REPRESENTATIVE FOR PETITIONERS:
Aurora Leticia Pena, *pro se*

REPRESENTATIVE FOR RESPONDENT:
Kim Miller, Noble County Assessor

BEFORE THE
INDIANA BOARD OF TAX REVIEW

Servando & A. Leticia Pena,	)	Petition Nos.: 57-006-13-1-1-00027
	)	57-006-13-1-1-00043
Petitioners,	)	
	)	Parcel Nos.: 57-03-18-300-019.000-006
	)	57-03-18-300-022.000-006
v.	)	
	)	County: Noble
	)	
Noble County Assessor,	)	Township: Elkhart
	)	
Respondent.	)	Assessment Year: 2013

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

April 10 , 2015

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. The Respondent had the burden to prove that the subject property's March 1, 2013, assessment was correct. Did the Respondent prove the 2013 assessment was correct?

PROCEDURAL HISTORY

2. The Petitioners initiated their 2013 assessment appeals for the above-referenced parcels on October 29, 2013. On August 1, 2014, the Noble County Property Tax Assessment Board of Appeals (PTABOA) issued its determinations denying the Petitioners any relief. On September 4, 2014, the Petitioners timely filed Form 131 Petitions with the Board.

3. On November 19, 2014, the Board's administrative law judge (ALJ), Jennifer Bippus, held a consolidated hearing on the petitions. 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 Petitioners:	Aurora Leticia Pena.
For the Respondent:	Kim Miller, Noble County Assessor, William F. Schnepf, Jr., SRA, Certified General Appraiser, David Button, Noble County PTABOA member.

5. The Petitioners offered the following exhibits:

Petitioners Exhibit 1:	Comparable property sales analysis with photographs created by Petitioners,
Petitioners Exhibit 2:	Photographs of subject property windows and a purchase agreement from Windows Doors & More,
Petitioners Exhibit 3:	Repair estimate from C. Mast Construction, LLC with photographs,
Petitioners Exhibit 4:	Sketch, photographs, and invoice for pool shed,
Petitioners Exhibit 5:	(No exhibit offered),
Petitioners Exhibit 6:	Photographs of subject property with and without landscape retaining wall,
Petitioners Exhibit 7:	Appraisal of the subject property by Wendy Frost dated February 4, 2013, (Frost Appraisal),
Petitioners Exhibit 8:	Letter and resume from Wendy Frost dated November 17, 2014, and a listing of sold properties.

Petitioners Rebuttal

Exhibit 1:	Multiple Listing Service (MLS) sale listing, photographs, Ms. Pena's remarks, and property history detail for 10223 W 1100 N, Ligonier,
Petitioners Rebuttal Exhibit 2:	MLS sale listing, photographs, Ms. Pena's remarks, and property history detail for 4848 N 700 E, Kendallville,
Petitioners Rebuttal Exhibit 3:	MLS sale listing, photographs, Ms. Pena's remarks, and property history detail for 5574 S 1100 E, Huntertown,
Petitioners Rebuttal Exhibit 4:	MLS sale listing, photographs, Ms. Pena's remarks, and property history detail for 10505 W 550 N, Ligonier,
Petitioners Rebuttal Exhibit 5:	MLS sale listing, photographs, Ms. Pena's remarks, and property history detail for 6956 E 500 N, Kendallville,
Petitioners Rebuttal Exhibit 6:	MLS sale listing, photographs, Ms. Pena's remarks, and property history detail for 1907 Lincoln Way S, Ligonier,
Petitioners Rebuttal Exhibit 7:	MLS sale listing, photographs, Ms. Pena's remarks, and property history detail for 8025 W 500 N, Ligonier.

