

REPRESENTATIVES FOR PETITIONER:

Craig Williamson, Owner
John Johantges, Property Tax Group I

REPRESENTATIVES FOR RESPONDENT:

Pamela Zagar, Fall Creek Township Assessor
Terry L. Michael, Fall Creek Township Deputy Assessor

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

In the matter of:

CRAIG C. WILLIAMSON,)	
)	Petition for Review of Assessment,
Petitioner)	Form 131
)	
)	Petition No: 29-007-01-1-5-00004
v.)	
)	County: Hamilton
)	Township: Fall Creek
FALL CREEK TOWNSHIP ASSESSOR,)	Parcel No: 1315020009008000
)	
Respondent)	Assessment Year: 2001

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

August 4, 2003

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

Issues

1. The issues presented for consideration by the Board were:

ISSUE 1 – *Whether the grade of the subject dwelling is excessive.*

ISSUE 2 – *Whether the subject dwelling's percentage of completion as of March 1, 2001 should be 70%.*

Procedural History

2. Pursuant to Ind. Code § 6-1.1-15-3 John Johantges, Property Tax Group 1 filed a Form 131 on behalf of Craig C. Williamson (Petitioner), petitioning the Board to conduct an administrative review of the above petition. The Hamilton County Property Tax Assessment Board of Appeals (PTABOA) Notification of Final Assessment Determination was issued on October 22, 2002. The Form 131 was subsequently forwarded to the Board on November 13, 2002.

Hearing Facts and Other Matters of Record

3. Pursuant to Ind. Code § 6-1.1-15-4 a hearing was held on May 7, 2003 in Noblesville, Indiana before Dalene McMillen, the duly designated Administrative Law Judge (ALJ) authorized by the Board under Ind. Code § 6-1.5-5-2.

4. The following persons were present at the hearing:

For the Petitioner:

Craig Williamson, Owner

John Johantges, Taxpayer Representative

For the Respondent:

Debbie Folkerts, Hamilton County Assessor

Pamela Zagar, Fall Creek Township Assessor

Terry Michael, Fall Creek Deputy Assessor

5. The following persons were sworn in as witnesses and presented testimony:

For the Petitioner:

Craig Williamson

John Johantges

For the Respondent:

Debbie Folkerts

Pamela Zagar

Terry Michael

6. The following exhibits were presented:

For the Petitioner:

Petitioner's Exhibit 1 – A copy of the witness list submitted by John Johantges, dated April 21, 2003

Petitioner's Exhibit 2 – An analysis on the average grade assigned to homes in the Breakwater subdivision

Petitioner's Exhibit 3 – A copy of the disclosure form required by 50 IAC 15-5-5 between Craig Williamson and John Johantges

Petitioner's Exhibit 4 – A copy of the request for additional evidence from the PTABOA, dated August 14, 2002

Petitioner's Exhibit 5 – A copy of an e-mail from John Johantges to Kim, Hamilton County on the scheduling of the PTABOA hearing, dated September 7, 2002

Petitioner's Exhibit 6 – A copy of the PTABOA Notification of Final Assessment Determination (Form 115), dated October 22, 2002

Petitioner's Exhibit 7 – A copy of 50 IAC 2.2-7-6 “Grade”, page 11

Petitioner's Exhibit 8 – Twenty-seven (27) property record cards (PRC) for comparable properties located in the Breakwater subdivision

Petitioner's Exhibit 9 – A copy of the percentage of completion on the subject dwelling as of March 1, 2001

Petitioner's Exhibit 10 – A copy of the proposed PRC submitted by John Johantges

Petitioner's Exhibit 11 – Forty (40) pages of invoices and cancelled check on construction components on the subject dwelling

For the Respondent:

Respondent's Exhibit 1 – A copy of the exhibits and summary of witness testimony letter from Debbie Folkerts, Hamilton County Assessor, dated April 2, 2003 and a copy of Craig Williamson's 2001 PRC

Respondent's Exhibit 2 – A copy of the PTABOA request for additional evidence from the Petitioner, dated August 14, 2002

Respondent's Exhibit 3 – A copy of a fax from John Johantges to Debbie Folkerts requesting the PTABOA to deny the appeal on the subject property dated August 22, 2002

Respondent's Exhibit 4 – A copy of an e-mail from John Johantges to Kim, Hamilton County concerning the scheduling of the subject property for hearing, dated September 9, 2002

