

REPRESENTATIVE FOR PETITIONERS:

Roger Smith, *pro se*

REPRESENTATIVE FOR RESPONDENT:

F. John Rogers, Thompson & Rogers

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

Roger and Melissa Smith,)	Petition No.:	02-075-11-1-5-00027
)		
Petitioners,)	Parcel No.:	02-11-14-328-017.000-075
)		
v.)		
)		
Allen County Assessor,)	County:	Allen
)		
Respondent.)	Assessment Year:	2011

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

August 30, 2012

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. In this appeal, the Petitioners, Roger and Melissa Smith, offered a myriad of charts, graphs, and listings of properties that sold, attempting to prove that the subject property's assessed value was too high for the 2011 assessment year. But while they may have shown errors in previous years' assessments – mistakes that the Assessor subsequently corrected – they provided no evidence that conclusively proves what their property's market value-in-use was as of the relevant valuation date. The Smiths likewise did not show any specific error in the computation of their property's assessment beyond what the Assessor conceded here. The Smiths therefore failed to make a prima facie case that their property's assessment should be further reduced for 2011.

Procedural History

2. The Smiths filed a Form 130 petition with the Allen County Assessor contesting the subject property's March 1, 2011, assessment. On October 28, 2011, the Allen County Property Tax Assessment Board of Appeals ("PTABOA") issued its determination denying the Smiths the relief that they requested. The Smiths then timely filed a Form 131 petition with the Board. The Board has jurisdiction over the Smiths' appeals under Indiana Code §§ 6-1.1-1-15 and 6-1.5-4-1.
3. On June 7, 2012, the Board's administrative law judge, Joseph Stanford ("ALJ"), held a hearing on the Smiths' petition. Neither the Board nor the ALJ inspected the subject property.

Hearing Facts and Other Matters of Record

4. The following people were sworn in and testified:

For the Smiths: Roger Smith, *pro se*

For the Assessor: Ryan J. Keuneke, Chief Deputy Assessor

5. The Smiths submitted the following exhibits:¹

- Petitioners Exhibit 1: Photograph and property record card for the subject property
- Petitioners Exhibit 2: Photograph and property record card for 8810 Beacon Woods Place
- Petitioners Exhibit 3: Photographs of two properties that the Assessor used as comparable properties – both identified with the same address
- Petitioners Exhibit 4: Photograph and property record card for 8731 Willow Grove Drive
- Petitioners Exhibit 5: Photograph and property record card for 8431 Creek Side Place
- Petitioners Exhibit 6: Residential “grade” chart from the Guidelines; excerpt from the PTABOA determination; and a property record card for 8731 Willow Grove Drive
- Petitioners Exhibit 7: Property record card for the subject property
- Petitioners Exhibit 8: Property record card for 8731 Willow Grove Drive
- Petitioners Exhibit 9: Property record card for 8810 Beacon Woods Place
- Petitioners Exhibit 10: Property record card for 8431 Creek Side Place
- Petitioners Exhibit 11: Property record card for 3426 Copper Hill Run
- Petitioners Exhibit 12: Property record card for 3723 Stone Creek Run
- Petitioners Exhibit 13: The Assessor’s sales-comparison analysis offered at the PTABOA hearing
- Petitioners Exhibit 14: Email correspondence between Roger Smith and the Allen County Assessor
- Petitioners Exhibit 15: Notice of assessment; stipulation agreement; and excerpt from a 2007 appraisal of the Petitioners’ property
- Petitioners Exhibit 16: Property record card for the subject property from a prior year
- Petitioners Exhibit 17: Property record card for the subject property from 2010
- Petitioners Exhibit 18: Final occupancy permit and an email from the Assessor to Roger Smith
- Petitioners Exhibit 19: Current property record card for the subject property
- Petitioners Exhibit 20: Email from the Assessor to Roger Smith and the property record card for the subject property

¹The Assessor objected to Petitioners Exhibits 33 and 34A and Mr. Smith’s related testimony on the grounds that they were hearsay. The Board may admit hearsay. But if a party objects, the Board may not base an order solely on that evidence. See 52 IAC 2-7-3. Consequently, because the Assessor properly objected, Petitioners Exhibits 33 and 34A and Mr. Smith’s related testimony, while admitted into the record, cannot serve as the sole basis for the Board’s determination.

