

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

**Petition #:** 48-003-06-1-4-07322  
**Petitioner:** Judith B. Talmage  
**Respondent:** Madison County Assessor  
**Parcel #:** 18 559-1-02  
**Assessment Year:** 2006

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

**Procedural History**

1. On November 26, 2007, Judith B. Talmage appealed her property’s assessment to the Madison County Property Tax Assessment Board of Appeals (“PTABOA”). The PTABOA issued its determination on May 2, 2008.
2. Ms. Talmage then timely filed a Form 131 petition with the Board. She elected to have her appeal heard according to the Board’s small claims procedures.
3. On September 9, 2008, the Board held a hearing through its Administrative Law Judge, Jennifer Bippus (“ALJ”).
4. People present and sworn in at hearing:

Judith B. Talmage

For the Assessor: Cheryl Heath, Madison County Assessor  
Lori Farris, Anderson Township Deputy Assessor

**Facts**

5. The property is an unimproved residential lot located at 1605 Lincoln Street in Anderson.
6. Neither the Board nor the ALJ inspected the property.
7. The PTABOA assessed the property at \$3,400.
8. Ms. Talmage requests an assessment of \$1,800.

## Parties' Contentions

9. Ms. Talmage offered the following evidence and arguments:
- a) The lot should be assessed at \$1,800, because that was what it was assessed for in 2005. The value has not changed. *Talmage testimony and argument.*
  - b) To support her claim, Ms. Talmage offered two photographs of her lot. *Pet'r Ex. 1, 2.* The owner of one of the cars shown in the photographs drives on Ms. Talmage's lot to get to his back yard. *Talmage testimony.*
  - c) Ms. Talmage's lot was worth more when a high school was located down the street. She does not know what she could sell the property for, but she believes that it is worth less than \$3,400. *Talmage testimony and argument.*
10. The Assessor offered the following evidence and arguments:
- a) Assessments are based on market value, and the market value of Ms. Talmage's lot is \$3,400. The Assessor applied a negative 50% influence factor to the lot's assessment, but the value increased from 2005 due to trending. *Heath testimony.*
  - b) The assessment is fair and accurate. *Farris testimony.*

## Record

11. The official record for this matter is made up of the following:
- a) The Form 131 petition
  - b) A digital recording of the hearing
  - c) Exhibits:

Petitioner Ex. 1 – Photograph of the subject property  
Petitioner Ex. 2 – Photograph of the subject property

Respondent Exhibit A: Subject property record card.

Board Exhibit A: The Form 131 petition

Board Exhibit B: Notice of hearing

Board Exhibit C: Hearing sign-in sheet

Board Exhibit D: Notice of Township Assessor as Additional Party<sup>1</sup>

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<sup>1</sup> The body of that document simply restates the County Assessor's desire to have the Anderson Township Assessor represent her. It says nothing about the Anderson Township Assessor seeking to intervene as a party. We therefore do not address whether the Anderson Township Assessor had a right to intervene as a party.

Board Exhibit E: Notice of Township Assessor Representation

- d) These Findings and Conclusions.

**Analysis**

12. The following describes the parties' respective burdens:
- a) A petitioner seeking review of an assessing official's determination must establish a prima facie case proving both that the current assessment is incorrect and specifically 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).
  - b) In making its case, the petitioner 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 276 (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 respondent to rebut the petitioner’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.
13. Ms. Talmage failed to establish a prima facie case. The Board reaches this conclusion 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 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, sales-comparison, and income approaches. *Id.* at 3, 13-15. 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.
  - b) A property’s assessment, as determined using the Guidelines, is presumed to accurately reflect its market value-in-use. *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. PA Builders & Developers, LLC*, 842 N.E.2d 899 (Ind. Tax 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. *Id.*; *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.

- c) Ms. Talmage argues that her property should be assessed \$1,800, because that was what it was assessed for in 2005. Each assessment and each tax year, however, stands alone. *Fleet Supply, Inc. v. State Bd. of Tax Comm'rs*, 747 N.E.2d 645, 650 (Ind. Tax Ct. 2001) (citing *Glass Wholesalers, Inc. v. State Bd. of Tax Comm'rs*, 568 N.E.2d 1116, 1124 (Ind. Tax Ct. 1991)). Thus, evidence as to a property's assessment in one tax year does not prove its true tax value in a different tax year. *See, Id.* That is particularly true given that, for 2006 forward, assessments must be annually adjusted to reflect changes in value between general reassessment years. *See* Ind. Code § 6-1.1-4-4.5 (requiring the Department of Local Government Finance to adopt rules for annually adjusting property values).
- d) Of course, Ms. Talmage was free to offer market-base evidence to show that her property's market value-in-use was actually less than its current \$3,400 assessment. But she failed to do that. She instead offered photographs showing what her property looked like. Those photographs do nothing to show the property's market value-in-use. In fact, Ms. Talmage admitted that she did not know what her property was actually worth.

### **Conclusion**

- 14. Because Ms. Talmage offered no evidence to show her property's market value-in-use, she failed to make a prima facie case that its assessment was wrong. The Board therefore finds for the Assessor.

### **Final Determination**

In accordance with the above findings and conclusions, the Indiana Board of Tax Review now affirms the assessment.

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

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Commissioner,  
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

- 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>>