STATE OF INDIANA

Board of Tax Review

DUNN-RITE PRODUCTS INC.	)	On Appeal from the Madison County
	)	Property Tax Assessment Board
	)	of Appeals
Petitioner,	)	
	)	
v.	)	Petition for Review of Assessment,
	)	Form 131
	)	Petition No. 48-026-01-1-4-00001
MADISON COUNTY PROPERTY TAX	)	Parcel No. 264151
ASSESSMENT BOARD OF APPEALS	)	
And PIKE CREEK TOWNSHIP	)	
ASSESSOR,	)	
Respondents.	)	

Findings of Fact and Conclusions of Law

On January 1, 2002, pursuant to Public Law 198-2001, the Indiana Board of Tax Review (IBTR) assumed jurisdiction of all appeals then pending with the State Board of Tax Commissioners (SBTC), or the Appeals Division of the State Board of Tax Commissioners (Appeals Division). For convenience of reference, each entity (the IBTR, SBTC, and Appeals Division) is hereafter, without distinction, referred to as "State". The State having reviewed the facts and evidence, and having considered the issues, now finds and concludes the following:

Issues

1. Whether additional obsolescence depreciation is warranted.
2. Whether the use types for Buildings #1 and #2 are correct.
3. Whether the buildings are measured correctly.

Findings of Fact

1. If appropriate, any finding of fact made herein shall also be considered a conclusion of law. Also, if appropriate, any conclusion of law made herein shall also be considered a finding of fact.

2. Pursuant to IC 6-1.1-15-3, Mr. Doug Dunn, on behalf of Dunn-Rite Products, Inc. (the Petitioner), filed a Form 131 petition requesting a review by the State. The Form 131 petition was filed on July 5, 2001. The Madison County Property Tax Assessment Board of Appeals (PTABOA) Notification of Final Assessment Determination on the underlying Form 130 petition is dated June 5, 2001.

3. Pursuant to IC 6-1.1-15-4, a hearing was held on September 20, 2001 before Hearing Officer Joan L. Rennick. Testimony and exhibits were received into evidence. Mr. James W. Wilson, Attorney at Law/Bingham, Farrer & Wilson, P.C., Mr. Lindley Comer, Appraiser, and Mr. Doug Dunn, Vice President of Dunn-Rite Products, Inc., represented the Petitioner. No one appeared to represent either PTABOA or Pipe Creek Township.

4. The Notices of Hearing on Petitions sent to the PTABOA or to Pipe Creek Township Assessor (Board's Exhibit D) were not returned to the State as "undeliverable" nor did either party contact the Hearing Officer or the State to request a continuance of the hearings.

5. At the hearing, the subject Form 131 was made a part of the record and labeled Board's Exhibit A. The Notice of Hearing on Petition was labeled Board's Exhibit B. In addition, the following exhibits were submitted:
Board's Exhibit C - Hearing Sign In Sheet
Board's Exhibit D - Proof of Mailing

Petitioner's Exhibit 1 – Copy of 130 Petition to PTABOA with attachments including an assessment of the subject property by Mr. Comer

Petitioner's Exhibit 2 – Copy of Contract for Sale and Purchase of Property (subject property)

Petitioner's Exhibit 3 – Mr. Comer's analysis of subject property's assessment

Petitioner's Exhibit 4 – Eleven (11) interior photographs of the Building #2

6. The subject property is a commercial building located at 230 South I (J) Street, Elwood, Madison County, Pipe Creek Township.

7. The Hearing Officer did not view the property.

Issue 1 – Whether additional obsolescence depreciation is warranted.

8. The Petitioner purchased the subject property in 1998 for $260,000 in an arms length transaction. The Petitioner conducts no manufacturing or assembling at this location. All components are manufactured elsewhere, shipped to this facility, and repackaged and shipped to customers or distributors. *Wilson Testimony & Petitioner's Exhibit 2.*

9. 50 IAC2.2-10-7 (e) lists some of the causes of functional obsolescence that are present in the subject property such as excessive material and product handling, and inadequate utility space. Petitioner argued that a new clear span building with comparable square footage, and a sixteen (16) foot wall height may have a total True Tax Value (TTV) of $400,000, but the subject property is not such a building and that is why there is obsolescence. Approximately $50,000 of extra expenses per year is the result of the functional obsolescence in the structures. *Wilson and Dunn testimony*.