Respondent's Exhibit 5 – A copy of the PTABOA hearing tape

Respondent's Exhibit 6 – A grade analysis using building cost submitted by the Township Assessor

Respondent's Exhibit 7 – Five (5) exterior photographs of the subject dwelling submitted by the Township Assessor

For the Board:

Board's Exhibit A – Form 131 petition, dated November 13, 2002

Board's Exhibit B – Notice of Hearing on Petition (Form 117), dated March 21, 2003

7. At the hearing, the parties agreed that the assessment date under appeal is as of March 1, 2001 and the assessed values under appeal are as follows:

Land: \$97,800	Improvements: \$414,900	Total: \$512,700
----------------	-------------------------	------------------

8. The subject property is a residence located at 485 Breakwater Drive, Fishers, Fall Creek Township, Hamilton County.
9. The ALJ did not conduct an on-site inspection of the subject property.

Jurisdictional Framework

10. This matter is governed by the provisions of Ind. Code § 6-1.1-15, and all other laws relevant and applicable to appeals initiated under those provisions, including all case law pertaining to property tax assessments or matters of administrative law and process.
11. The Board is authorized to issue this final determination pursuant to Indiana Code § 6-1.1-15-3.

Indiana's Property Tax System

12. The Indiana Constitution requires Indiana to create a uniform, equal, and just system of assessment. See Ind. Const. Article 10, § 1.
13. Indiana has established a mass assessment system through statutes and regulations designed to assess property according to what is termed "True Tax Value." See Ind. Code § 6-1.1-31, and 50 Ind. Admin. Code 2.2.
14. True Tax Value does not precisely equate to fair market value. See Ind. Code § 6-1.1-31-6(c).
15. An appeal cannot succeed based solely on the fact that the assessed value does not equal the property's market value. See *State Board of Tax Commissioners v. Town of St. John*, 702 N.E. 2d 1034, 1043 (Ind. 1998) (*Town of St. John V*).
16. The Indiana Supreme Court has said that the Indiana Constitution "does not create a personal, substantive right of uniformity and equality and does not require absolute and precise exactitude as to the uniformity and equality of each individual assessment", nor does it "mandate the consideration of whatever evidence of

property wealth any given taxpayer deems relevant”, but that the proper inquiry in tax appeals is “whether the system prescribed by statute and regulations was properly applied to individual assessments.” See *Town of St. John V*, 702 N.E. 2d at 1039 - 40.

17. Although the Supreme Court in the *St. John* case did declare the cost tables and certain subjective elements of the State’s regulations constitutionally infirm, it went on to make clear that assessment and appeals must continue to be determined under the existing rules until new regulations are in affect.
18. New assessment regulations have been promulgated, but are not in affect for assessments established prior to March 1, 2002. See 50 Ind. Admin. Code 2.3.

State Review and Petitioner’s Burden

19. The Board does not undertake to reassess property, or to make the case for the petitioner. The Board’s decision is based upon the evidence presented and issues raised during the hearing. See *Whitley Products, Inc. v. State Board of Tax Commissioners*, 704 N.E. 2d 1113 (Ind. Tax 1998).
20. The petitioner must submit “probative evidence” that adequately demonstrates all alleged errors in the assessment. Mere allegations, unsupported by factual evidence, will not be considered sufficient to establish an alleged error. See *Whitley Products, Inc. v. State Board of Tax Commissioners*, 704 N.E. 2d 1113 (Ind. Tax 1998), and *Herb v. State Board of Tax Commissioners*, 656 N.E. 2d 1230 (Ind. Tax 1998).
[“Probative evidence” is evidence that serves to prove or disprove a fact.]
21. The petitioner has a burden to present more than just “de minimis” evidence in its effort to prove its position. See *Hoogenboom-Nofzinger v. State Board of Tax*

Commissioners, 715 N.E. 2d 1018 (Ind. Tax 1999). [“De minimis” means only a minimal amount.]

