

**STATE OF INDIANA
Board of Tax Review**

In the matter of the Petition for Review)
of Assessment, Form 131) Petition No. : 83-011-95-1-3-00003

Parcel No. :011009000100

Assessment Year: 1995

Petitioner: Inland Container Corporation
4030 Vincennes Road
Indianapolis, IN 46268-0937

Petitioner Representative: Ducharme,McMillen & Associates, Inc.
6610 Mutual Drive
Fort Wayne, IN 46825

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:

Issue

1. Whether functional obsolescence is warranted.

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 Ind. Code § 6-1.1-15-3, Ducharme, McMillen & Associates, Inc. on behalf of Inland Container Corporation (the Petitioner), filed a Form 131 petition requesting a review by the State. The Form 131 petition was filed on July 30, 1996. The Vermillion County Board of Review's (County Board) Final Determination was dated July 23, 1996.

3. Pursuant to Ind. Code § 6-1.1-15-4, a hearing was held on June 21, 2001, before Hearing Officer Joan L. Rennick. Testimony and exhibits were received into evidence. Mr. Todd Heath and Mr. Greg Poore represented the Petitioner. The Vermillion County Board of Review was not represented at the hearing.

4. At the hearing, the subject Form 131 was made part of the record and labeled Board Exhibit A. The Notice of Hearing was labeled Board Exhibit B. In addition, the parties submitted the following exhibits to the State:
Petitioner's Exhibit 1-Brief containing the following:
 - a. Cover letter stating issue and request for obsolescence, definitions of obsolescence, and issues causing obsolescence in the subject property.
 - b. Photographs of subject property and demographic information
 - c. Summary of analysis
 - d. Comparable sale in Greenwood, IN
 - e. Comparable sale in Lafayette, IN
 - f. Comparable sale in Bloomington, IN
 - g. Comparable sale in Crawfordsville, IN
 - h. Comparable sale in Lafayette, IN

Petitioner's Exhibit 2-Acknowledgment of Disclosure

Respondent's Exhibit 1—Letter from County Assessor explaining the county's position on obsolescence.

5. The property is located on Highway 63, Newport, Vermillion Township, Vermillion County. The Hearing Officer did not view the property.

Issue-Whether functional obsolescence is warranted.

6. The Vermillion County Board of Review was not represented at the hearing, but the assessor submitted a letter (Respondent's Exhibit 1) stating the County Board's responses to the obsolescence issue are as follows:
 - a. Facility was constructed for present use.
 - b. Facility is at the maximum level of efficiency for paper mills in the United States according to several employees.
 - c. Floor plan appears sufficient from the assessor's observation.
 - d. Proper maintenance is required.
7. Issues exist at the facility that indicate obsolescence is present. Those issues are as follows: (a) truck trailer lengths have increased requiring relocation of the scale and scale office at approximately a cost of \$375,000; (b) additions to the main manufacturing building require additional manpower for the movement of materials at a cost of \$110,000 and 2 forklift trucks at a cost of \$36,000 per year; (c) a ventilation problem could possibly be corrected with energy savings of \$400,000 per year; and (d) if the location were closer to the Chicago area, freight savings would total \$1,465,000 per year. *Heath Testimony*. Petitioner's Exhibit 1a.
8. The courts have made it clear obsolescence needs to be identified and then quantified; Mr. Sholl has identified problems within the facility that are creating obsolescence. An analysis based on the Sales Comparison Method identifies five (5) properties in central Indiana that sold within the time frame of this appeal. Land values were subtracted from the total sales price to estimate the value

contributed by the improvement. Marshall & Swift tables were used to estimate the replacement cost new (RCN) of the comparable property's improvement. The improvement value is then deducted from the RCN of the comparable property's improvement to yield the amount of the depreciation suffered by the comparable. This figure was then converted to a percentage. An average of the five (5) comparable sales indicate accrued depreciation of 66%. However, Sale Number 5 was thrown out because of skewed figures that were not in the range of the other four comparable sales. The indicated accrued depreciation for four (4) sales is 60%. The request for functional obsolescence is 24% and that is higher than the request on the original petition filed in 1996. The changes at the state level in regard to quantifying obsolescence required a detailed analysis that indicated the 15% request was not accurate and supported by market data. The issues listed in the letter from Mr. Sholl indicate that a much higher obsolescence figure would be necessary if the income approach were developed. He prefers to use the sales comparison analysis. *Poore Testimony*. Petitioner 's Exhibit 1.

Conclusions of Law

1. The Petitioner is statutorily 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. Ind. Code §§ 6-1.1-15-1, -2.1, and -4. See also the Forms 130 and 131 petitions. 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.