10. The current assessment applies 20% physical depreciation and 20% obsolescence depreciation to Building #1 and 65% physical depreciation and 30% obsolescence depreciation to Building #2. Based upon the definition of "Observed Depreciation" found at 50 IAC 2.2-16-3 (32), 65% obsolescence depreciation has been determined for both buildings. The loss in value is discernible through physical observation by comparing the subject property with a comparable property either new or capable of rendering maximum utility. *Comer testimony & Petitioner's Exhibit 1.*

11. In comparing the purchase price of the subject property to the total TTV, the 65% obsolescence depreciation brings the assessment closer to the actual sale of the property. The market is the way to quantify obsolescence, but no other similar properties have sold in the area and the arms length sale of the subject property is compelling evidence in itself. Using Sales Disclosure information available on the Internet an analysis of Madison County property sales was done. This analysis shows the Assessed Value (AV) of the subject property is 66.66% of market value and the TTV is 200% of market value or over four (4) times the "average" Madison County properties. *Comer testimony &. Petitioner's Exhibit 3*.

Issue 2 – Whether the use types for Buildings #1 and #2 are correct.

12. Based on an inspection of the structures the following was determined:
    a. The current assessment lists Building #1 as 50% semi-finished (SF) and 50% unfinished (UF), however, all of Building #1 should be classified as UF (Light Warehouse); and
    b. The current assessment lists Building #2 as 40% SF, 40% UF, and 20% finished divided (FD), however, it is determined that the structure is 43% SF, 41% UF, and 16% FD.

Comer testimony & Petitioner's Exhibit 1.

Issue 3 – Whether the buildings are measured correctly.

13. The buildings are incorrectly measured. Based upon the correct measurements, the buildings should be:
Building #1 – 29,703 square feet (SF) and not 22,448 SF
Building #2 – 29,941 SF and not 30,334 SF

The large difference in square footage (Building #1) is due to an omission of a section of the building on the current assessment. The average age, the wall height, and the physical depreciation applied to each building are correct. *Comer testimony & Petitioner's Exhibit 1*.

Conclusions of Law

1. The Petitioner is limited to the issues raised on the Form 130 petition filed with the Property Tax Assessment Board of Appeals (PTABOA) or issues that are raised as a result of the PTABOA's action on the Form 130 petition. 50 IAC 17-5-3. See also the Forms 130 and 131 petitions authorized under Ind. Code §§ 6-1.1-15-1, -2.1, and –4. In addition, Indiana courts have long recognized the principle of exhaustion of administrative remedies and have insisted that every designated administrative step of the review process be completed. *State v. Sproles,* 672 N.E. 2d 1353 (Ind. 1996); *County Board of Review of Assessments for Lake County v. Kranz* (1964), 224 Ind. 358, 66 N.E. 2d 896. Regarding the Form 130/131 process, the levels of review are clearly outlined by statute. First, the Form 130 petition is filed with the County and acted upon by the PTABOA. Ind. Code §§ 6-1.1-15-1 and –2.1. If the taxpayer, township assessor, or certain members of the PTABOA disagree with the PTABOA's decision on the Form 130, then a Form 131 petition may be filed with the State. Ind. Code § 6-1.1-15-3. Form 131 petitioners who raise new issues at the State level of appeal circumvent review of the issues by the PTABOA and, thus, do not follow the

prescribed statutory scheme required by the statutes and case law. Once an appeal is filed with the State, however, the State has the discretion to address issues not raised on the Form 131 petition. *Joyce Sportswear Co. v. State Board of Tax Commissioners,* 684 N.E. 2d 1189, 1191 (Ind. Tax 1997). In this appeal, such discretion will not be exercised and the Petitioner is limited to the issues raised on the Form 131 petition filed with the State.