6. The Respondent offered the following exhibits:

Respondent Exhibits 1-4:	(No exhibits offered),
Respondent Exhibit 5:	Qualifications of William F. Schnepf, Jr.,
Respondent Exhibit 6:	Appraisal of the subject property by William F. Schnepf, Jr., dated October 21, 2014, (Schnepf Appraisal),
Respondent Exhibit 7:	The Board's Hearing Information and Instructions,
Respondent Exhibit 8:	2011 REAL PROPERTY ASSESSMENT MANUAL, Introduction, page 2.

7. The following additional items are recognized as part of the record:

Board Exhibit A:	Form 131 Petitions and attachments,
Board Exhibit B:	Notices of Hearing, dated October 2, 2014,
Board Exhibit C:	Hearing Sign-In Sheet.

8. The subject property consists of two parcels totaling approximately 10 acres of land located at 5780 W 900 N, Ligonier. There is a single-family home located on Parcel No. 57-03-18-300-019.000-006, and a pool and bathhouse located on Parcel No. 57-03-18-300-022.000-006. Collectively, these two parcels form the subject property.

9. For the primary parcel, the PTABOA determined that the March 1, 2013, assessment is $22,900 for land and $299,900 for improvements, for a total value of $322,800. For the secondary parcel, the PTABOA determined the March 1, 2013, assessment is $6,700 for land and $26,900 for improvements, for a total value of $33,600. The March 1, 2013, total assessed value for the subject property is $356,400.

10. The Petitioners requested the subject property's total assessment be $256,000.

OBJECTIONS

11. The Respondent objected to all of the Petitioners' exhibits because they were not provided prior to the hearing. The ALJ took the Respondent's objection under advisement.

12. Because the Petitioners opted out of the Board's small claims procedures, both parties were required to exchange copies of their documentary evidence at least five business days prior to the hearing. 52 IAC 2-7-1(b)(1). The exchange requirement allows parties to be better informed and to avoid surprises, and it also promotes an organized, efficient, and fair consideration of the issues at a hearing. Failure to comply with this requirement can be grounds to exclude evidence. 52 IAC 2-7-1(f). However, the Board may waive the evidence-sharing requirements for materials that were submitted or made part of the record at the PTABOA hearing. 52 IAC 2-7-1(d).

13. There is no indication that the Petitioners' Exhibits 1, 2, 3, 4, 5, 6 and 8 were exchanged prior to the Board's hearing or submitted at the previous PTABOA hearing. Consequently, the Board sustains the Respondent's objection to those exhibits. However, Ms. Pena testified that the Respondent already had a copy of Petitioners' Exhibit 7, the Frost Appraisal. Thus, Ms. Pena testified that she did not think she needed to provide it to her again prior to the Board's hearing. Although the Respondent claimed that she had not received a copy of the Frost Appraisal as part of the required exchange, it is clear from Ms. Pena's testimony that a copy was submitted at the PTABOA hearing. Ms. Pena's testimony was confirmed by Mr. Schnepf who testified that he was provided with

the minutes of the PTABOA hearing and "a copy of the [Frost] appraisal that was submitted by the Pena's at that time." Mr. Schnepf also testified that he relied on information from the Frost Appraisal to complete his own appraisal. Thus, it seems apparent that the Respondent received a copy of the Frost Appraisal at the PTABOA hearing and had ample opportunity to review it prior to the Board's hearing. The Board therefore overrules the Respondent's objection and Petitioners' Exhibit 7 is admitted.

14. Finally, the Respondent's objection also pertained to Petitioners' Rebuttal Exhibits 1-7, because they were not exchanged prior to the hearing. While the Board's procedural rules do not specifically exempt rebuttal evidence from the exchange requirements, the Board does recognize a general exception for rebuttal evidence. Rebuttal evidence is evidence offered to explain, contradict, or disprove the evidence presented by an adverse party. *McCullough v. Archbold Ladder Co*., 605 N.E.2d 175, 180 (Ind. 1993). The Board may exclude evidence offered in rebuttal which should have been presented in the party's case-in-chief, but is not required to do so. *Id.* Here, the Board is willing to make an exception because the exhibits were specifically offered to challenge the validity of the comparable properties used in the Schnepf Appraisal. Further, there is nothing in the record to suggest that the exhibits should have been presented as part of the Petitioners' case-in-chief. Hence, the Respondent's objection is overruled and Petitioners Rebuttal Exhibits 1-7 are admitted.