22. The petitioner must sufficiently explain the connection between the evidence and petitioner’s assertions in order for it to be considered material to the facts. “Conclusory statements” are of no value to the Board in its evaluation of the evidence. See *Heart City Chrysler v. State Board of Tax Commissioners*, 714 N.E. 2d 329 (Ind. Tax 1999). [“Conclusory statements” are statements, allegations, or assertions that are unsupported by any detailed factual evidence.]
23. Essentially, the petitioner must do two things: (1) prove that 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. See *State Board of Tax Commissioners v. Indianapolis Racquet Club, Inc.*, 743 N.E. 2d 247, 253 (Ind. Tax 2001), and *Blackbird Farms Apartments, LP v. Department Local Government Finance*, 765 N.E. 2d 711 (Ind. Tax 2002).
24. The Board will not change the determination of the County Property Tax Assessment Board of Appeals unless the petitioner has established a “prima facie case” and, by a “preponderance of the evidence” proven, both the alleged error(s) in the assessment, and specifically what assessment is correct. See *Clark v. State Board of Tax Commissioners*, 694 N.E. 2d 1230 (Ind. Tax 1998), and *North Park Cinemas, Inc. v. State Board of Tax Commissioners*, 689 N.E. 2d 765 (Ind. Tax 1997). [A “prima facie case” is established when the petitioner has presented enough probative and material (i.e. relevant) evidence to the Board (as the fact-finder) to conclude that the petitioner’s position is correct. The petitioner has proven his position by a “preponderance of the evidence” when the petitioner’s evidence is sufficiently persuasive to convince the Board that it outweighs all evidence, and matters officially noticed in the proceeding, that is contrary to the petitioner’s position.]

Discussion of Issues

ISSUE 1: Whether the grade of the subject dwelling is excessive.

25. The Petitioner contends that the grade of the subject dwelling is excessive. The Petitioner is seeking a reduction in grade from “A+3” to “A+2”.
26. The Respondent contends that with the quality of workmanship, the materials used in construction and consistency of construction through out the dwelling, that the subject structure is conservatively graded at an “A+3”.
27. A review of the PRC for the assessment date under review, shows the subject two-story dwelling is graded an “A+3”.
28. The statutes and rules applicable to this issue are:

50 IAC 2.2-7 Residential Dwelling Units

The approach to valuing residential homes.

50 IAC 2.2-1-30 “Grade” defined

“Grade” means the classification of an improvement based on certain construction specifications and quality of materials and workmanship.

50 IAC 2.2-1-31 “Grade factor” defined

“Grade factor” means a factor or multiplier applied to a base grade level for the purpose of interpolating between grades or establishing an intermediate grade.

50 IAC 2.2-7-6 Grade

“Grade” is used in the cost approach to account for the deviations from the norm or “C” grade. “A model is a conceptual tool used to replicate reproduction costs of given structures using typical construction materials.”

50 IAC 2.2-7-6(b)(c) and (d)

This rule contains the grade specification table on graded components contained within a structure to assist the assessor in establishing the proper grade factor.

50 IAC 2.2-7-6(g)

This rule contains a method of interpolation for improvements that may fall between major grade classifications.

50 IAC 2.2-7-10 Graded residential photographs

This rule contains photographs that are graded to assist assessors in the selection of the proper grade factor. These photographs are only an indication of grade and not a determination of the actual grade of the structure shown.

29. Evidence and testimony considered particularly relevant to this determination include the following:
- a. The estimated cost of construction of the subject dwelling was \$790,000. *Williamson testimony.*
 - b. To quantify a reduction in grade, an average neighborhood grade analysis for the Breakwater subdivision was submitted. *Petitioner's Exhibit 2 and Johantges testimony.*
 - c. Twenty-seven (27) properties located in the Breakwater subdivision were submitted into evidence. Testimony was given to the quality of workmanship and design compared to that of the home under appeal. *Petitioner's Exhibit 8, Williamson and Johantges testimony.*
 - d. An attempt was made to quantify the grade based on the estimated cost of construction. The cost of construction was trended based on *Marshall Valuation Services. Respondent's Exhibit 6 and Michael testimony.*

Analysis of ISSUE 1

30. The approach to valuing residential homes is primarily found in 50 IAC 2.2-7. The approach to valuing homes is the application of various models to represent typical

types of construction. “A model is a conceptual tool used to replicate reproduction costs of given structures using typical construction materials.” 50 IAC 2.2-7-6. The model assumes that there are certain elements of construction defined as specifications. These specifications create an average of C grade home. *Id.*

31. “Grade is defined as the classification of an improvement based on certain construction specifications and quality of materials and workmanship. 50 IAC 2.2-1-30.