Petitioners Exhibit 21-22: Listing of properties built in Heather Ridge in 1979-1984 and their corresponding property record cards

Petitioners Exhibit 23: Listing of properties built in Heather Ridge in 1985 and later and their corresponding property record cards

Petitioners Exhibit 24: Property record card for 8514 Creek Side Place

Petitioners Exhibit 25: Email correspondence between the Assessor and Roger Smith and property record card for the subject property

Petitioners Exhibit 26: Multiple Listing Service (“MLS”) listing for 8731 Willow Grove Drive

Petitioners Exhibit 27-28: Property record card for 8731 Willow Grove Drive

Petitioners Exhibit 29: Property record card for 3806 Chancery Place

Petitioners Exhibit 30: Property record card for 3717 Chancery Place

Petitioners Exhibit 31: Property record card for 3911 Blythewood Place

Petitioners Exhibit 32: Property record card for 3723 Stone Creek Run

Petitioners Exhibit 33: Insurance profile for the subject property

Petitioners Exhibit 34: Photographs of the subject property

Petitioners Exhibit 34A: MLS listing for the subject property; partial property record card for the subject property; and calculation of the effect of the Assessor’s error in living area

Petitioners Exhibit 34B: Property record cards for 8731 Willow Grove Drive and 3806 Chancery Place

Petitioners Exhibit 34C: Property record card for 3911 Blythewood Place

Petitioners Exhibit 34D: Property assessment distribution curve

Petitioners Exhibit 35: Rebuttal of the Assessor’s sales-comparison analyses

Petitioners Exhibit 36: Rebuttal of the Assessor’s paired-sales analysis

Petitioners Exhibit 37-37A: Rebuttal of the Assessor’s trending analysis

6. The Assessor submitted the following exhibits:²

Respondent Exhibit R-1: Hearing notice

Respondent Exhibit R-2: Respondent’s position statement

Respondent Exhibit R-3: PTABOA Findings and Conclusions

Respondent Exhibit R-4: Property record card for the subject property

Respondent Exhibit R-5: Photograph of the subject property

Respondent Exhibit R-6: Property record card for 8810 Beacon Woods Place

Respondent Exhibit R-7: Photograph of 8810 Beacon Woods Place

Respondent Exhibit R-8: Property record card for 8431 Creek Side Place

Respondent Exhibit R-9: Photograph of 8431 Creek Side Place

Respondent Exhibit R-10: Property record card for 3426 Copper Hill Run

Respondent Exhibit R-11: Photograph of 3426 Copper Hill Run

Respondent Exhibit R-12: Property record card for 3723 Stone Creek Run

Respondent Exhibit R-13: Photograph of 3723 Stone Creek Run

² Respondent Exhibits R-3, R-9, and R-16(b) were admitted over objection.

Respondent Exhibit R-14: Property record card for 8731 Willow Grove
 Respondent Exhibit R-15: Photograph of 8731 Willow Grove
 Respondent Exhibit R-16(a): Sales-comparison analysis with adjustments derived from appraisals
 Respondent Exhibit R-16(b): Supporting documentation for the adjustments obtained from appraisals
 Respondent Exhibit R-17: Sales-comparison analysis with adjustments derived from the Guideline's cost tables
 Respondent Exhibit R-18: Residential cost tables
 Respondent Exhibit R-19: Heather Ridge paired-sales analysis
 Respondent Exhibit R-20: Heather Ridge trending analysis
 Respondent Exhibit R-22(a): Sales disclosure form for 8431 Creek Side Place
 Respondent Exhibit R-22(d): Property record card showing the subject property's assessment if the home had been moved to the "1984-and-older" market group

7. The Board recognizes the following additional items as part of the record of proceedings:
 - Board Exhibit A: Form 131 petition
 - Board Exhibit B: Hearing notice
 - Board Exhibit C: Hearing sign-in sheet
 - Board Exhibit D: Notice of Appearance for F. John Rogers

8. The subject property is a single family home located at 8820 Beacon Woods Place, in Fort Wayne, Indiana.

9. For March 1, 2011, the PTABOA determined the value of the property to be \$21,100 for the land and \$119,700 for the improvements, for a total assessed value of \$140,800.³

10. The Smiths requested an assessed value of \$21,100 for the land and \$114,300 for the improvements, for a total assessed value of \$135,400.