2. The State is the proper body to hear an appeal of the action of the County pursuant to Ind. Code § 6-1.1-15-3.

A. Indiana's Property Tax System

3. Indiana's real estate property tax system is a mass assessment system. Like all other mass assessment systems, issues of time and cost preclude the use of assessment-quality evidence in every case.

4. The true tax value assessed against the property is not exclusively or necessarily identical to fair market value. *State Board of Tax Commissioners v. Town of St. John,* 702 N.E. 2d 1034, 1038 (Ind. 1998)(*Town of St. John V)*.

5. The Property Taxation Clause of the Indiana Constitution, Ind. Const. Art. X, § 1 (a), requires the State to create a uniform, equal, and just system of assessment. The Clause 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. *Town of St. John V,* 702 N.E. 2d at 1039 – 40.

6. Individual taxpayers must have a reasonable opportunity to challenge their assessments. But the Property Taxation Clause does not mandate the consideration of whatever evidence of property wealth any given taxpayer deems relevant. *Id.* Rather, the proper inquiry in all tax appeals is "whether the system

prescribed by statute and regulations was properly applied to individual assessments." *Id* at 1040. Only evidence relevant to this inquiry is pertinent to the State's decision.

B. Burden

7. Ind. Code § 6-1.1-15-3 requires the State to review the actions of the PTABOA, but does not require the State to review the initial assessment or undertake reassessment of the property. The State has the ability to decide the administrative appeal based upon the evidence presented and to limit its review to the issues the taxpayer presents. *Whitley Products, Inc. v. State Board of Tax Commissioners,* 704 N.E. 2d 1113, 1118 (Ind. Tax 1998) (citing *North Park Cinemas, Inc. v. State Board of Tax Commissioners,* 689 N.E. 2d 765, 769 (Ind. Tax 1997)).

8. In reviewing the actions of the PTABOA, the State is entitled to presume that its actions are correct. "Indeed, if administrative agencies were not entitled to presume that the actions of other administrative agencies were in accordance with Indiana law, there would be a wasteful duplication of effort in the work assigned to agencies." *Bell v. State Board of Tax Commissioners,* 651 N.E. 2d 816, 820 (Ind. Tax 1995). The taxpayer must overcome that presumption of correctness to prevail in the appeal.

9. It is a fundamental principle of administrative law that the burden of proof is on the person petitioning the agency for relief. 2 Charles H. Koch, Jr., *Administrative Law and Practice,* § 5.51; 73 C.J.S. Public Administrative Law and Procedure, § 128.

10. Taxpayers are expected to make factual presentations to the State regarding alleged errors in assessment. *Whitley*, 704 N.E. 2d at 1119. These

presentations should both outline the alleged errors and support the allegations with evidence. "Allegations, unsupported by factual evidence, remain mere allegations." *Id* (citing *Herb v. State Board of Tax Commissioners,* 656 N.E. 2d. 890, 893 (Ind. Tax 1995)). The State is not required to give weight to evidence that is not probative of the errors the taxpayer alleges. *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)).

11. The taxpayer's burden in the State's administrative proceedings is two-fold: (1) the taxpayer must identify properties that are similarly situated to the contested property, and (2) the taxpayer must establish disparate treatment between the contested property and other similarly situated properties. In this way, the taxpayer properly frames the inquiry as to "whether the system prescribed by statute and regulations was properly applied to individual assessments." *Town of St. John V,* 702 N.E. 2d at 1040.

12. The taxpayer is required to meet his burden of proof at the State administrative level for two reasons. First, the State is an impartial adjudicator, and relieving the taxpayer of his burden of proof would place the State in the untenable position of making the taxpayer's case for him. Second, requiring the taxpayer to meet his burden in the administrative adjudication conserves resources.