JURISDICTIONAL FRAMEWORK

15. The Board is charged with conducting an impartial review of all appeals concerning: (1) the assessed valuation of tangible property, (2) property tax deductions, (3) property tax exemptions, and (4) property tax credits that are made from a determination by an assessing official or a county property tax assessment board of appeals to the Board under any law. Ind. Code § 6-1.5-4-1(a). All such appeals are conducted under Ind. Code § 6-1.1-15. *See* Ind. Code § 6-1.5-4-1(b); Ind. Code § 6-1.1-15-4.

RESPONDENT'S CONTENTIONS

16. The subject property is correctly assessed. The Respondent offered an appraisal performed in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP) completed by William F. Schnepf, Jr., SRA, a certified general appraiser. He estimated the total value of the subject property to be $352,000 as of March 1, 2013. *Miller argument; Schnepf testimony; Resp't Ex. 6.*

17. In order to perform the appraisal, Mr. Schnepf collected factual information from the subject property record cards, the minutes of the PTABOA hearing, and a copy of the Frost Appraisal submitted at the PTABOA hearing by the Petitioners. Mr. Schnepf indicated there were some minor discrepancies as to the gross living area of the dwelling; however, he did not physically measure it. Instead, he relied on the sketch from the property record card for his gross living area estimates and the basement size. He used some information from the Petitioners' appraisal regarding the one car garage in the basement and the quality and condition of the subject property because he did not perform an interior appraisal. Because the effective date of his valuation is retroactive, and because he relied on information about the subject property gathered from the Petitioners' appraisal, the PTABOA minutes and the property record card, he imposed an "extraordinary assumption."[1] Mr. Schnepf did admit that if he had an opportunity to view the interior of the subject property and found it to be different, this could result in a different value. *Schnepf testimony; Resp't Ex. 6.*

18. After observing the exterior of the subject property, Mr. Schnepf used a form report common for residential property to record the factual data and physical characteristics. Although the property record card indicated that the subject property has only two and a half baths, he relied on Ms. Pena's testimony from the PTABOA hearing that the property has three bathrooms. He also relied on information from the Petitioners'

[1] According to USPAP, 2014-15 edition, an extraordinary assumption is defined as "[A]n assumption, directly related to a specific assignment, which, if found to be false, could alter the appraiser's opinions or conclusions. Extraordinary assumptions presume as fact otherwise uncertain information about physical, legal, or economic characteristics of the subject property; or about conditions external to the property such as market conditions or trends; or about the integrity of data used in an analysis." *See Resp't Ex. 6.*

appraisal, which indicated that the basement was approximately 50% finished. *Schnepf testimony; Resp't Ex. 6; referencing Pet'rs Ex. 7.*

19. Mr. Schnepf first developed his cost approach by adding up the depreciated cost of all the building and site improvements. To determine the underlying land value, Mr. Schnepf had trended comparable sales that were 2 to 20 acres in size and came up with a price of $4,100 per acre. Applying the $4,100 per acre to the subject property resulted in a site value of $41,000. He then used Marshall Valuation Service's cost index and decided to use a blended cost of average and good quality construction based on comments in the Petitioners' appraisal and the B-1 quality rating from the subject property record card. Also, because the appraisal was performed in 2014, he used a retroactive multiplier to change the cost data back to March 1, 2013, and then applied depreciation of three percent to produce the depreciated cost of the improvements. Mr. Schnepf also went through and estimated the cost new of the site improvement and depreciated it down to find the contributory value. He could not find any data in the Noble County market to suggest that the pool and gazebo have value, so he put no value on those improvements. Thus, the indicated value for the subject property based on the cost approach is $353,100. *Schnepf testimony; Resp't Ex. 6.*