³ At the hearing, the Assessor submitted a property record card which indicates an assessed value of \$139,400. *Resp't Ex. R-4*. It is unclear whether the Assessor actually intended to change the assessment to that amount or is merely conceding that the assessment should be lowered. Regardless, the Assessor lacks the authority to unilaterally change a determination of the PTABOA. Therefore the assessment of record is \$140,800.

Administrative Review and the Parties' Burdens

11. Generally, 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).
12. 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”).
13. 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.

Findings of Fact

14. The Smiths' arguments and contentions related to this matter go back to 2006, when they bought the subject property. The Smiths paid \$148,000, but contend that other properties in their neighborhood sold for less than that. *Smith testimony*. And they claim that their overpayment was due to an error on the subject property's property record card. *Smith argument*. Specifically, Mr. Smith argues, the property record card at that time indicated that the property has 2,432 square feet of finished living area, but the house actually contains only 2,008 square feet. *Id., Pet'rs Ex. 16*. The Smiths claim that the erroneous figure was used to create the property's MLS listing, which resulted in an inflated listing price, and consequently an inflated purchase price and insurance premiums for the Smiths. *Smith argument; Pet'rs Exs. 33, 34A*. When the Smiths discovered the error, they appealed the subject property's March 1, 2006, assessment. *Smith testimony; Pet'rs*

Ex. 15. The property's original 2006 assessment was \$167,600 and the parties agreed to a value of \$142,500 based on an appraisal. *Id.*

15. The Smiths further contend that there is a "history of errors" relative to the subject property's assessments and the Assessor's defense of those assessments. *Smith argument.* Regarding the assessment itself, Mr. Smith argues, the property record card originally indicated that the property was constructed in 1985; while in fact it was completed and ready for occupancy on December 17, 1984. *Pet'rs Ex. 18.* As a result, Mr. Smith contends, the Assessor's application of depreciation was incorrect. *Smith argument.*
16. Moreover, the Smiths argue, the error in the construction date of their house placed the subject property in the wrong "house grouping" for trending purposes. *Smith argument.* Specifically, Mr. Smith argues, the subject property was placed in the "1985 to present" grouping rather than the "1950-1984" grouping.⁴ *See Pet'rs Ex. 20.* The Assessor, based on the evidence that the Smiths provided, agrees that the house was constructed in 1984. *Keuneke testimony.* In computing the revised assessment, however, the Assessor left the subject property in the newer market grouping, because Mr. Keuneke testified doing so resulted in a lower assessment for the property. *Id.; Resp't Ex. R-22(d).* But the Smiths maintain that the assessed value of all of the other properties in their correct market grouping decreased between 2010 and 2011, while their property's assessed value increased. *Smith argument; Pet'rs Ex. 21-23.*
17. The Smiths also contend that the Assessor's defense of their property's 2011 assessment was riddled with errors and inconsistencies. *Smith argument.* For example, Mr. Smith testified, the Assessor offered two different properties at the PTABOA hearing and identified both properties with the same address. *Pet'rs Ex. 3.* And throughout the appeal process, the Assessor has offered properties with different quality grades than the subject property – which carries a "C" grade – even though the Assessor told the Smiths

⁴ In his testimony, Mr. Smith alternately referred to the older grouping as "1979 to 1984," perhaps because the Smiths included very few properties in their analyses that were built before 1979.

that doing so was incorrect. *See Pet’rs Exs. 6-12.* Finally, the Smiths question the integrity of the appeal process as a whole, because the owners of 8514 Creek Side Place were able to get their property’s assessment reduced by \$21,000 merely by hiring a lawyer and getting an appraisal. *Pet’rs Ex. 24-25.* The Smiths suggested that the Assessor could apply an abnormal obsolescence adjustment to the subject property, as the Assessor did for the Creek Side Place property, to correct the Petitioner’s property’s assessment. *Smith argument.*

18. In addition, the Smiths offered evidence attempting to show that the subject property’s assessment was too high in 2011. Specifically, the Smiths offered data regarding five comparable properties:

