

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

**Petition No.:** 48-003-17-1-5-00507-18  
**Petitioner:** 6 Doors Down LLC  
**Respondent:** Madison County Assessor  
**Parcel No.:** 48-12-07-304-108.000-003  
**Assessment Year:** 2017

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

**Procedural History**

1. 6 Doors Down LLC filed a Form 130 with the Madison County Property Tax Assessment Board of Appeals (“PTABOA”). The PTABOA issued a notice of its determination valuing the property as follows:

Year	Land	Improvements	Total
2017	\$8,000	\$67,000	\$75,000

2. 6 Doors Down filed a Form 131 petition with the Board, electing to have its appeal heard under the Board’s small claims procedures. The Assessor did not elect to remove the matter from small claims.
3. On March 21, 2019, our designated Administrative Law Judge, Timothy Schuster (“ALJ”), held a hearing. Neither he nor the Board inspected the property. Russell Gower, a certified tax representative, represented 6 Doors Down and testified under oath. Ayn Engle, an attorney, represented the Assessor. Larry Perry, a level III assessor-appraiser, testified under oath for the Assessor.

**Record**

4. The following exhibits were submitted<sup>1</sup>:

Petitioner’s Exhibit 1:	Form 131,
Petitioner’s Exhibit 2:	Subject property listing from Estatelly.com,
Petitioner’s Exhibit 3:	Subject property listing from Redfin.com,
Petitioner’s Exhibit 4:	Contact information for listing agent,

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<sup>1</sup> The Assessor did not offer exhibits A-E, H, I, or K.

Petitioner’s Exhibit 5:	Purchase agreement,
Petitioner’s Exhibit 6:	Sales disclosure form, purchase #1,
Petitioner’s Exhibit 7:	Sales disclosure form, purchase #2,
Petitioner’s Exhibit 8:	Repairs invoice dated 4/11/18,
Petitioner’s Exhibit 9:	Change of address email.
Respondent’s Exhibit F:	Sales disclosure forms for purchases #1 and #2,
Respondent’s Exhibit G:	6 Doors Down Indiana corporate filings,
Respondent’s Exhibit J:	Perry’s valuation analysis,
Respondent’s Exhibit L:	Rollins Rentals & Rehab Indiana corporate filings,
Respondent’s Exhibit M:	Miscellaneous corporate filings for businesses sharing the 3519 Southeastern Ave. address,
Respondent’s Exhibit N:	2017 Redfin listing for subject property,
Respondent’s Exhibit O:	Emails between Larry Perry and Russ Gower,
Respondent’s Exhibit P:	Definitions from the Indiana Department of Local Government Finance (“DLGF”) and Black’s Law Dictionary,
Respondent’s Exhibit Q:	Screenshot excerpts from Everybody Wins LLC and Rollins Rentals & Rehab,
Respondent’s Exhibit R:	Photographs of 3519 Southeastern Ave.

5. The record also includes the following: (1) all petitions, motions, briefs, and documents filed in these appeals, (2) all orders and notices issued by the Board or our ALJ, and (3) a digital recording of the hearing.

### **Objections**

6. The Assessor objected to Petitioner’s Exs. 2, 4, 5, and 8 because they were not exchanged. The Assessor argued that because 6 Doors Down requested the Assessor’s evidence, it was required to exchange its own evidence under 52 IAC 3-1-5(d). 6 Doors Down argued that it only requested the Assessor’s evidence, not an evidence exchange. The small claims rules are intended to make hearings “expeditious and just.” 52 IAC 3-1-5(a)(1). The Assessor failed to make a request as allowed by our rules, and we will not penalize 6 Doors Down for the Assessor’s inaction. Thus, the Assessor’s objection is overruled.

### **Contentions**

7. Summary of the Petitioner’s case:
  - a. The subject property is a multi-unit rental property located at 903 Walnut Street in Anderson. The property sold twice on February 17, 2017. The first sale was for \$40,000 to Everybody Wins, LLC. 6 Doors Down then purchased the property from Everybody Wins for \$65,000. 6 Doors Down renovated the property extensively after purchase. *Gower testimony; Pet’r. Exs. 5-7.*

