

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

**Petition No.:** 06-019-06-1-5-00674  
**Petitioners:** Farshad Mirzadeh and Arezoo Farhadi  
**Respondent:** Boone County Assessor  
**Parcel No.:** 019-49920-32  
**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 December 16, 2007, the Petitioners appealed the subject property’s March 1, 2006, assessment. On March 6, 2008, the Boone County Property Tax Assessment Board of Appeals (“PTABOA”) issued its written determination upholding the property’s assessment.
2. The Petitioners filed a Form 131 petition with the Board on March 28, 2008. They elected to have their appeal heard according to the Board’s small claims procedures.
3. The Board issued a notice of hearing to the parties dated September 23, 2008.
4. The Board held an administrative hearing on October 28, 2008, before its duly appointed Administrative Law Judge, Dalene McMillen (“ALJ”).
5. The following people were present and sworn in at the hearing:
  - a. For Petitioners: Farshad Mirzadeh, Owner
  - b. For Respondent: Lisa C. Garoffolo, Boone County Assessor  
Jeffrey B. Wolfe, PTABOA President

## Facts

6. The subject property contains a single-family home located at 4141 Huntsman Drive in Zionsville.
7. The ALJ did not inspect the property.
8. The PTABOA determined the subject property's March 1, 2006, assessment to be \$318,700—\$47,500 for the land and \$271,200 for the improvements.
9. The Petitioners request a total assessment of \$301,000.<sup>1</sup>

## Contentions

10. Summary of Petitioners' contentions:
  - a. The Petitioners mainly contend that the Respondent used inaccurate measurements to assess the subject property. If one applies accurate measurements to the average per-square-foot sale price for comparable homes, the subject property should be assessed for no more than \$301,000. *Mirzadeh testimony*.
  - b. The subject property's record card lists the combined area for the home's first and second floors as 3,075 square feet (1,659 square feet on the first floor and 1,416 square feet on the second floor). *Pet'r Ex. G; Mirzadeh testimony*. The builder's floor plans, by contrast, show 1,600 square feet on the first floor and 1,254 square feet on the second floor, for a total of 2,854 square feet of living area. *Mirzadeh testimony; Pet'r Exs. F, G*. The basement has one finished room, but it lacks both windows and an exterior door. The Petitioners therefore did not include that room in the home's living space. *Id.*
  - c. Mr. Mirzadeh did not know whether the builder's plans reflected interior or exterior measurements. *Mirzadeh testimony*. But the difference between interior and exterior measurements would not explain the more than 200-square-foot gap between the builder's measurements and the Respondent's measurements. *Id.* The space between the home's studs and its exterior walls is only about four inches. *Id.*
  - d. The Petitioners offered several comparative market analyses of home sales from their subdivision, Brittany Chase. *Mirzadeh testimony; Pet'r Exs. A-E*. Those analyses looked at different time periods from 2004 to 2007. *Id.*

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<sup>1</sup> On their Form 131 petition, the Petitioners requested an assessment of \$291,100—\$47,500 for the land and \$243,600 for the improvements.

Some included all sales within Brittany Chase while others looked at only certain subsets of sales. *Id.*; *see also Pet'r Ex. G.* In the Petitioners' view, the fourth and fifth analyses were the most relevant. The fourth analysis looked at sales of homes that were the most similar to the subject home: two-level homes with two bedrooms and basements that were no more than 25% finished. *Mirzadeh testimony; Pet'r Exs. D, G.* Those sales, which occurred from 2006 to 2007, averaged \$106 per square foot. *Id.* The fifth analysis included only active listings from January 1, 2007, to December 16, 2007. *Mirzadeh testimony; Pet'r Exs. E, G.* Those homes listed for an average of \$107 per square foot. *Id.* Given that Brittany Chase homes had been selling for between 95.5% and 95.9% of their asking prices, that average list price translated to an average sale price of \$102 per square foot. *Mirzadeh testimony; Pet'r Ex. G.* Multiplying \$106-per-square-foot price from the fourth analysis by the builder's dimensions (2,854 square feet) yields a value of \$302,500. *Id.* If the average extrapolated sale price from the fifth analysis is used, the value drops to \$291,000. *Id.*