<u>Address</u>	<u>Sale Price</u>	<u>Sale Date</u>	<u>Grade</u>	<u>2010 Assm’t</u>	<u>2011 Assm’t</u>
8731 Willow Grove	\$132,500	8/4/2010	C+2	\$138,400	\$137,300
3806 Chancery Place	NA	NA	C+1	\$133,200	\$132,100
3717 Chancery Place	\$135,900	10/16/2009	C	\$133,000	\$131,900
3911 Blythewood	\$139,900	3/1/2007	C+1	\$137,000	\$135,800
3723 Stone Creek	\$136,750	11/3/2010	C+1	\$126,300	\$125,300

Pet’rs Exs. 26-31. According to Mr. Smith, homes in their subdivision are generally of “cookie-cutter” construction, and are therefore fairly similar to each other. *Smith testimony.* Mr. Smith testified that the property at 8731 Willow Grove is nearly identical to the subject, but slightly smaller; the house at 3717 Chancery Place, unlike the subject, has a “bonus room” over the garage; and the house at 3911 Blythewood is over 200 square feet bigger, and also has a bonus room. *Id.* Most importantly, Mr. Smith argues, all five properties’ assessments went down from 2010 to 2011. *Id.* The Smiths contend that the subject property should be assessed on the low end of the “distribution curve,” and that the selling prices and assessments of these comparable properties support their request for a \$135,400 assessment on the subject property for 2011. *Smith argument; Pet’rs Ex. 34d.*

19. The Assessor disagrees. First, the Assessor selected five of its own comparable properties to use in two sales-comparison analyses:⁵

<u>Address</u>	<u>Sale Price</u>	<u>Sale Date</u>	<u>Year Built</u>
8810 Beacon Woods	\$155,000	7/9/2010	1985
8431 Creek Side Place	\$152,000	2/25/2011	1985
3426 Copper Hill Run	\$159,000	5/17/2010	1985
3723 Stone Creek Run	\$136,750	10/26/2010	1979
8731 Willow Grove Drive	\$132,500	7/30/2010	1979

Resp't Exs. R-6 – R-15. In the first sales-comparison analysis, the Assessor adjusted the comparable properties' sale prices for differences from the Petitioner's property using values derived from certified appraisals of five two-story houses located within two miles of the Petitioner's property. *Keuneke testimony; Resp't Ex. R-16(a).* According to the Respondent's witness, the value of the subject property using this approach would be \$151,800 for 2011. *Id.* In a second sales-comparison approach, using the same properties but deriving the adjustments from the cost tables in the 2002 Guidelines, Mr. Keuneke testified, the subject property's value would be \$155,440. *Resp't Ex. R-17.* The Assessor concedes, however, that the subject property's assessment should be lowered to \$139,400 based on the change in the year of construction from 1985 to 1984. *Keuneke testimony.*

20. The Smiths argue, however, that the Assessor's sales-comparison analysis is "inaccurate" and "constantly changing" and therefore should be given little weight. *Smith argument; See Pet'rs Ex. 35.* For example, Mr. Smith argues, on the most recent version, the subject property's depreciation changed from 13% to 14%. *Id.* The Assessor's witness indicated that the change was merely due to the correction of the property's year of construction. *Keuneke testimony.* Mr. Keuneke acknowledged that the grid is "dynamic," but, he argues, that is because it is always being improved. *Id.* Also, the Smiths contend that the property at 8431 Creek Side Place actually sold on March 3, 2011, which Mr. Smith

⁵ The properties at 3723 Stone Creek Run and 8731 Willow Grove Drive were also used by the Smiths in their analysis.

argues is outside the appropriate timeframe for the 2011 assessment. *Smith argument*. But the related sales-disclosure form indicates that the Assessor’s February 25, 2011, sale date for the property is correct. *Resp’t Ex. R-22(a)*

21. The Assessor also offered a paired-sales analysis consisting of four properties in the subject property’s subdivision which sold twice in the approximate time between the Smiths’ purchase of the subject property and March 1, 2011. *Resp’t Ex. R-19*. According to Mr. Keuneke, the purpose of the analysis is to trend the Smiths’ 2006 purchase price for the subject property to the assessment date in question. *Keuneke testimony*. The Assessor presented the following paired sales:

<u>Address</u>	<u>1st Sale Date</u>	<u>2nd Sale Date</u>	<u>% Increase per month</u>
3826 Blythewood Place	1/15/2008	2/24/2010	0.32%
4110 Coventry Lane	7/14/2006	5/27/2010	0.14%
8420 Creek Side Place	6/13/2008	2/23/2011	-0.002%
8810 Beacon Woods Place	1/21/2005	7/9/2010	0.14%