D. Issue -Whether functional obsolescence is warranted.

The concept of depreciation and obsolescence

18. 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.
19. The elements of functional and economic obsolescence can be documented using recognized appraisal techniques. *Canal Square Limited Partnership v.*

State Board of Tax Commissioners, 694 N.E. 2d 801 (Ind. Tax 1998). These standardized techniques enable a knowledgeable person to associate cause and effect to value pertaining to a specific property. *Id.*

20. Recognition of obsolescence beyond physical depreciation is a profession that requires supportable evidence. This recognition of cause and effect may be supported by use of some of the following techniques and methods: (1) the paired data analysis, (2) a capitalization of rent loss, (3) the breakdown method, (4) the market extraction method, and (5) the age-life method. Even when fully prepared to the requirements acceptable in professional appraisal standards and ethics, these techniques and methods are considered support approaches in justifying and documenting obsolescence.
21. The use of any singular technique or method identified above without the use of other approaches to value would be considered unethical and incomplete.
22. As stated in an excerpt from *The Appraisal of Real Estate*, Eleventh Edition, published by the Appraisal Institute of America: The breakdown method is the most comprehensive and detailed way to measure depreciation. When used in conjunction with market extraction and age-life methods, the breakdown method desegregates a total depreciation estimate into its component parts. Furthermore, there are five primary techniques used to calculate the different types of depreciation in the breakdown method. These include estimation of cost to cure, application of an age-life ratio, application of the functional obsolescence procedure, analysis of paired data, and capitalization of rent loss. Cost to cure is a measure of both curable physical deterioration and curable functional obsolescence. An age-life ratio is used to measure curable physical deterioration and incurable physical deterioration for both short-lived and long-lived components. The functional obsolescence procedure may be used to estimate all types of functional obsolescence. Analysis of paired data and capitalization of rent loss may be used to estimate incurable functional obsolescence caused by a deficiency as well as external obsolescence.

23. As also stated in *The Appraisal of Real Estate*, Eleventh Edition: External factors frequently affect both the land and building components of a property's value. In addition, when market data are studied to develop an estimate of external obsolescence, it is important to isolate the effect of the obsolescence on land value from the effect on the value of the improvements. The two primary methods of measuring external obsolescence are paired data analysis and the capitalization of rent loss. Paired data analysis is a useful technique when market evidence is available.
24. *The Appraisal of Real Estate*, Eleventh Edition, provides that physical deterioration is caused by wear and tear from regular use, the impact of the elements, and the effect of normal aging. Careful maintenance can slow the process of deterioration and neglect can accelerate it. Physical deterioration may be curable or incurable. The three main physical components of a building are items of deferred maintenance, short-lived components, and long-lived components. All physical components in a building fall into one of these three categories.
25. *The Appraisal of Real Estate*, Eleventh Edition, states that a flaw in the structure, materials, or design of the improvement causes functional obsolescence. It is attributable to defects within the property, as opposed to external obsolescence, which is caused by external factors. Functional obsolescence may be curable or incurable. Functional obsolescence can be caused by a deficiency, which means that the subject property is below standard in respect to market norms. It can also be caused by a superadequacy, which means that the subject property exceeds market norms. There are five types of functional obsolescence: curable functional obsolescence caused by a deficiency requiring an addition (installation) of a new item, curable functional obsolescence caused by a deficiency requiring the substitution (replacement) of an existing item ("curable defect"), curable functional obsolescence caused by a superadequacy which is

economically feasible to cure, incurable functional obsolescence caused by a deficiency, and incurable functional obsolescence caused by a superadequacy.

26. According to *The Appraisal of Real Estate*, Eleventh Edition, external obsolescence is a loss in value caused by factors outside of the subject property. This can be an economic factor, such as an oversupplied market or very expensive financing, or a locational factor, such as poor siting or proximity to a negative environmental influence. External obsolescence is generally incurable on the date of the value estimate, but this does not mean that it is permanent. External influences can affect both the site and the improvements. When this is the case, the loss in value attributable to the externality may have to be allocated between the site and the improvements.
27. *The Appraisal of Real Estate*, Eighth Edition, provides that an appraiser can use either of two methods to measure external obsolescence, namely, (1) capitalizing the rent loss attributable to the negative influence, or (2) comparing sales of similar properties, some of which are subject to negative influence and some that are not. If pertinent sales data are abundant, the second method is preferable to the first.
28. *The Appraisal of Real Estate*, Eighth Edition, provides that external influences can cause a loss in value to any property. In the cost approach, the total loss in value due to such influences is allocated between the land and the improvements. Only the portion of the loss that is applicable to improvements is deducted from the current reproduction or replacement cost as external obsolescence. The effect of external influences on land value is calculated in the land valuation.