- e. The Petitioners' own purchase of the subject property supports an assessment in that range. They bought the property for \$301,000 in June 2006. *Pet'r Ex. G; Mirzadeh testimony.*
- f. Alternatively, the Petitioners contend that the Eagle Township Assessor relied on flawed data to compute the neighborhood factor that he used to assess Brittany Chase homes. *Mirzadeh testimony; Pet'r Ex. G.* Because of lawsuits alleging construction defects and mold problems, Brittany Chase's developer, Trinity Homes, bought back many of the subdivision's homes at above-market prices. *Pet'r Ex. G.* By including those sales in his computations, the assessor came up with an inflated neighborhood factor. *Id.*
- g. Also, Brittany Chase's 1.27 neighborhood factor is out of line with the factors for surrounding neighborhoods that are more desirable. For example, Austin Oaks and Cobblestone Lakes are nicer neighborhoods than Brittany Chase, with larger and better-constructed houses, larger lots, and higher sale prices. Yet those two subdivisions have neighborhood factors of 1.11 and 1.14, respectively. *Id.*

- h. Spring Knoll, by contrast, contains homes that are similar to Brittany Chase, but its neighborhood factor is only .98.<sup>2</sup>

11. Summary of Respondent's contentions:

- a. The Respondent spent a lot of time working on Brittany Chase assessments. *Garoffolo testimony*. The county followed Indiana law by using 2004 and 2005 sales to determine the March 1, 2006, assessments for Brittany Chase's homes. According to that data, which did not include homes that Trinity had repurchased because of mold problems or construction defects, larger homes in Brittany Chase sold for about \$106 per square foot. *Garoffolo and Wolfe testimony*. The subject property was assessed for only \$103.64 per square foot. *Wolfe testimony*.
- b. The difference between the measurements on the subject property's record card and those in the builder's plans may stem from the fact that builders typically measure stud-to-stud along the interior. *Wolfe testimony*.
- c. Because of various questions about Brittany Chase assessments, the Respondent re-evaluated quality grades to ensure that all properties were being treated fairly and equitably. *Garoffolo testimony*. Brittany Chase is a "very uniform" neighborhood, and the county wanted its assessments to reflect a very uniform process. *Wolfe testimony*. Between 10% and 20% of the Brittany Chase's homes were custom built, and they were all graded from "B" to "B-". The other homes were graded from "C++" to "C+". *Garoffolo testimony*.
- d. Finally, the Petitioners misunderstand what a neighborhood factor is. A neighborhood factor does not measure how nice a neighborhood is; it instead acts as an "evening agent" based on the difference between assessments and sales. *Garoffolo testimony*.

### **Record**

12. The official record for this matter is made up of the following:

- a. The Form 131 petition and attachments.

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<sup>2</sup> Mr. Mirzadeh also explained that the Petitioners bought the subject property too late to claim it as a homestead, which led to a higher tax bill for the 2006 assessment. *See Mirzadeh testimony*. The Petitioners, however, did not claim that they had impermissibly been denied a homestead credit. The Board therefore need not decide whether it would have jurisdiction to hear such a claim. It notes that those claims are not listed in Ind. Code § 6-1.5-4-1, which lists the categories of appeals that the Board must address. *See also*, P.L. 256-2003 § 31 (amending I.C. § 6-1.5-4-1(a) to exclude "property tax credits" from the list describing the categories of appeals that the Board must review).

b. The digital recording of the hearing.

c. Exhibits:

- Petitioner Exhibit A – Comparative Market Analysis (“CMA”) of twelve Brittany Chase sales from 2004 and 2005,
- Petitioner Exhibit B-1 – CMA of 23 Brittany Chase sales from 2006 and 2007,
- Petitioner Exhibit B-2 – CMA of 18 Brittany Chase sales from 2006 and 2007,
- Petitioner Exhibit C-1 – CMA of 23 Brittany Chase sales from 2006 and 2007,
- Petitioner Exhibit C-2 – CMA of 7 Brittany Chase sales from 2006 and 2007,
- Petitioner Exhibit D – CMA of 9 Brittany Chase sales from 2006 and 2007,
- Petitioner Exhibit E – CMA of 8 Brittany Chase listings from 2007,
- Petitioner Exhibit F – Floor plans for the subject house,
- Petitioner Exhibit G – “Addendum to Property Tax Appeal of Farshad M. Mirzadeh and Arezoo Farhadi” (“Addendum to Appeal”),
  