20. Although Mr. Schnepf developed a cost approach, he testified that the sales comparison approach is more indicative of the market and should be given greater credibility. For his sales comparison approach, he used six comparable properties that sold between March 1, 2010, and March 1, 2013. Mr. Schnepf also utilized three active listings. After making adjustments to his comparable properties, the overall range of values was $303,000 to $373,100. Mr. Schnepf then eliminated his three active listings from his analysis and focused on determining a value only from the six sales. The average and median value indications from the six sales fell between $349,700 and $357,200. Further, five of the six sales fell between $340,000 and $370,000. This confirmed to Mr. Schnepf that the average and median indications were probably indicative of the subject property. The final reconciliation of his sales comparison approach produced a value of $352,000 for the subject property. This value fell between the average and the median. Further, this

fact indicated value is also in line with the 2013 assessment of $356,400. *Schnepf testimony; Resp't Ex. 6.*

21. Mr. Schnepf also goes into detail regarding the location. He testified that potential buyers for the subject property would work in Noble County, or in the adjacent counties. The typical commute in the area is 15 to 20 minutes. A lot of people work in Elkhart County as well, but the dominant buying group would come from Noble County. Mr. Schnepf further argued that the locations of the properties he chose are, in fact, comparable. If the physical characteristics and size are appropriate, a home from Huntertown could be considered. Although Huntertown is closer to Fort Wayne, the subject property is located closer to Elkhart. So the differences in locations offset each other. These are factors that every appraiser has to take into consideration when selecting comparable properties. *Schnepf testimony; Resp't Ex. 6.*

22. Finally, in response to the Petitioners' suggestion that his adjustments were too large in relation to the comparable properties' actual sale prices, Mr. Schnepf disagreed. He stated that he "could soften the adjustments and not use what is indicated by the market and they would fall within the Petitioners' 25%." Mr. Schnepf went on to state that he "is charged with applying adjustments as indicated by the market, not to soften it so that it fits some underwriter's criteria." *Schnepf testimony (referencing Pena argument).*

PETITIONERS' CONTENTIONS

23. The subject property's assessment is too high. The Petitioners presented a USPAP-compliant appraisal prepared by Wendy Frost, a certified residential appraiser. Ms. Frost estimated the value at $256,000 as of February 4, 2013. She valued the primary parcel at $238,000, and the secondary parcel at $18,000. *Pena argument; Pet'rs Ex. 7.*

24. In determining her estimate of value, Ms. Frost relied mainly on the sales-comparison approach. In doing so, she utilized five comparable sales. Because the most important attribute is similarity in location, her comparables are all located in rural Ligonier, within four miles of the subject property. The properties sold between July 2011 and August

2012. Even though Ms. Frost made numerous adjustments to the properties, they are comparable to the subject property. And unlike the Respondent's appraiser, she performed an interior inspection of the subject property. *Pena testimony; Pet'rs Ex. 7.*

25. Even though some of the comparable properties are of a different style than the subject property, Ms. Frost made appropriate adjustments for those differences. For example, one comparable property was a ranch over a basement rather than a two-story, but adjustments were made to account for the differences. Even though adjustments had to be made to account for differences, Ms. Frost's appraisal places a more accurate value on the subject property than the value indicated in the Respondent's appraisal. Ms. Frost selected comparable properties in close proximity to the subject property, while the Respondent's appraiser elected to choose properties outside of Ligonier. The location of the Respondent's comparables, Kendallville and Huntertown, are entirely different economic markets, and not comparable to Ligonier. Accordingly, buyers interested in properties located in Ligonier will not look to Kendallville or Huntertown. Further, "the market is soft" in Ligonier as compared to Kendallville and Huntertown. *Pena argument (referencing Resp't Ex. 6); Pet'rs Ex. 7.*