13. To meet his burden, the taxpayer must present probative evidence in order to make a prima facie case. In order to establish a prima facie case, the taxpayer must introduce evidence "sufficient to establish a given fact and which if not contradicted will remain sufficient." *Clark,* 694 N.E. 2d at 1233; *GTE North, Inc. v. State Board of Tax Commissioners,* 634 N.E. 2d 882, 887 (Ind. Tax 1994).

14. In the event a taxpayer sustains his burden, the burden then shifts to the local taxing officials to rebut the taxpayer's evidence and justify its decision with substantial evidence. 2 Charles H. Koch, Jr. at §5.1; 73 C.J.S. at § 128. *See*

Whitley, 704 N.E. 2d at 1119 (The substantial evidence requirement for a taxpayer challenging a State Board determination at the Tax Court level is not "triggered" if the taxpayer does not present any probative evidence concerning the error raised. Accordingly, the Tax Court will not reverse the State's final determination merely because the taxpayer demonstrates flaws in it).

C. Review of Assessments After *Town of St. John V*

15. Because true tax value is not necessarily identical to market value, any tax appeal that seeks a reduction in assessed value solely because the assessed value assigned to the property does not equal the property's market value will fail.

16. Although the Courts have declared the cost tables and certain subjective elements of the State's regulations constitutionally infirm, the assessment and appeals process continue under the existing rules until a new property tax system is operative. *Town of St. John V,* 702 N.E. 2d at 1043; *Whitley,* 704 N.E. 2d at 1121.

17. Town of St. John V does not permit individuals to base individual claims about their individual properties on the equality and uniformity provisions of the Indiana Constitution. *Town of St. John*, 702 N.E. 2d at 1040.

Issue 1 – Whether additional obsolescence is warranted.

The concept of depreciation and obsolescence.

18. Depreciation is an essential element in the cost approach to valuing property. Depreciation is the loss in value from any cause except depletion, and includes physical depreciation and functional and external (economic) obsolescence.

IAAO Property Assessment Valuation, 153 & 154 (second Edition, 1996); *Canal Square Limited Partnership V State Board of Tax Commissioners*, 694 N.E. 2d 801, 806 (citing Am. Inst. of Real Estate Appraisers, The Appraisal of Real Estate, 321 (Tenth Edition, 1992)).

19. Depreciation is a concept in which an estimate must be predicated upon a comprehensive understanding of the nature, components, and theory of depreciation, as well as practical concepts for estimating the extent of it in improvements being valued. 50 IAC 2.2-10-7.

20. Depreciation is a market value concept and the true measure of depreciation is the effect on marketability and sales price. IAAO Property Assessment Valuation at 153. The definition of obsolescence in the Regulation, 50 IAC 2.2-10-7, is tied directly to that applied by professional appraisers under the cost approach. *Canal Square*, 694 N.E. 2d at 806. Accordingly, depreciation can be documented by using recognized appraisal techniques. *Id.*

21. Functional obsolescence is the category of obsolescence requested in this appeal. Functional obsolescence is caused by factors inherent in the property itself. 50 IAC 2.2-1-29. Functional obsolescence is the loss in value resulting from changes in demand, design, and technology, and can take the form of deficiency, the need for modernization or superadequacy. IAAO Property Assessment Valuation at 154 & 155.

22. Functional obsolescence is classified as either curable or incurable. IAAO Property Assessment Valuation at 168 – 170; IAAO Property Appraisal and Assessment Administration at 221.

23. Curable functional obsolescence is measured by the cost to cure the condition. There are three (3) categories of curable functional obsolescence that can be measured: normal deficiency, modernization and superadequacy. Incurable functional obsolescence is a condition that decreases the utility of the property

and is not economically feasible to cure as of the date of appraisal, and it may be caused by a deficiency or superqdequacy. IAAO Property Assessment Valuation at 168 – 172.

24. Under the cost approach, there are five recognized methods used to measure depreciation, including obsolescence, namely: (1) the sales comparison method, (2) the capitalization of income method, (3) the economic age-life method, (4) the modified economic age-life method, and (5) the observed condition (breakdown) method. IAAO Property Assessment Valuation at 156.