- Respondent Exhibit 1 – 2002 reassessment property information sheet for 4141 Huntsman Drive, dated June 9, 2002,
- Respondent Exhibit 2 – Exterior photograph of the Petitioners’ house,
- Respondent Exhibit 3 – “Boone County Appeal Worksheet”; Addendum to Appeal; copies of Petitioners’ Exhibits A, B-1, B-2, C-1, C-2, D and E; Floor plans for the subject house,
- Respondent Exhibit 4 – Subject property’s record card,
- Respondent Exhibit 5 – Notification of Final Assessment Determination – Form 115, dated March 6, 2008,
- Respondent Exhibit 6 – Form 131 petition,
- Respondent Exhibit 7 – Notice of Hearing on Petition, dated September 23, 2008,
- Respondent Exhibit 8 – GIS plat map for Brittany Chase, dated January 29, 2008,

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.

### Analysis

13. The most applicable governing cases are:
- a. A petitioner seeking review of an assessing official's determination has the burden to establish a prima facie case proving that the current assessment is incorrect, and specifically what the correct assessment would 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 taxpayer must explain how each piece of evidence is relevant to the 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”).
  - c. Once the petitioner establishes a prima facie case, the burden shifts to the assessing official to rebut the petitioner's evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). The assessing official must offer evidence that impeaches or rebuts the petitioner's evidence. *Id.*; *Meridian Towers*, 805 N.E.2d at 479.
14. The Petitioners failed to make a prima facie case for lowering the subject property's assessment. The Board reaches this decision for the following reasons:
- a. Real property is assessed based on its “true tax value,” which means “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.” Ind. Code § 6-1.1-31-6 (c); 2002 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.3-1-2). In conducting mass appraisals, assessors normally use the Real Property Assessment Guidelines for 2002-Version A. And a property's market value-in-use, as ascertained by applying those Guidelines, is presumed to be accurate. *Eckerling v. Wayne Twp. Assessor*, 841 N.E.2d 674, 676 (Ind. Tax Ct. 2006). To rebut that presumption, a taxpayer may use relevant evidence that is consistent with the Manual's definition of true tax value, such as

actual construction costs, appraisals, sales information regarding the subject property or comparable properties, and other evidence compiled using generally accepted appraisal principles. *Id.* at 678; *see also* MANUAL at 5. By contrast, a taxpayer does not rebut an assessment's presumed accuracy simply by contesting the methodology that the assessor used to compute it. *Eckerling*, 841 N.E.2d at 678. Instead, the taxpayer must show that the assessor's methodology yielded an assessment that does not accurately reflect the property's market value-in-use. *Id.*

- b. Regardless of the method used to rebut an assessment's presumption of accuracy, 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 Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). For March 1, 2006, assessments, that valuation date was January 1, 2005. 50 IAC 21-3-3.
- c. The Petitioners chiefly claim that their house was assessed using inaccurate measurements, and that if accurate measurements were applied to the average per-square-foot sale price for comparable homes, the subject property's overall value would be between \$291,000 and \$302,500.
- d. By looking to the sales of other Brittany Chase homes, the Petitioners correctly recognized that a property's value can be estimated indirectly by examining sale prices for comparable properties. Indeed, that is what an appraiser applying the sales-comparison approach does. *See* MANUAL at 3, 13-14. To effectively use the sales-comparison approach as evidence in an assessment appeal, though, one must explain how the characteristics of the sold properties compare to the characteristics of the property under appeal and how any differences affect the properties' relative market values-in-use. *Long*, 821 N.E.2d at 471.
- e. The Petitioners did not follow the sales comparison approach's basic tenets. For example, they focused on only a few characteristics—the number of levels and bedrooms and the amount of basement finish—without addressing various other relevant characteristics. More importantly, the Petitioners did not explain how any relevant differences affected the properties' relative values. Instead, the Petitioners simply took the average sale price of \$106 per square foot and multiplied it by what they believed was their home's correctly measured area.