- b. 6 Doors Down argued that the first sale of the subject property represents its true tax value because it was an arms-length transaction. In support of this, Russell Gower testified that the property was listed by a realtor. He acknowledged that Everybody Wins, LLC was the property manager for the previous owner, but argued that the sale was still a good representation of value because the buyer and seller were both informed actors. *Gower testimony; Pet'r. Exs. 6-8.*
  - c. For the second sale, 6 Doors Down argued that it does not represent the true tax value because 6 Doors Down was unaware of the poor condition of the property prior to purchase. It did not have the property appraised or inspected but instead relied on the word of an "acquaintance" associated with Everybody Wins, LLC with whom it had a business relationship. 6 Doors Down subsequently terminated this relationship. *Gower testimony; Pet'r. Exs. 6-8.*
8. Summary of the Respondent's case:
- a. The Assessor argued that neither sale represented the property's true tax value because the sales involved related parties. For the first sale, Larry Perry testified that Everybody Wins, LLC was the property manager for the seller. He speculated that the sale could have involved additional consideration beyond the purchase price. For the second sale, the Assessor pointed to the business relationship between the buyer and seller. Perry also noted that neither sale was valid for trending. *Perry testimony; Resp't. Exs. G, L, M, Q; Pet'r. Ex. 7.*
  - b. Perry also created a "valuation analysis" for the subject property using four properties nearby. He admitted that he did not make any adjustments for differences in the properties. Perry used the average sale price per unit to arrive at a value of \$84,800 for the property. He then subtracted the costs to cure using the invoice provided by 6 Doors Down's representative. Perry's conclusion of value was \$71,300. *Perry testimony; Resp't. Ex. J.*

### **Burden of Proof**

9. Generally, a taxpayer seeking review of an assessment must prove the assessment is wrong and what the correct value should be. Indiana Code § 6-1.1-15-17.2 creates an exception to the general rule and assigns the burden of proof to the assessor where (1) the assessment under appeal represents an increase of more than 5% over the prior year's assessment for the same property, or (2) the taxpayer successfully appealed the prior year's assessment, and the current assessment represents an increase over what was determined in the appeal, regardless of the level of that increase. I.C. § 6-1.1-15-17.2(a), (b) and (d). If an assessor has the burden and fails to prove the assessment is correct, it reverts to the previous year's level (as last corrected by an assessing official, stipulated to, or determined by a reviewing authority) or to another amount shown by probative evidence. I.C. § 6-1.1-15-17.2(b). Here, 6 Doors Down conceded the burden of proof did not shift. We agree and find the burden of proof rests with 6 Doors Down. *Gower testimony.*

## Analysis

10. Indiana assesses real property based on “true tax value.” The Department of Local Government Finance (“DLGF”) defines true tax value as “market value-in-use,” which it in turn defines as “[t]he market value-in-use of a property for its current use, as reflected by the utility received by the owner or by a similar user, from the property.” I.C. § 6-1.1-31-6(c); 2011 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 Ind. Admin. Code 2.4-1-2). Parties may offer evidence that is consistent with the DLGF’s definition of true tax value. A market-value-in-use appraisal prepared according to the Uniform Standards of Professional Appraisal Practice often will be probative. *Eckerling v. Wayne Twp. Ass’r*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006). Parties may also offer actual construction costs, sales information for the property under appeal, sales or assessment information for comparable properties, and any other information compiled according to generally acceptable appraisal principles. *Id.*; see also I.C. § 6-1.1-15-18 (allowing parties to offer evidence of comparable properties’ assessments in property-tax appeals). Regardless of the valuation method used, a party must explain how its evidence relates to the property’s market value-in-use as of the relevant valuation date. *Long v. Wayne Twp. Ass’r*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). Otherwise, the evidence lacks probative value. *Id.* The valuation date for 2017 assessment was January 1, 2017. I.C. § 6-1.1-2-1.5.
11. 6 Doors Down argued that the first sale for \$40,000 represented the only reliable evidence of value for the subject property. It pointed to several facts in support of this, including that it was listed for sale with a realtor and both the buyer and seller were informed about the condition of the property. The Assessor argued the sale was not probative because the buyer, Everybody Wins, LLC, was the property manager for the original seller and the sale could have included additional consideration beyond the purchase price. This sale was clearly atypical. It involved two parties who had a prior business relationship. It also immediately resold to a third party for \$25,000 more, which was presumably negotiated prior to the first sale. Taken as a whole, these facts are sufficient to render the first sale unreliable absent more evidence to the contrary.
12. The second sale is even more problematic. Both parties argued that it was unreliable and there is no indication that it was marketed at all prior to sale. For these reasons, we find 6 Doors Down failed to make prima facie case. Although we are skeptical of Perry’s analysis, the Assessor admitted that the subject property is worth no more than Perry’s conclusion of \$71,300. Thus, the assessment must be reduced to that amount.

## FINAL DETERMINATION

In accordance with the above findings of fact and conclusions of law, we order the 2017 assessment reduced to \$71,300.

ISSUED: June 18, 2019

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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

**- APPEAL RIGHTS -**

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5 and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required not later than forty-five (45) days after the date of this notice. The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>. The Indiana Tax Court's rules are available at <<http://www.in.gov/judiciary/rules/tax/index.html>>.