26. The Respondent's appraisal is flawed. Not only did Mr. Schnepf select properties that were not in close proximity to the subject property, he also made several other errors as well. Specifically, he made excessive adjustments to his comparable properties, with adjustments amounting to 40% of the sale prices. By comparison, Ms. Frost's adjustments are only 24%. Further, Mr. Schnepf incorrectly lists the size of the subject property's basement, as well as the number of bedrooms. *Pena testimony (referencing Resp't Ex. 6); Pet'rs Ex. 7.*

27. According to the Petitioners, the subject property has some structural issues that also affect the value. The windows need replaced. The doorways are decaying. The concrete is deteriorating and cracking. The retaining walls on the landscaped area are deteriorating and the deck is crooked. They only paid $1,250 for the pool shed, which is

assessed at $4,800. Furthermore, the measurements of the pool shed are inaccurately listed at 362 square feet, when it should be listed at 160 square feet. *Pena testimony.*

BURDEN OF PROOF

28. Generally, the taxpayer has the burden to prove that an assessment is incorrect and what the correct assessment should be. *See Meridian Towers East & West v. Washington Twp. Ass'r,* 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). The burden-shifting statute as recently amended by P.L. 97-2014 creates two exceptions to that rule.

29. First, Ind. Code § 6-1.1-15-17.2 "applies to any review or appeal of an assessment under this chapter if the assessment that is the subject of the review or appeal is an increase of more than five percent (5%) over the assessment for the same property for the prior year." Ind. Code § 6-1.1-15-17.2(a). "Under this section, the county assessor or township assessor making the assessment has the burden of proving that the assessment is correct in any review or appeal under this chapter and in any appeals taken to the Indiana board of tax review or the Indiana tax court." Ind. Code § 6-1.1-15-17.2(b).

30. Second, Ind. Code section 6-1.1-15-17.2(d) "applies to real property for which the gross assessed value of the real property was reduced by the assessing official or reviewing authority in an appeal conducted under IC 6-1.1-15." Under those circumstances, "if the gross assessed value of real property for an assessment date that follows the latest assessment date that was the subject of an appeal described in this subsection is increased above the gross assessed value of the real property for the latest assessment date covered by the appeal, regardless of the amount of the increase, the county assessor or township assessor (if any) making the assessment has the burden of proving that the assessment is correct." Ind. Code § 6-1.1-15-17.2(d). This change is effective March 25, 2014, and is applicable to all appeals pending before the Board.

31. Here, the parties were in agreement that the 2013 assessed value increased by more than 5% over the 2012 value and that the burden rests with the Respondent. However, as

discussed below, both parties presented probative evidence. Therefore, this final determination depends on the weight of the evidence.

ANALYSIS

32. 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); 2011 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.4-1-2). The cost approach, the sales comparison approach, and the income approach are three generally accepted techniques to calculate market value-in-use. *Id*. Assessing officials primarily use the cost approach. The cost approach estimates the value of the land as if vacant and then adds the depreciated cost new of the improvements to arrive at a total estimate of value. *Id*. A taxpayer is permitted to offer evidence relevant to market value-in-use to rebut an assessed valuation. Such evidence may include actual construction costs, sales information regarding the subject or comparable properties, appraisals, and any other information compiled in accordance with generally accepted appraisal principles.

33. Regardless of the method used, a party must explain how its evidence relates to the relevant valuation date. *See 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. Ass'r,* 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). For 2013 assessments, the assessment and valuation date were March 1, 2013. *See* Ind. Code § 6-1.1-4-4.5(f).

34. An appraisal performed in conformance with generally recognized appraisal principles is often enough to establish a prima facie case. *Meridian Towers,* 805 N.E.2d at 479. In this case, both parties offered USPAP-compliant appraisals that are probative evidence of the market value-in-use of the subject property. Because both parties presented probative evidence, the Board must weigh the evidence to determine a correct assessment.