32. Not all residences in the State are average or C grade homes. Therefore, grade factors are applied to account for differences in construction specifications and quality of materials and workmanship between the models in the Regulation and the home being assessed. *Clark*, 694 N.E. 2d at 1236, n. 6. The major grade classifications are “A” through “E”. 50 IAC 2.2-7-6(d)(1). The cost schedules in the Regulation reflect the “C” grade standards of quality and design. The following grade factors (or multipliers) are assigned to each major grade classification:

“A” grade	160%
“B” grade	120%
“C” grade	100%
“D” grade	80%
“E” grade	40%

50 IAC 2.2-7-6(e).

33. Intermediate grade levels ranging from A+10 to E-1 are also provided for in the Regulation to adequately account for quality and design features between the major grade classifications. 50 IAC 2.2-7-6(g).

34. The determination of the proper grade factor requires assessors to make a variety of subjective judgments regarding variations in the quality of materials and

workmanship as well as the quality of style and design. *Mahan v. State Board of Tax Commissioners*, 622 N.E. 2d 1058, 1064 (Ind. Tax 1993). The selected grade represents a composite judgment of the overall quality and design. *Mahan*, 622 N.E. 2d at 1064; 50 IAC 2.2-7-6(f).

35. Subjectivity is used in the grading process. For assessing officials and taxpayers alike, however, the Regulation provides indicators for establishing grade. The text of the Regulation provides indicators for establishing grade. (see 50 IAC 2.2-7-6(d)). The grade specification table (50 IAC 2.2-7-6(b)), and the graded photographs (50 IAC 2.2-7-10) all provide guides for establishing grade.

Administration of the existing system and cost information

36. The Tax Court invalidated subjective elements of the Regulation, e.g., grade, holding that the Regulation did not contain ascertainable standards. *Town of St. John III* at 388. Nevertheless, the Indiana Supreme Court and the Tax Court did not throw out the whole system immediately. *Town of St. John V*, 702 N.E. 2d at 1043; *Town of St. John III*, at 398 & 99; *Whitley*, 704 N.E. 2d at 1121. Instead, the property tax system is now administered in accordance with the current, true tax value system and existing law. *Id.*
37. The Tax Court recognizes the difficulty in establishing whether a home has a “cheap quality interior finish with minimal built-in features” or is “devoid of architectural treatment”. *Whitley*, 704 N.E. 2d at 1119. However, the taxpayer has the responsibility to provide probative and meaningful evidence to support a claim that his assigned grade factor is incorrect. *Bernacchi v. State Board of Tax Commissioners*, 727 N.E. 2d 1133 (Ind. Tax 2000); *Hoogenboom-Nofziger vs. State Board of Tax Commissioners*, 715 N.E. 2d 1018 (Ind. Tax 1999); *Whitley*, *supra*.

38. True tax value does not equal market value. Ind. Code § 6-1.1-31-6. True tax value does not attempt to determine the actual market value for which a property would sell if it were offer on the open market. Nevertheless, true tax value's method for valuing structures is the same as one of the well-accepted methods for determining fair market value- reproduction cost less depreciation. *International Association of Assessing Officers Property Assessment Valuation*, 127 (2nd ed, 1996). Common appraisal techniques are permissible in assessing property under the current true tax value system even when such appraisal techniques are rooted in market value. *Canal Square Limited Partnership v. State Board of Tax Commissioners*, 694 N.E. 2d 801 (Ind. Tax 1998).
39. The cost tables in Regulation 17 are at the heart of true tax value's method for determining values. The cost schedules effective for the 1995 general reassessment, 50 IAC 2.2-11-6, reflect 1991 reproduction costs (based on market information derived from *Marshall Valuation Service* price tables) that were then reduced across the board by 15%. The overall purpose of these cost schedules was to approximate prevailing construction cost in 1991, less 15%. 50 IAC 2.2, Forward [sic] [Foreword] at i; *Town of St. John III*, 690 N.E. 2nd at 373, n. 5.
40. The Tax Court demands quantification techniques for grade application and the Board reasonably decides that using cost information is appropriate when grade issues are raised in property tax appeals. *Garcia v. State Board of Tax Commissioners*, 694 N.E. 2d 794 (Ind. Tax 1998).
41. The Board uses construction cost information provided by taxpayers as a tool for quantifying grade comparing adjusted cost to the cost schedules found in the Regulation. In very general terms, the taxpayer's construction cost information is trended to arrive at a comparison between the adjusted construction cost and construction cost in the Regulation.

42. The Supreme Court held that “the State Board acted within its statutory authority and assessed the Garcia’ residence using a methodology that was neither arbitrary nor capricious. The Garcia’ home was properly graded at ‘A+6’. *State Board of Tax Commissioners v. Garcia*, 766 N.E. 2d 341 (Ind. 2002)(*Garcia III*). In so holding, the Court in *Garcia III* also upheld the assignment of grades in excess of “A”.