2. Burden regarding the obsolescence claim

29. 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. 2d 795, 798 (Ind. Tax 1998).

30. 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 v. State Board of Tax Commissioners*, 694 N.E. 2d 1230, 1233 (Ind. Tax 1998).

3. The evidence submitted

31. In support of the claim for obsolescence, the Petitioner opined that the property suffers a loss in value due to various causes of obsolescence depreciation. The causes of the functional obsolescence are: (a) truck trailer lengths have increased requiring relocation of the scale and scale office at approximately a cost of \$375,000; (b) additions to the main manufacturing building require additional manpower for the movement of materials at a cost of \$110,000 and 2 forklift trucks at a cost of \$36,000 per year; (c) a ventilation problem could possibly be corrected with energy savings of \$400,000 per year; and (d) if the location were closer to the Chicago area, freight savings would total \$1,465,000 per year. (See Petitioner's Exhibit 1a.)
32. The Petitioner introduced the testimony of Todd Heath and Greg Poore. Mr. Poore presented an obsolescence analysis that quantified the obsolescence applicable to the property by analyzing five similar properties in order to illustrate the level of obsolescence affecting the subject property. The analysis of these properties produced a market derived accrued depreciation factor of 64%.
33. The Respondent's submitted a letter stating the subject was constructed for its present use, the floor plan was adequate, and the level of efficiency was maximum according to employees.

4. The reliability and probity of the evidence

34. Before applying the evidence to reduce the contested assessment, the State Board must first analyze the reliability and probity of the evidence to determine what, if any, weight to accord it.
35. Under *GTE North, Inc., supra, and Thornton Telephone Company v. State Board of Tax Commissioners*, 629 N.E. 2d 962,965 (Ind. Tax 1994), the State Board may give due consideration to the reliability of studies presented by a taxpayer, but must provide a explanation if it finds the studies unreliable. Included in this requirement is the prescription by the Tax Court in *GTE North* that the State Board defines what standards it will use to define whether a study or mode of analysis is "recognized" or "accepted". *GTE North, Inc.*, 629 N.E. 2d at 888.
36. The Unites States Supreme Court has defined how a study or analysis becomes recognized or accepted. In *Daubert v. Merrill Dow Pharmaceuticals*, 113 S. Ct. 2786 (1993), the Court addressed whether scientific evidence has sufficient indicia of reliability to allow its admission under the Federal Rules of Evidence. Although the State Board is accorded broad discretion to consider such evidence as it deems pertinent (see IC 4-22-5-1), and therefore it is not expressly subject to formal rules of evidence, the State Board finds the analysis of relevancy presented in *Daubert*, which was cited with approval by the Indiana Supreme Court in *Steward v. State*, 652 N.E. 2d 490 (Ind. 1995), particularly instructive to the State Board in determining what relevancy to accord petitioner's calculations for purposes of weighing its evidentiary value.
37. In *Daubert*, the Court held that to be relevant, "[p]roposed testimony must be supported by appropriate validation - i.e. 'good grounds', based on what is known". 113 St. Ct at 2795. In order to determine whether scientific or technical evidence is based on good grounds, a court or administrative agency must determine "whether it can be (and has been) tested. 'Scientific methodology today is based on generating hypotheses and testing them to see if they can be

falsified; indeed, this methodology is what distinguishes science from other fields of human inquiry'." *Id.* At 2796 (citing Green, *Expert Witnesses and Sufficiency of Evidence in Toxic Substances Litigation: The Legacy of Agent Orange and Bendectin Litigation*, 86 Nw. U. L. Rev. 643, 645 (1992)). The Court went on to state the "[a]nother pertinent consideration is whether the theory or technique has been subjected to peer review and publication...submission to the scrutiny of the scientific community is a component of 'good science', in part because it increases the likelihood that substantive flaws in methodology will be detected." *Id.* at 2797. Furthermore, the general acceptance of a particular theory can be important in weighing its relevance. *Id.*

38. In addition to the general requirements for relevancy discussed above, both the United States Supreme Court and the Supreme Court of Indiana have recognized that scientific evidence can be reliable for one purpose and not another, and that to be relevant to a particular inquiry, the proponent of the evidence must establish a valid scientific connection between the theory and the specific facts of the case. *Daubert*, 113 S. Ct. at 2796; *Steward*, 652 N. E. 2d at 498.