35. While both appraisers developed the cost approach and the sales comparison approach, they each relied on their sales comparison approach in determining a final value for the

subject property.[2] Accordingly, the Board will focus its analysis on the sales comparison approaches presented in each appraisal.

36. 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." MANUAL at 3. Here, the appraisers' sales comparison approaches produced values that differ by nearly $100,000. The Respondent presented the Schnepf Appraisal, which estimated the value was $352,000 as of March 1, 2013. Whereas, the Petitioners presented the Frost Appraisal, which estimated the value was $256,000 as of February 4, 2013.[3] Both appraisers had difficulty finding comparable sales due to the rural nature of the market and limited availability of sales in the area. The disparity stems from the different purportedly comparable properties selected by the appraisers and the adjustments applied to those sales by the appraisers.

37. Selecting comparable properties and making adjustments are things that appraisers normally do. Appraisers identify the relevant characteristics of the property being appraised and select other properties that share as many of those characteristics as possible. After selecting comparables, appraisers make adjustments to account for any differences between the comparables' characteristics and those of the subject property. The Board recognizes that this process requires appraisers to exercise their judgment and often involves issues that are purely a matter of opinion, rather than questions with a definitive answer. Consequently, the Board must determine which appraiser did a more credible job based on the evidence offered and how effectively the arguments were presented. Here, the Board's analysis is limited to the facts of this particular case and is not intended to establish any general rules regarding selection of comparable properties or application of adjustments.

38. Mr. Schnepf testified that he selected his comparable sales by researching sales of site built, single family residences built between 1985 and 2013 with 2,200 to 4,000 square

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[2] Neither appraiser developed an income approach to value for the subject property.

[3] Although the Frost Appraisal has a valuation date that differs from the relevant valuation date of March 1, 2013, the Board finds it is sufficiently close in time to be probative evidence.

feet of living area above grade. He included homes that were sold from March 1, 2010, to March 1, 2013. In addition, he searched for active and expired listings using the same criteria. His search ultimately left him with six sales and three active listings to utilize in his sales comparison approach. All of his purportedly comparable properties are located in rural areas on no less than three acres of land. While four of the properties are located within six miles of the subject property near the town of Ligonier, the other five are more than thirteen miles away. Four of these properties are located in the Kendallville area and one property is located near Huntertown. Two of the nine properties are ranch-style homes while the other seven are two-story contemporary homes.[4] One of the ranch-style homes does not have a basement, but the other eight properties have some square footage below grade. The living area above grade of these properties ranged from 2,240 to 2,830 square feet. The unadjusted sales and listing prices ranged from $215,000 to $380,000. However, eight of the properties sold or listed for $250,000 or more.

39. Ms. Frost's appraisal, on the other hand, indicates that she used comparable sales that are similar to the subject property and located in the same market. Because the data from the subject market was very limited, she searched for sales that occurred up to two years prior to the assessment date. Ms. Frost located five comparable sales meeting her criteria and relied on them to develop her sales comparison approach. All of the properties she selected are located within five miles of the subject property near the town of Ligonier. The smallest property has approximately two acres of land, while the largest is located on roughly fifteen acres. Two of her five comparables are ranch-style homes with partially finished basements. The other three are two-story homes over unfinished or partially finished basements. The living areas above grade ranged from 1,504 to 3,127 square feet. The unadjusted sales prices of Ms. Frost's comparable sales ranged from $179,000 to $229,000.

[4] While the Schnepf Appraisal indicates that comparable properties 3, 4, and 6 are ranch-style homes, the MLS listing information provided for those properties indicates that all three are two-story homes. *Resp't Ex. 6; Pet'rs Rebuttal Ex. 3, 4, 6.*

40. The appraisers emphasized different criteria when selecting comparable sales, but neither appraiser necessarily selected "wrong" properties. Ms. Frost appears to have selected comparable properties with an emphasis on their location in relation to the subject property. Whereas, Mr. Schnepf seems to have picked comparable properties by focusing more on the size of the homes. Although both parties seem to believe that the selection criteria significantly contributed to the disparity between the appraisals, a closer examination reveals that the appraisers' treatment of the "Quality of Construction" characteristic likely explains what led them to select properties with such a wide range of unadjusted sales prices.