Burden regarding the obsolescence claim.

25. It is incumbent on the taxpayer to establish a link between the evidence and the loss of value due to obsolescence. After all, the taxpayer is the one who best knows his business and it is the taxpayer who seeks to have the assessed value of his property reduced. *Rotation Products Corp. v. Department of State Revenue,* 690 N.E. 795, 798 (Ind. Tax 1998).

26. Regarding obsolescence, the taxpayer has a two-prong burden of proof: (1) the taxpayer has to prove that obsolescence exists, and (2) the taxpayer must quantify it. *Clark,* 694 N.E. 2d at 1233.

Evidence submitted.

27. It is the Petitioner's contention that the two (2) structures suffer from additional functional obsolescence. Building #1 is currently receiving 20% obsolescence depreciation and Building #2 is currently receiving 30% obsolescence depreciation. It is the Petitioner's opinion that each structure should receive 65% obsolescence depreciation.

28. Since local assessing officials have applied obsolescence depreciation to the two (2) structures, the parties are not in any disagreement that some amount of obsolescence depreciation exists. However, the parties do disagree on the amount of obsolescence that should be applied.

29. Due to the fact the parties agree that obsolescence exists, the Petitioner's first prong of their burden has been met. The Petitioner now has the burden of quantifying the amount of obsolescence they seek.

30. The Petitioner makes the following statements in support of the obsolescence issue:

a. 50 IAC 2.2-10-7(e) lists some of the causes of functional obsolescence found in the subject structures;
b. A new clear span facility with the same square footage as the subject, and a sixteen (16) foot wall height would probably have a true tax value of $400,000;
c. It is cost prohibitive to cure the functional obsolescence. An additional cost of $50,000 per year would be required for material and product handling as well as heating for unused space;
d. Sales disclosure information was utilized to show that the TTV of the subject is 200% of market value or over four (4) times the "average" for Madison County properties;
e. There were no sales of similar properties to the subject, other than the subject;
f. The analysis of obsolescence was based upon the language in the Regulation, specifically 50 IAC 2.2-16-3(32), which is the definition of "Observed depreciation". This states that observed depreciation is the loss in value that is discernible through physical observation by comparing the subject property with a comparable property either new or capable of rendering maximum utility; and
g. The TTV should not be more than the market value of $260,000, the purchase

price in 1998.

31. The Petitioner also submitted into evidence letters addressed to Mr. Wilson from Mr. Comer dated January 25, 2002 and September 19, 2001 respectively.

32. Before applying the evidence to reduce the contested assessment, the State must first analyze the reliability and probity of the evidence to determine what, if any, weight to accord it.

Analysis of evidence

33. The Petitioner points to the list of causes for functional obsolescence found in 50 IAC 2.2-10-7(e) and states that some of these causes can be found in the subject structures. However, the Petitioner must do more than just point to sections of the Regulation and exclaim that the subject structures suffer from the same causes.

34. The Petitioner fails to elaborate on the causes of functional obsolescence (excessive material and product handling costs) and how those causes relate to the structures under review. Mere references to photographs or regulations, without explanation, do not qualify as probative evidence. *Heart City Chrysler v. State Board of Tax Commissioners*, 714 N.E. 2d 329, 333 (Ind. Tax 1999).

35. The Petitioner states that it is cost prohibitive to cure the functional obsolescence and that a cost of $50,000 per year would be required for material and product handling as well as heating for unused space. However the Petitioner fails to provide any documentation as to how the $50,000 was determined or what it specifically represents. In addition, the Petitioner does not attempt to measure the incurable functional obsolescence caused by either deficiency or superadequacy.

36. The Petitioner opines that a new clear span facility (Finding of Fact ¶8) probably would have a TTV of $400,000. The Petitioner submits no documentation showing that such a structure would in fact equate to a TTV of $400,000 or any other value. The Petitioner does not make any comparison of a new clear span facility with that of the subject structures. The Petitioner does not develop a model of a new facility capable of rendering maximum utility.