Petitioner’s evidence

43. The Petitioner’s evidence on the issue of grade consisted of the following:
- a. An analysis of the “average” grade assigned to the homes in the Breakwater subdivision (Petitioner’s Exhibit 2);
 - b. Twenty-seven (27) PRCs of purported comparable properties located in the Breakwater subdivision (Petitioner’s Exhibit 8); and
 - c. Forty (40) pages of invoices and cancelled checks for the construction of the subject residence (Petitioner’s Exhibit 12).
44. Before applying the evidence to reduce the contested assessment, the Board must first analyze the reliability and probity of the evidence to determine what, if any, weight to accord it.
45. “A taxpayer who challenges the assessment of grade is required to present a prima facie case at the administrative level showing *what* the correct grade assessment should be. Therefore, going forward, this Court will not consider taxpayer complaints concerning grade unless the taxpayer asserts *what* his should have been and submits probative evidence to support that claim at the administrative level.” *Clark v. Department of Local Government Finance*, 779 N.E. 2d 1277 (Ind. Tax 2002)(*Clark III*).
46. The Petitioner testified that the subject dwelling cost “roughly” \$790,000 to construct in 2000 and 2001. To support this estimate the Petitioner submitted forty

(40) pages of invoices and cancelled checks. Though the Petitioner states that the cost of construction was “roughly” \$790,000, the invoices submitted add up to \$179,413.70, indicating that not all of the construction cost information is accounted for. When asked about documentation for the construction costs, the Petitioner replied that he could put it together but “it would entail a lot of time just trying to get a copy of every check” (Williamson testimony).

47. Assuming arguendo, that the Petitioner’s invoices supported the \$790,000 purported cost to build the subject structure, the Petitioner failed to apply the methodology endorsed in *Garcia III* to provide evidence that refutes the assignment of an “A+3” grade to the subject residence.

Garcia methodology

48. However, if such a methodology was applied the calculation would be as follows:

Dwelling construction cost	\$790,000
Adjustment made by Respondent for Petitioner being his own builder (amount was not disputed by Petitioner)	\$68,000
Adjusted Home construction cost	\$858,000

49. The Board will compare the adjusted home construction cost information to the Regulation’s cost schedules for purposes of the grade issue raised in this appeal. The Board cannot compare 2000 construction cost information (Petitioner’s testimony) with construction cost information based on 1991 dollars (cost schedules in the Regulation). Accordingly, the Board will deflate the 2000 cost information to 1991 true tax value.
50. To calculate the deflator factor, the Board will use the Marshall and Swift 2002 Residential Cost Handbook. This handbook is a national recognized publication of assessment/appraisal theory and cost data. It provides comparative cost multipliers

by region and also provides a formula to take an established cost of a home to a historical date. By using the Marshall and Swift cost multipliers for the Great Lakes Region (Wisconsin, Illinois, Indiana, Michigan and Ohio) and their cost formula, the home under appeal that was built in 2000 can be trended back in time to equal 1991 home construction cost. By obtaining the subject home construction cost in 1991 dollars, a grade factor can be quantified.

51. The Marshall and Swift cost multipliers for the first quarter 2000 for a masonry home (subject structure) is 1.026 and for the first quarter 1991 for a masonry home is 1.337. To calculate the discount factor needed to trend the 2000 construction cost information back to 1991 construction cost dollars, the 2000 multiplier must be divided by the 1991 multiplier. The calculation is as follows:

First quarter 2000 multiplier	1.026
First quarter 1991 multiplier	1.337

1.026 divided by 1.337 equals .7674

52. By taking the Petitioner's home adjusted construction cost in 2000 (\$858,000) and multiplying it by the deflator factor of .7674, the remainder value would be the subject home's construction cost for 1991. The 1991 construction cost is $\$858,000 \times .7674 = \$658,429$. Trending the construction cost downward still does not end the calculation because the 1991 cost schedules found in the Regulation were reduced by 15%. Accordingly, the deflated construction cost must be further reduced by 15% for proper comparison. This adjustment yields the following results: $\$658,429 \times .85 = \$559,665$.

53. The PRC for the home under appeal reflects that the home's reproduction cost (prior to the application of a grade adjustment) is \$214,300. The deflated reproduction cost

of the subject dwelling for the 2000 assessment is \$559,665. \$559,665 divided by \$214,300 = 2.612.