41. In her appraisal addendum, Ms. Frost states:

> [T]he subject property is a good quality wood framed structure, displaying good care and maintenance. The home is only 9 years old and has been well maintained. There were no major items of deferred maintenance observed by the appraiser. No functional or external inadequacies were observed by the appraiser.

Despite her observations, Ms. Frost rated the subject property's quality of construction as "Average". This inconsistency detracts from her credibility, especially given the lack of explanation from Ms. Frost, who did not attend or testify at the hearing. Her decision to treat the subject property as "Average" seems to have led Ms. Frost to select five "Average" sales with relatively low unadjusted sales prices.

42. On the other hand, because Mr. Schnepf did not perform an interior inspection of the subject property, he relied on information about the subject property gathered from the Frost Appraisal, including Ms. Frost's description of the quality of construction. He noted the discrepancy between her use of "Average" to describe the subject property on the sales comparison grid and her description of it as "good quality" in her addendum. Based on his exterior observations, Mr. Schnepf determined that the quality of the subject property should be listed as "Above Average". Mr. Schnepf testified that average quality homes do not typically have varying roof lines, atrium-type entries, tiered landscaping or a driveway like the subject property's. He also noted that a higher quality rating is

supported by the property record card rating of B-1.[5] While the conflicting data factored into Mr. Schnepf's decision to impose an extraordinary assumption, he still had a reasonable basis for rating the subject property as "Above Average." Thus, the Board finds that Mr. Schnepf provided sufficient justification for selecting higher quality, and therefore, higher priced comparables as a starting point for his sales comparison approach.

43. The Petitioners' main criticism of the Schnepf Appraisal was his lack of emphasis on location. They argued that Mr. Schnepf's comparables were located too far from the subject property to even be comparable. However, the Petitioners did not show that the geographic limits of Mr. Schnepf's search were unreasonable. In fact, the Petitioners' appraiser, Ms. Frost, even stated in her appraisal, "[B]ecause there [are] extremely limited sales, competing properties could come from other similar locations in Noble County if necessary." Moreover, Mr. Schnepf provided a sufficient explanation to support his assertion that other rural areas of Noble County can be considered part of the subject property's market, not just the area immediately surrounding Ligonier. The Petitioners also apparently overlooked the fact that Mr. Schnepf relied on four comparables located in Ligonier within six miles of the subject property.

44. Ms. Pena also attempted to rebut Mr. Schnepf's purportedly comparable properties by claiming they have higher quality features than the subject property. She testified that her home does not have features like crown molding, Corian countertops, oak cabinets, or wood flooring. However, she failed to demonstrate how the inclusion of these particular materials affects the comparability of the properties. Ms. Pena also offered the MLS sale listings, photographs, and other details for seven of Mr. Schnepf's purportedly comparable properties to support her claims, but she failed to prove that their characteristics were unsuitable for comparison to the subject property. Instead of explaining her position in detail, Ms. Pena relied on conclusory statements such as "this house was better than mine" and "it can be considered superior quality to my house."

[5] According to Mr. Schnepf, "[I]n the assessment world, a rating of C is average. Ratings of D and F are fair and poor, while B and A are good to very good, and/or excellent." *Resp't Ex. 6.*

Further, her rebuttal exhibits reveal that the information was gathered on November 18, 2014, but Ms. Pena failed to establish that her exhibits accurately reflected the features of each property as they existed at the time of their sale or listing date.

45. While Mr. Schnepf's comparables are far from perfect, the Board concludes that Mr. Schnepf explained and defended his selection of comparable properties more effectively than Ms. Frost.