37. The Petitioner states that sales disclosure information was utilized to show that the TTV of the subject is 200% of the market value or over four (4) times the "average" for Madison County properties. The Petitioner did not submit into evidence any of the sales disclosure information purported to be used by the Petitioner that supports this statement. Without documentation for review it is impossible to be certain that the sales disclosure information referred to by the Petitioner included properties comparable to the subject property, that is, commercial and not residential or agricultural properties.

38. The Petitioner alleges that there were no sales of similarly situated properties to that of the subject. Yet in Petitioner's Exhibit 3 it states, "While there have been a few sales of factory buildings, all are more modern with more desirable room arrangements and height than the Dunn-Rite property." In making this statement the Petitioner dismisses one of the four concepts of cost – replacement cost.

39. Replacement cost is the cost of producing a building or improvement having the same utility, but using modern materials, design, and workmanship. IAAO Property Assessment Valuation at 131. The Petitioner makes no attempt to develop this approach and if such an approach was developed, it may have demonstrated the loss in value suffered by the subject as compared to a more modern facility.

40. The Petitioner opines that the analysis of obsolescence was based upon the language in the Regulation, 50 IAC 2.2-16-3(32). See Findings of Fact ¶9.

However, this was not the method presented by the Petitioner to the State. The Petitioner did not present any comparison of any properties to that of the subject property.

41. The Petitioner further contends the subject's TTV of $476,000 should not exceed market value, $260,000 purchase price in 1998.

42. Ind. Code § 6-1.1-31-6 (c) states, "With respect to the assessment of real property, true tax value does not mean fair market value. True tax value is the value determined under the rules of the state board of tax commissioners." Because TTV is not necessarily identical to market value, any tax appeal that seeks a reduction in assessed value solely because the assessed value assigned to the property does not equal the property's market value will fail.

43. Lastly, the Petitioner submits letters from Mr. Comer, an appraiser (Petitioner's Exhibits 1 and 3). Mr. Comer did appear to testify in connection with these letters.

44. In the letters were intended to represent an independent appraisal, they lack the following aspects of the valuation process:
    a. They failed to define the problem, failing to identify the subject property, the rights to be valued, the use of the appraisal, to define the value to be estimated, the date of value estimate, description of the scope of the appraisal and other conditions or limits the client put on the appraiser;
    b. There is no analysis of general, specific, or comparative data;
    c. There is no highest and best use analysis of the subject property
    d. There was no land value estimate (valued as if vacant);
    e. No explanation as to why the three (3) approaches to value were not attempted;
    f. The appraiser does not state that he subscribes to Uniform Standards of Professional Appraisal Practice (USPAP);

g. The appraiser does not indicate that he belongs to a recognized appraisal association;
h. The appraiser does not indicate how many structures similar to the subject, he has appraised;
i. The appraiser qualifications state that he specializes in farm sales and appraisals. The subject structures under review in this appeal are commercial in nature; and
j. The appraiser does state that he is certified by the State as a Level I and II appraiser thus making him familiar with the State's Regulation, 50 IAC 2.2.

45. If the letters were intended to serve as a professional opinion, then that is exactly what they are, an opinion. They lack sufficient evidence to support their conclusions.

Much of this has already been discussed in Conclusions of Law ¶33 through 42. Unsubstantiated conclusions do not constitute probative evidence. *Whitley*, 704 N.E. 2d at 1119.

46. Though the parties agreed that some amount of obsolescence should be applied to the subject structures, thus enabling the Petitioner to meet their first prong of their burden, the Petitioner failed in the second prong of their burden to quantify the 65% obsolescence depreciation they sort.

47. As stated in Conclusions of Law ¶10, taxpayers are expected to make factual presentations to the State regarding the alleged errors in assessment. These presentations should both outline the alleged errors and support the allegations with evidence. The Petitioner failed to present probative evidence in order to make a prima facie case. "Allegations, unsupported by factual evidence, remain mere allegations."

