

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

**Petition No.:** 41-026-02-1-5-00178  
**Petitioner:** Gene E. Trueblood  
**Respondent:** Pleasant Township Assessor (Johnson County)  
**Parcel No.:** 2100330301700  
**Assessment Year:** 2002

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 initiated an assessment appeal with the Johnson County Property Tax Assessment Board of Appeals (PTABOA) by written document dated June 6, 2003.
2. The PTABOA’s Notification of Final Assessment Determination was mailed to the Petitioner on November 5, 2003.
3. The Petitioner filed an appeal to the Board by filing a Form 131 with the county assessor on December 3, 2003. Petitioner elected to have this case heard in small claims.
4. The Board issued a notice of hearing to the parties dated December 24, 2003.
5. The Board held an administrative hearing on March 9, 2004, before the duly appointed Administrative Law Judge (ALJ) Alyson Kunack.
6. Persons present and sworn in at hearing:
  - a) For Petitioner: Gene E. Trueblood, property owner
  - b) For Respondent: Mark Alexander, Johnson County PTABOA

**Facts**

7. The property is classified as residential, as is shown on the property record card (PRC) for parcel 2100330301700.

8. The ALJ did not conduct an on-site inspection of the subject property.
9. Assessed Values of subject property as determined by the Johnson County PTABOA are: Land \$10,700, Improvements \$190,300.
10. Assessed Values requested by Petitioner are: Land \$10,700, Improvements \$159,700.

### **Issue**

11. Summary of Petitioner's contentions in support of alleged error in assessment:
  - a) The assessed value of the subject property should be between \$170,400 and \$180,800.
  - b) The subject property purchased on February 7, 2002 for \$182,000, less a \$1,200 repair credit, is evidence of value for the assessment date as of March 1, 2002. This purchase was an arms-length transaction. The assessed value should not exceed the purchase price.
  - c) In addition, the "net sales price" should be further discounted at a rate of 2% per annum from February 7, 2002 back to January 1, 1999 (\$170,400).
12. Summary of Respondent's contentions in support of alleged error in assessment:
  - a) The Petitioner did not appear before the PTABOA.
  - b) The assessment is correct as is. The 2002 assessment is statutorily based on data collected during the study range from 1998 to 1999 and therefore, the Petitioner's 2002 sale data (Closing Statement) has no bearing on the assessment since it is outside that study range.
  - c) The sale data introduced represented market conditions that were post 1998/1999-study period and had no influence on the PTABOA to make a change.
  - d) The PTABOA felt that if current market conditions were to be considered, Legislature would have included that consideration in the statutes.
  - e) The Petitioner also made assumptions regarding a factor adjustment for time. The PTABOA considered this factor but deemed it irrelevant due to instructions the assessors received to estimate the value-in-use of property effective January 1, 1999.

### **Record**

13. The official record for this matter is made up of the following:
  - a) The Petition, and all subsequent pre-hearing, and post-hearing submissions by either party.
  - b) The tape recording of the hearing labeled BTR #5546.
  - c) Exhibits:  
Board Exhibit A - Form 131 petition, Form 130 petition, Form 115 and Settlement Statement

Board Exhibit B - Notice of Hearing on Petition

d) These Findings and Conclusions.

**Analysis**

14. The most applicable governing cases are:

- a) *Heart City Chrysler v. State Board of Tax Commissioners*, 714 N.E. 2d 329 (Ind. Tax 1999): “The petitioner must sufficiently explain the connection between the evidence and petitioner’s assertion in order for it to be considered material to the facts. Conclusory statements are of no value to the State in its evaluation of the evidence.”
- b) *State Board of Tax Commissioners v. Indianapolis Racquet Club, Inc.* 743 N.E. 2d 247, 253 (Ind. 2001), and *Blackbird Farms Apartment, LP v. Department of Local Government Finance*, 765 N.E. 2d 711 (Ind. Tax 2002): “The Petitioner must do two things: (1) prove the assessment is incorrect; and (2) prove that the specific assessment he seeks, is correct. In addition to demonstrating that the assessment is invalid, the petitioner also bears the burden of presenting sufficient probative evidence to show what assessment is correct.”
- c) Real Property Assessment Manual – Market Value defined  
The most probable price (in terms of money) which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:
  - The buyer and seller are typically motivated;
  - Both parties are well informed or advised and act in what they consider their best interests;
  - A reasonable time is allowed for exposure in the open market;
  - Payment is made in terms of cash or in terms of financial arrangements comparable thereto;
  - The price is unaffected by special financing or concessions.
- d) Real Property Assessment Manual - True Tax Value defined  
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, less that portion of use value representing subsistence housing for its owner.

- e) Real property Assessment Manual – Valuation Date defined  
The date as of which a property’s value is estimated. The date as of which the **true tax value** of the property is estimated. In the case of the 2002 general reassessment, this would be January 1, 1999.

15. The Petitioner did provide sufficient evidence to support the Petitioners’ contentions. This conclusion was arrived at because:

- a) As defined in the 2002 Real Property Assessment Manual, True Tax Value (which is equivalent to the Assessed Value) is “the market value in use of a property for its current use.” Therefore, market value data indicating an arms-length transaction is substantial evidence of the Assessed Value.
- b) The Petitioner’s Settlement Statement for the purchase of the subject property on February 7, 2002 (submitted as part of Board Exhibit A), shows a transaction for the subject property of \$182,000, including a \$1,200 repair credit.
- c) The Respondent did not rebut or submit evidence as to why the Petitioner’s Settlement Statement was not representative of an arms length transaction and thus should be discounted or given less weight than might be reasonably inferred.
- d) The Respondent’s contention that the 2002 assessment is statutorily based on data collected from 1998 to 1999 and thus the Petitioner’s sales data has no bearing is conclusory when no additional evidence is submitted to support such statements. Conclusory statements do not constitute probative evidence. *Whitley Products, Inc. v. State Board of Tax Commissioners*, 704 N.E. 2d 1119 (Ind. Tax 1998).
- e) In the absence of any other evidence to the contrary, the sale data provided by the Petitioner is found to be of sufficient weight to warrant a change in the assessment. However, the Board will not accept the Petitioner’s net sales price discount of 2% per annum to reduce the sales price from \$182,000, as shown on the Form 131 petition, to the Petitioner’s figure of \$170,400. The Petitioner failed to provide any documentation to show how the 2% per annum was determined. As stated in ¶14a and b, the Petitioner must “explain the connection between the evidence and the petitioner’s assertions in order for it to be considered material to the facts.” The Petitioner must also show that the assessment it seeks is correct. Conclusory statements do not constitute probative evidence. *Whitley*, 704 N.E. 2d 1119.

### **Conclusion**

16. The Petitioner made a prima facie case. The Respondent failed to rebut the Petitioner’s evidence. The Board finds in favor of Petitioner, and a change to the assessed value is made. It is determined that the subject property be valued at the contract sales price of \$182,000.

## Final Determination

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

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

\_\_\_\_\_  
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. The action shall be taken to the Indiana Tax Court under Indiana Code § 4-21.5-5. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice.**