Resp’t Ex. R-19. From these sales, the Assessor determined that the value of the subject property would have increased 0.15% per month, or 8.38% from the Smiths’ purchase date of June 8, 2006, to March 1, 2011, resulting in a value of \$160,400 for the property in 2011. *Id.*

22. The Smiths accuse the Assessor of “cherry-picking” sales to make its case, and offered their own paired-sales analysis in rebuttal. *Smith argument; Pet’rs Ex. 36*. Based on the Smiths’ sales, there was only a 2.53% change from June 2006 to March 1, 2011. *Id.* Moreover, rather than starting from their \$148,000 purchase price, the Smiths started with a value of \$128,669 – the average sale price they computed for their neighborhood in 2006. *Id.* According to Mr. Smith, the subject property’s value in 2011 using this approach is only \$131,924. *Id.*

23. The Assessor argues, however, that the Petitioners did not actually select four entirely different properties. *Keuneke argument*. They merely replaced the property at 3826 Blythewood Place with a property located at 3915 Stone Creek Run. *Id.* Moreover, the property located at 3915 Stone Creek Run sold in 2002, which Mr. Keuneke argues is too early to be relevant. *Id.* In addition, the Assessor argues, there is no basis for the Smiths' \$128,669 "starting point." *Id.*
24. Finally, the Assessor submitted listings of sales in the subject property's neighborhood, grouped by year, that it claims also proves that property values are increasing in the area. *Resp't Exs. R-20(a), R-20(b)*. And from that data, the Assessor computed two more values for the Petitioner's property – one using the average change from 2006 to 2010, and another using the median change. *Id.* The average change in that time period was 7.17%, resulting in a value of \$158,600. *Id.* The median change was 8.79%, resulting in a value of \$161,000. *Id.*
25. But the Smiths contend that the Assessor's evidence merely proves that less expensive homes sold in 2006 than in 2010. *Smith argument*. To illustrate his point, Mr. Smith offered a chart showing that 75% of the homes that sold in 2006 lacked a basement; whereas only 36% of the properties that sold in 2010 lacked a basement. *Pet'rs Ex. 37*. Similarly, in 2006, only 43% of the houses that sold were two-story homes, but in 2010, 82% of the properties that sold were two-story homes. *Id.* Thus, the Smiths argue that the Assessor derived its trending adjustment from "non-equivalent data." *Pet'rs Ex. 37A*.

Discussion

26. Indiana assesses real property based on its true tax value, which the 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). A party's evidence in a tax appeal must be consistent with that standard. *See id.* For example, a market-value-in-use appraisal prepared according to Uniform Standards of Professional

Appraisal Practice (“USPAP”) often will be probative. *See id.*; *Kooshtard Property VI, LLC v. White River Twp. Assessor*, 836 N.E.2d 501, 506 n.6 (Ind. Tax Ct. 2005). A party 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 principles. MANUAL at 5.

27. Here, the bulk of the Smiths’ evidence is clearly intended to discredit the Assessor’s accuracy, methodology, and defense of the subject property’s current and previous assessments. As just one example, the Smiths point to the Assessor’s inclusion of two different properties as comparable properties with the same address identified for both. Because the Board’s proceedings are *de novo*, however, the effectiveness of the Assessor’s case at the hearing below is of no significance. *See* Ind. Code § 6-1.1-15-4(m). Similarly, errors in previous years’ assessments have little bearing on the present appeal. Each assessment and tax year 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)).
28. The Smiths also question, albeit in mostly general terms, the Assessor’s methodology of determining their property’s assessment. The Smiths, for example, argue that the Assessor put the subject property in the wrong “house grouping” for trending purposes, and also touched on the property’s grade and abnormal obsolescence percentage as they relate to certain other properties. A taxpayer, however, does not rebut the presumption that an assessment is correct simply by contesting the assessor’s methodology in computing the assessment. *See Eckerling v. Wayne Twp. Assessor*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006). Instead, the taxpayer must use market-based evidence to show that the assessor’s methodology yielded an assessment that does not accurately reflect the assessed property’s market value in-use. *Id.*
29. And the Smiths provided some market-based evidence in an attempt to disprove the accuracy of subject property’s assessment – and in the process, prove what the correct