46. Turning to the adjustments made by each appraiser, Ms. Pena contends that Mr. Schnepf's adjustments were too large. Although Mr. Schnepf's adjustments are, on average, about fifteen percent higher than Ms. Frost's, he thoroughly explained and supported most of his adjustments through his testimony and the analysis contained in his addendum. Mr. Schnepf's addendum included a full land valuation analysis and went through the rationale underlying his adjustments for age, bath counts, gross living area, basement area, basement finish, garages and outbuildings in sufficient detail. The addendum also lays out his rationale for applying a 20% adjustment to comparable sale number 3, a Real Estate Owned (REO) sale, and applying a 10% adjustment to comparable sale numbers 7, 8, and 9 due to their status as active listings. Mr. Schnepf explained why he decided that the subject property's pool and gazebo did not have any contributory value in his addendum as well.

47. While Mr. Schnepf successfully countered most of Ms. Pena's challenges, some of her criticisms concerning Mr. Schnepf's adjustments are spot on. For example, Mr. Schnepf made sizeable adjustments to comparable sale numbers 5 and 9 for "Quality of Construction", but he only provided a cursory explanation during testimony. Mr. Schnepf also failed to address how he arrived at the actual dollar amounts for those adjustments. Furthermore, it appears Mr. Schnepf did not have the correct bathroom count, which Ms. Pena testified is actually two and one half bathrooms above grade with one full bathroom in the basement. Underreporting the subject property's bathroom count is an error in the Petitioners' favor. Mr. Schnepf's errors certainly detract from the credibility of his opinion, but they do not render it unreliable.

48. In contrast to the Schnepf Appraisal, the Frost Appraisal provides little analysis or explanation of how Ms. Frost arrived at any of her adjustments or how they were applied. Ms. Frost's notes regarding site adjustments simply state that they reflect the value difference between the subject property and each comparable property, and are due to their size and utility. Ms. Frost's notes regarding age adjustments are similarly perfunctory. Thus, her adjustments appear to be wholly unsupported by any objective, market-based data, significantly diminishing the credibility of her value conclusion.

49. The Board recognizes that there are strengths and weaknesses with both appraisals, but the Board finds the Schnepf Appraisal to be more persuasive. Although Mr. Schnepf and Ms. Frost are both licensed appraisers that back their opinions with certifications, education, training and experience, Mr. Schnepf was present at the hearing and his testimony provided additional support for his appraisal. As part of making a prima facie case, "it is the taxpayer's duty to walk the [Indiana Board and this] Court through every element of [its] analysis." *Long*, 821 N.E.2d at 471 (*quoting Clark v. Dep't of Local Gov't Fin.*, 779 N.E.2d 1277, 1282 n. 4 (Ind. Tax Ct. 2002)). The Petitioners failed to do this. Their appraiser, Ms. Frost, provided very few details in her appraisal report and was not present at the hearing to explain the underlying decisions regarding her selection of comparable properties or how she made adjustments. Consequently, the Board finds the Schnepf Appraisal to be the most credible evidence of the subject property's market value-in-use for the 2013 assessment year.

50. Finally, the Petitioners offered testimony of objective errors in the assessment. Specifically the size of the pool shed is incorrectly listed on the subject property record card. This assertion was not contested by the Respondent. Thus, the Board orders the Respondent to correct any error regarding the measurement of the pool shed.

SUMMARY OF FINAL DETERMINATION

51. After weighing the evidence, the Board finds the Schnepf Appraisal and its conclusion about the value of the subject property is more credible than the evidence and argument

the Petitioners' presented. The Board orders that the total 2013 assessment for both parcels be changed to $352,000. Furthermore, the Board orders the Respondent to correct the error regarding the size of the pool shed on the subject property record card.

This Final Determination of the above captioned matter is issued by the Indiana Board of Tax Review on the date first written above.

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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 of 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>.