclosure related sale require that additional information be collected and reviewed in the verification process before they can be used.” *Id.* at 15. Thus, the fact that the appraiser used bank sales as comparable properties alone fails to rebut the probative value of the Petitioner’s evidence.
- i. In addition, however, the Respondent showed that for each comparable property used by the Petitioner’s appraisers in valuing the subject property, the comparable property had previously sold, often at a much higher value.<sup>7</sup> For example, while the appraisers used the December 24, 2008, bank sale for \$30,000, the property located at 430 South Elm sold on May 7, 2008, for \$92,500. Similarly, the property located at 3242 Schilling Street sold on March 6, 2008, for \$72,900 and again on December 30, 2008, for \$53,240, but the REO sale on May 20, 2009, used by the appraisers, was only for \$20,000. *Id.* Likewise, the property located at 3237 Schilling Street sold on January 2, 2008, for \$111,605, but the REO sale used by the appraisers was for only \$43,050 on July 10, 2008. *Id.* Likewise, the property located at 3240 Schilling Street sold on March 6, 2008, for \$72,500. *Id.* The property sold again on December 30, 2008, for \$57,200, but the REO sale on May 26, 2009, used by the appraisers was for only \$24,000. *Id.* And the property located at 3324 North Lincoln Street sold on January 22, 2008, for \$52,878 but the appraisers’ REO sale on November 3, 2008, was for only \$32,900. *Id.* Thus, for almost every sale or listing the appraisers used in valuing

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<sup>7</sup> The Board notes, however, that the Respondent only presented property record cards identifying the sales histories of the Petitioner’s appraisers’ comparable properties. The Respondent could have offered more reliable evidence of the properties’ histories, such as sales disclosure forms. But because the Petitioner did not challenge the sufficiency of the Respondent’s evidence, the Board finds that the property record cards provide some evidence that there were other sales of the properties that the appraisers did not consider in their valuation.

the Petitioner's property, the Respondent provided some evidence that the sale or listing did not accurately reflect the property's market value-in-use as of the relevant valuation date. Therefore the Board finds that the Respondent rebutted the Petitioner's prima facie case.

- j. Because the Respondent's sales were closer to the proper valuation date and because the sales cited by the Respondent appeared to be unrelated to any foreclosure process, and therefore more reliable indicators of the properties' market values, the Board finds that the weight of the evidence supports the Respondent's case.

### **Conclusion**

- 16. The Petitioner raised a prima facie case that his property was over-valued in 2009. The Respondent rebutted the Petitioner's case. The Board finds the weight of the evidence supports the Respondent and holds that the value of the subject property is \$67,400 for the March 1, 2009, assessment date.

### **Final Determination**

In accordance with the above findings of fact and conclusions of law, the Indiana Board of Tax Review determines that the assessed value of the Petitioner's property should not be changed for 2009.

Dated: December 28, 2012

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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 pursuant to 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 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/bills/2007/SE0287.1.html>.**