assessment of their property is. Specifically, they offered market and assessment data from five purportedly comparable properties. The Smiths' requested assessment of \$135,400 appears to be loosely based on the average of the sale prices and assessments of the five properties they chose to compare with the subject property. In making this argument, the Smiths essentially rely on a sales comparison approach to establish the market value-in-use of their property. See MANUAL at 3 (stating that the sales comparison approach "estimates the total value of the property directly by comparing it to similar, or comparable, properties that have sold in the market."). In order to effectively use the sales comparison approach as evidence in a property assessment appeal, however, the proponent must establish the comparability of the properties being examined. *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 470 (Ind. Tax Ct. 2005). Conclusory statements that a property is "similar" or "comparable" to another property do not constitute probative evidence of the comparability of the properties. *Id.* Instead, the proponent must identify the characteristics of the subject property and explain how those characteristics compare to the characteristics of the purportedly comparable properties. *Id.* at 471. Similarly, the proponent must explain how any differences between the properties affect their relative market values-in-use. *Id.* The Smiths' evidence lacks any of that type of analysis.

30. Interestingly, the Smiths were quick to recognize that deficiency in portions of the Assessor's evidence. Specifically, the Smiths argued that the Assessor's trending analysis – which simply groups properties by the year they sold and computes an average sale price for each year – proves little more than that cheaper properties may have sold in 2006 than in 2010. The Smiths attempt at a sales-comparison analysis suffers from much the same problem: absent any meaningful comparison of the properties, the Smiths' may have simply selected cheaper properties to compare to their property. Further, the Smiths' contention that other properties in their neighborhood have not sold for as much as theirs is demonstrably wrong because the Assessor offered evidence of several properties that sold for over \$155,000.

31. Additionally, the Smiths compared their property's assessment to other assessments in the area, and even questioned the integrity of the appeal process based on the results of another property's appeal. The Board infers this to be a claim that assessments in the property's neighborhood are not uniform and equal. But the Smiths' evidence does not suffice to make a prima facie case for either claim. The Indiana Tax Court has held that it is not enough for a taxpayer to show that its property is assessed higher than other comparable properties. Instead, the taxpayer must present probative evidence to show that its property's assessed value does not accurately reflect the property's market value-in-use. *Westfield Golf Practice Center, LLC v. Washington Twp. Assessor*, 859 N.E.2d 396 (Ind. Tax Ct. 2007).
32. Related to that point, the Board finds nothing improper with the Assessor's lowering of the assessed value for the property located at 8514 Creek Side Place. Based on the Smiths' own characterization of that case, the property's owner simply offered probative market-based evidence—an appraisal—and the Assessor lowered the assessment based on that evidence. In fact, the Board finds no difference between that case and the Smiths' own 2006 appeal. As the Smiths' evidence shows, they filed an appeal, offered an appraisal as evidence, and the Assessor consequently agreed to lower the Smiths' assessment—by over \$25,000. And the Smiths noted nothing improper regarding their own case.
33. It is undisputed that the Smiths bought the subject property for \$148,000 in June 2006. It is also undisputed that the property appraised for \$142,500 at roughly the same time. Even if the Board were to consider the lower appraised value to be the property's June 2006 value, all of the analyses on the record that were used to trend that value—including the paired-sales analysis offered by the Smiths—suggest that the subject property's value increased between June of 2006 and March 1, 2011. The resulting March 1, 2011, assessment computation, no matter which trending evidence the Board would use, is

therefore higher than the Assessor has conceded to.⁶ Thus, while the evidence suggests that the subject property's assessment should be increased from \$140,800 for 2011, the Board declines to do so in light of the Assessor's concession that the assessment should be \$139,400. The Board accepts that concession as the new assessment of record for the March 1, 2011, assessment date.

SUMMARY OF FINAL DETERMINATION

34. The Smiths failed to make a prima facie case that their property was over-valued in 2011. The Board, however, accepts the Assessor's concession that the assessment should be reduced to \$139,400.

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

⁶ Of course, the Smiths' paired-sales analysis yielded a value of \$131,924, which is lower than the Assessor's concession. But the Smiths based their analysis on a value of \$128,669 for their property in June of 2006 – which bears no relationship to either their purchase price or their appraisal, and lacks probative value for the same reasons as their sales-comparison analysis.

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>>.