39. The State believes that the Petitioner's evidence is meant to be offered as scientific evidence within the meaning of that term as defined by *Daubert* and *Steward*. Statistical analysis in the realms of finance and economics is a sophisticated inquiry and well-regarded studies satisfy the requirements of "good science" as described in *Daubert*. A number of federal courts, which have considered this issue since *Daubert*, have agreed. See *F.D.I.C. v. Suna Associates*, 80 F. 3d 681,687 (2nd Cir. 1996) (valuation of land); *Frymire-Brinati v. KPM Peat Marwick*, 2F. 3d 183, 186088 (7th Cir. 1993) (accounting and finance); *Joy v. Bell Helicopter Textron, Inc.*, 999 F. 2d 549, 569-70 (D.C. Cir. 1993) (economics); *Kurnez v. Honda North America, Inc.*, 166 F.R.D. 386,388 (D.C. Mich. 1996) (same).

40. Because of the informality of the State's proceedings it would be impractical to require exhaustive determinations regarding the admissibility of evidence at the time of administrative hearings. Further, it would be unduly burdensome and time-consuming for the State to require taxpayers and local taxing officials alike to participate in such determinations at the hearings. Therefore, the State's general position is to admit the evidence proffered, and to consider the issue of relevancy in the weighing of the evidence.
41. In addition to the factors applied by the courts to establish reliability, the State will consider a number of additional factors to determine the relevancy of evidence regarding obsolescence. The first factor is whether the alleged maladies of the property actually lead to a loss of value as required by 50 IAC 2.2-10-7(e). Evidence of such loss of value may be based on the assessor's observations of the property, statistical evidence establishing a correlation between the faults of the property and its value, or from anecdotal evidence if sufficiently reliable. In many cases there will be causes of obsolescence that cannot be easily seen by the assessor. In these cases, it is incumbent on the taxpayer to establish a link between the evidence and the loss of value. For statistical evidence this may be established by providing sufficient evidence of correlation of the evidence to value. For anecdotal evidence establishing reliability is more difficult. Statements by the taxpayer or consultant regarding the value of the property are inherently unreliable unless they can be confirmed either by other statements or by the opinions of impartial observers.

5. Evaluation of the evidence

42. Estimating the value loss from accrued depreciation is one of the most controversial aspects of the appraisal process. There are five methods used to measure accrued depreciation, two indirect and three direct.
43. The sales comparison method of estimating accrued depreciation (an indirect method) borrows from the sales comparison approach to value and is particularly

useful in mass appraisal work. The accuracy of this method depends upon the availability of highly comparable sales of improved properties and vacant sites. In this method, depreciation of the subject property is based on the amount of depreciation suffered by comparable sales in the market. Recently sold properties having improvements of similar age, condition and desirability to the subject are found. The sales comparison method has a number of disadvantages. The method requires sample sales data of truly comparable properties. If the assessor has to make many adjustments to the sales prices of the comparables, the reliability of the method is adversely affected. *Property Assessment Valuation*, Second Edition, 1996.

44. The Petitioner did attempt to quantify the obsolescence factor by using the cost and sales comparison approaches. Mr. Poore stated no location adjustments were made in his sales comparison analysis because they were not requesting economic obsolescence.
45. Mr. Poore followed the accepted sales comparison appraisal technique and found acceptable comparable sales. After developing a replacement cost for each comparable and comparing it with the sales price, Mr. Poore's calculations resulted in a market derived accrued depreciation factor of 64%. However, one sale resulted in a much higher depreciation factor, so that was discounted; the other four comparables had a consistent pattern of depreciation and that average, 60%, was used. The supported market accrued depreciation minus the physical depreciation equals a total of 24% obsolescence for the subject property.
46. In Petitioner's Exhibit 1, a letter from the engineering and technical services manager lists production costs incurred due to the plant location and design. No evidence was submitted supporting the excessive material or handling costs, the excessive freight charges, the cost of correcting the ventilation problem, or the cost to move the scale and the scale office. No attempt was made to quantify obsolescence using these alleged costs.

47. Mr. Poore declined to develop the income approach to value, but stated the income approach would result in a much larger obsolescence factor.
48. Acceptable appraisal techniques include the income capitalization method along with the comparable sales and the cost approach. The loss of value in the subject property needs to be quantified using each of the appraisal techniques.
49. The appraisal process is not complete without the income capitalization method used to quantify the loss of value.
50. The Petitioner has failed to present probative evidence to establish a prima facie case. For the above reasons the State denies the request for obsolescence.

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