- f. Also, the Petitioners used sales (and listings) from 2006 and 2007—all more than one year after the applicable January 1, 2005, valuation date. But the Petitioners did not explain how those sales related to the subject property’s value as of January 1, 2005. At most, the Petitioners contended that the market decreased between 2004-2005 and 2006-2007 and that it continued to drop through the date of the Board’s hearing. *Pet’r Ex. G*. But they did not explain exactly when the slump began or how far prices had fallen between the valuation date and the sale and listing dates contained in the Petitioners’ comparative market analyses.<sup>3</sup>
- g. The Respondent, however, arguably shored up some of the weaknesses in the Petitioners’ analysis. For example, the Respondent’s witness, Mr. Wolfe, partly allayed concerns about whether the Petitioners used truly comparable properties when he described Brittany Chase as a “very uniform neighborhood.” *Wolfe testimony*. Similarly, the Respondent herself agreed that the market supported using a value of \$106 per square foot to assess the subject property. *See Garoffolo testimony*. And unlike the Petitioners, the Respondent based her estimate on sales data from 2004 and 2005, which bracketed the relevant valuation date.
- h. Even if the Board were to accept the \$106-per-square-foot price as a reliable, time-appropriate multiplier, however, that per-unit price does not translate to the overall assessment that the Petitioners seek. To reach an overall value, the Petitioners multiplied the \$106- per-square-foot price by the subject home’s total living space. And the parties disagreed about the home’s actual size. The property’s record card shows the home as having 3,075 square feet, while the builder’s plans show only 2,854 square feet. Neither the builder nor the person who prepared the record card testified. But the difference appears to stem at least partly from the builder having used interior, rather than exterior, measurements.
- i. Although assessors are told to use exterior, instead of interior, measurements when applying the Guidelines’ mass-appraisal cost approach,<sup>4</sup> neither method seems inherently better for purposes of the sales-comparison approach. What matters is consistency—if the price-per-square-foot from the comparable sales data is based on external measurements, one should use external measurements for the subject home, and *vice versa*. And the Petitioners did not address whether the \$106-per-square-foot average sale price from their comparative market

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<sup>3</sup> Interestingly, when the Petitioners used data closer to the valuation date, homes sold for an average of \$112 per square foot. *Mirzadeh testimony*; *Pet’r Exs. A, G*. Even if one uses the builder’s measurements for the subject home (2,854 square feet), that average sale price translates to an overall value of \$319,648, or almost \$1,000 more than the property’s existing assessment.

<sup>4</sup> *See* GUIDELINES, ch. 3 at 9 (directing assessors to measure the “exterior” of each full or partial floor).



analysis was based on internal or external measurements. That failure might not matter a lot in cases where a given property's internal and external measurements differ little from each other or where a contested assessment greatly exceeds the value derived using either type of measurement. But in this case, that failure is crucial—using external measurements supports the existing assessment while using internal measurements supports the Petitioners' requested assessment. Under those circumstances, the Petitioners' comparative-sales evidence has little or no probative value.

- j. That finding, however, does not resolve this case. The Petitioners also based their request on the fact that they bought the subject property for 301,000. In many cases, a property's sale price in an arm's-length transaction is the best evidence of its true tax value. Of course, that sale price must somehow relate to the relevant valuation date. Here, the Petitioners bought the subject property in June 2006—more than 18 months after the relevant January 1, 2005, valuation date. And once again, the Petitioners did not adequately explain how that sale price related to the subject property's value as of January 1, 2005. As already discussed, the Petitioners contended that the housing market had been falling without explaining exactly when the slump began or how far prices had dropped between January 1, 2005 and June 2006. The Board therefore gives no weight to the subject property's June 2006 sale price. *See Long*, 821 N.E.2d at 471 (holding that an appraisal lacked probative value where the taxpayers did not explain how it related to the property's market value-in-use as of the relevant valuation date).
- k. Finally, the Petitioners contend that the Respondent used an inflated neighborhood factor to assess homes in Brittany Chase. That claim, however, merely attacks the methodology used to assess the subject property. As the Tax Court explained in *Eckerling*, that is not enough—the Petitioners needed to offer relevant market value-in-use evidence. *Eckerling*, 841 N.E.2d at 678. While the Petitioners at least tried to provide market value-in-use evidence by offering their comparative market analyses and the subject property's June 2006 sale price, that evidence lacked probative value.

### **Conclusion**

- 15. The Petitioners failed to meet their burden of proof. The Board finds in favor of the Respondent.

## **Final Determination**

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessments should not be changed.

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

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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>.**