48. It should also be noted the Petitioner did not attempt to use any of the recognized methods to measure obsolescence. See Conclusions of Law ¶24.

49. For all the reasons set forth above, there is no change in the assessment as a result of this issue.

Issue 2 – Whether the use types for Buildings #1 and #2 are correct.

50. The Petitioner testified that no manufacturing or assembling takes place at this facility. That the facility is a warehouse where swimming pool accessories are repackaged and shipped to customers and distributors. The Petitioner contends that the use types (finish type) of the structures are incorrect.

51. The Petitioner claims Building #1 should be assessed as being 100% UF (warehouse). Building #1 is currently assessed as 50% SF (light warehouse) and 50% UF (light utility storage).

52. The Petitioner did not submit any documentation to support this claim. The Petitioner did not present photographs, detailed drawings, floor plans or blueprints that would have allowed for the determination of the square footages attributed to the different finish types within this building thus supporting a change in the use types.

53. The Petitioner claims Building #2 should be assessed as 43% SF (light warehouse), 41% UF (light utility storage), and 16% FD (industrial office). Building #2 is currently assessment as 40% SF (light warehouse), 40% UF (light utility storage), and 20% FD (industrial office).

54. The Petitioner submitted eleven (11) interior photographs of this Building #2, but did not submit any detailed drawings, floor plans or blueprints that would have allowed for the determination of the square footages attributed to the different finish types within this building thus supporting a change in the use types.

55. As stated in Conclusions of Law ¶9 and 10, it is a fundamental principle of

administrative law that the burden of proof is on the person petitioning the agency for relief. Taxpayers are expected to make factual presentations to the State regarding alleged errors in assessment. These presentations should outline the alleged errors and support the allegations with evidence. "Allegations, unsupported by factual evidence, remain mere allegations."

56. For all the reasons set forth above, there is no change in the assessment as a result of this issue.

Issue 3 – Whether the buildings are measured correctly.

57. It is the Petitioner's contention the measurements of the two (2) buildings are incorrect. The Petitioner testified that upon measuring the structures the square footages are as follows:
Building #1 – 29,703 SF, County PRC shows 22,448 SF
Building #2 – 29,941 SF, County PRC shows 30,334 SF

58. The Petitioner submitted a drawing (Petitioner's Exhibit 1) into evidence of the footprint of the buildings, which showed that while most of the measurements corresponded with those of the County's, the County seemed to have failed to include a 7,254 SF section to Building #1. It should also be noted that when the Petitioner's square footages are reviewed, Building #1 contains 29,702 SF not 29,703 SF as previously stated.

59. Based on the Petitioner's evidence and the Petitioner's undisputed testimony regarding the measuring of the subject structures, it is determined to add the previously overlooked 7,254 SF to Building #1 and to reduce the square footage of Building #2 as requested by the Petitioner.

Other Findings

Perimeter-to-Area Ratio

60. Due to the changes in the measurements and square footages of the subject buildings based on the evidence presented by the Petitioner, it will also be necessary to review whether these changes required changes to the perimeter-to-area ratio (PAR) of the structures. Based on this review it is determined to change the PARs in the following manner:
Building #1 – 705 linear feet divided by 29,702 SF = PAR of 2
Building #2 – 683 linear feet divided by 29,941 SF = PAR of 2

61. A change in the assessment is made.

Use Types

62. Though the Petitioner listed use types (finish) as an issue for review by the State (Issue #2, Findings of Fact ¶12), the State determined the Petitioner failed in their burden to present probative evidence that would require a change (Conclusions of Law ¶49 – 55). Since there is no change regarding use, it is determined that the additional square footage added to Building #1 (7,254 SF) will be valued in the same manner as the County had originally determined – 50% UF and 50% SF.

The above stated findings and conclusions are issued in conjunction with, and serve as the basis for, the Final Determination in the above captioned matter, both issued by the Indiana Board of Tax Review this ____ day of_____, 2002.

_____

Chairman, Indiana Board of Tax Review