54. Comparing the Williamson's construction cost to the Regulation's cost schedules establishes a grade factor of 261%, rounded to 260% for a grade factor of "A+5". Presently the subject home is graded "A+3".

Petitioner's "average" analysis

55. The Petitioner submitted an analysis (Petitioner's Exhibit 2) based on the improvement value, square footage, grade and deviation from average assessed value of twenty (20) properties in the Breakwater subdivision, the same subdivision as the subject home. The purpose of the analysis was to determine the "average" grade found within this subdivision. Based on this analysis the Petitioner concluded that if the "average" is calculated to be an "A+1" and the subject dwelling's quality of workmanship and design is a little higher than the average dwelling located in Breakwater (Williamson and Johantges testimony), then the grade of "A+2" would be the more fitting grade for the subject residence.
56. The Petitioner's analysis is flawed. The grade of a dwelling is not established by what the "average" grade is or is not of the homes in a neighborhood, but rather by the quality of workmanship, materials used, and the design of the specific structure under appeal. The selected grade represents a composite judgment of the overall quality and design. *Mahan*, 622 N.E. 2d at 1064; 50 IAC 2.2-7-6(f).
57. The Petitioner's remarks concerning grade of the subject structure as being a "little higher than the average dwelling located in Breakwater", are conclusory at best and do not constitute probative evidence. Unsubstantiated conclusions do not constitute probative evidence. *Whitely*, 704 N.E. 2d at 1119.

Petitioner's comparables

58. Finally, the Petitioner attempted to argue a grade change based on twenty-seven (27) properties (Petitioner's Exhibit 8 - there are actually nineteen properties) located in the Breakwater subdivision. Mr. Williamson testified how the twenty-seven (27) properties' quality of workmanship and design compare to that of the subject dwelling.
59. Identifying comparable properties and demonstrating that the property under appeal has been treated differently for property tax purposes can show error in the assessment. However, the Petitioner never establishes how the properties are comparable. The fact that they are in the same subdivision does not make them comparable. In addition, the purported comparables range from a 1-story brick over a crawl space to 2-story frame over a finished basement and crawl with square footages ranging from 3,081 to 11,108 square feet.
60. Mr. Williamson's testimony on the properties in the Breakwater subdivision as either being superior, inferior or comparable to the dwelling under appeal and then concluding that the grade be reduced is mere speculation and self-serving. Upon questioning from Mr. Zagar (Respondent), Mr. Williamson stated that he was not an appraiser and that he was offering his subjective opinions on the grades of the comparables.
61. When a taxpayer fails to submit evidence that is probative evidence of the error alleged, the State Board can properly refuse to consider the evidence. *Whitley*, 704 N.E. 2d at 1119 (citing *Clark v. State Board of Tax Commissioners*, 694 N.E. 2d 1230, 1239, n. 13 (Ind. Tax 1998)).
62. The Petitioner did not establish disparate treatment between the contested property and other similarly situated properties. No evidence was presented to show the

statute or regulations were not properly applied to the individual assessment. The Petitioner did not make a prima facie case on the evidence presented.

63. For all reasons set forth above, the Petitioner failed to meet his burden in this appeal. Accordingly, no change is made in the assessment as a result of this issue.

ISSUE 2: Whether the subject dwelling's percentage of completion as of March 1, 2001 should be 70%.

64. At the hearing, Mr. Williamson, Ms. Zagar and Ms. Folkerts stipulated that the percentage of completion on the subject dwelling as of March 1, 2001 was 70%. The parties signed a Stipulation Agreement to this fact. The agreement is entered into the record and labeled as Board's Exhibit C.
65. The agreement between the Petitioner, Township and County is a decision among these parties and the Board will accept the agreement. The Board's acceptance of the agreement should not be construed as a determination regarding the propriety of the application of the percentage of completion on the subject dwelling agreed to by the parties. A change in the assessment is made as a result of this agreement.

Summary of Final Determination

Determination of ISSUE 1: Whether the grade of the dwelling is excessive.

66. The Petitioner failed to meet his burden on this issue. There is no change in the assessment as a result of this issue.

Determination of ISSUE 2: Whether the subject dwelling's percentage of completion as of March 1, 2001 should be 70%.

67. The parties stipulated that the percentage of completion on the subject dwelling was 70% as of March 1, 2001. A change is made in the assessment as a result of this agreement.

The Indiana Board issues the Final Determination of the above captioned matter on the date first written above.

Chairman, 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.