

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

Petition: 20-030-02-1-1-00090
Petitioners: Lewis W. & Agnes B. Blakesley, Trustees
Respondent: Washington Township Assessor (Elkhart County)
Parcel: 20-03-24-100-024.000-030
Assessment Year: 2002

The Indiana Board of Tax Review (the Board) issues this determination in the above matter, and finds and concludes as follows:

Procedural History

1. The Petitioners initiated an assessment appeal with the Elkhart County Property Tax Assessment Board of Appeals (the PTABOA) by written document dated October 14, 2003.
2. The decision of the Elkhart County PTABOA is dated October 12, 2004.
3. The Petitioners filed an appeal to the Board by filing a Form 131 on November 15, 2004. The Petitioners elected to have this case heard as a small claim.
4. The Board issued a notice of hearing to the parties dated December 10, 2004.
5. The Board held an administrative hearing on January 26, 2005, in Goshen, Indiana, before the duly appointed Administrative Law Judge Patti J. Kindler.
6. Persons present and sworn as witnesses at the hearing:
Michael Blakesley, representative of Agnes B. Blakesley,
R. Eugene Inbody, Elkhart County Assessor,
Cathy Searcy, Deputy Elkhart County Assessor.

Facts

7. The property is classified as agricultural with 87.08 acres located at 52395 County Road 29, Bristol, in Washington Township, Elkhart County.

8. The Administrative Law Judge did not conduct an inspection of the property.
9. The assessed value of subject property as determined by the Elkhart County PTABOA:

Land \$64,500	Improvements \$95,500	Total \$160,000. ¹
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10. The assessed value requested by Petitioners:

Land \$53,500	Improvements \$75,000	Total \$128,500.
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ISSUE 1 - AGRICULTURAL LAND CLASSIFICATION

11. Summary of Petitioners' contentions in support of alleged error in the assessment:
 - a) The subject agricultural 87.08-acre parcel is classified and priced incorrectly on the property record card (PRC). Washington Township's PRC does not indicate the correct amount of wooded acreage and does not account for the pond area or the land occupied by farm buildings. *Blakesley testimony, referring to Respondent Exhibit 1.*
 - b) The aerial map shows differences in land classification. It shows 9.5 acres of wooded area that should be classified as type 6 farmland. It shows 2.60 acre of land containing the farm buildings that should be classified as type 71 farmland. It shows a two-acre pond that should be classified as type 72 farmland.² *Blakesley testimony; Petitioners Exhibit 1.*
 - c) The PRC shows only four acres of woodland, which is incorrect. In determining the amount of wooded acreage, the township officials did not utilize the proper aerial map. The aerial map they used was for an obsolete parcel number. *Blakesley testimony, referring to Respondent Exhibit 2.* The correct aerial map shows the outline of the property and a small wooded area behind the toll road overpass that was not shown on the township's aerial map. *Blakesley testimony; Petitioners Exhibit 1.*
 - d) The timber in the wooded area is actively harvested. A contract for the harvesting was presented to the PTABOA upon their request. *Blakesley testimony; Petitioners Exhibit 4.*

¹ The Respondent stated the assessed values reported on the PTABOA's Form 115, Notice of Final Assessment Determination, omitted the value from the second card of the two-card parcel. The Form 115 erroneously reported assessed values of: \$64,500 for land, and \$81,700 for improvements, for an erroneous total of \$146,200. *See Board Exhibit A, Form 115.*

² Type 6 –Woodland is “land supporting trees capable of producing timber or other wood products...An 80% influence factor applies to woodland.” Type 71 farmland is “land used for farm buildings and barn lots...The value is determined using the appropriate soil map productivity factor and a 40% influence factor deduction.” Type 72 farmland is “land covered by a farm pond or running water. The value is determined using a productivity factor of .50 and a 40% influence factor deduction.” REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 – VERSION A (GUIDELINES), ch. 2 at 104 - 105 (incorporated by reference at 50 IAC 2.3-1-2).

- e) Further, the 2.60 acre area containing farm buildings was not assessed as type 71 agricultural land with a forty percent (40%) influence factor, in accordance with the GUIDELINES. *Blakesley testimony.*
 - f) The area with the two-acre pond was incorrectly assessed at \$1,050 per acre, without the benefit of the appropriate influence factor. *Id.*
12. Summary of Respondent's contentions in support of the assessment:
- a) The eighty acres of agricultural land were assessed using productivity factors developed by Purdue University. The PRC shows a one-acre homesite, four acres of woodlands, and 1.670 acres of public roadway. *Searcy testimony; Respondent Exhibit 1.* The pond is priced as farmland using agricultural productivity factors. It has the same base price whether identified as a pond or agricultural land. *Inbody testimony.*
 - b) All of the land appeared to be tillable, except for the four acres attributable to woodlands, according to the aerial map. *Searcy testimony.*
 - c) The Petitioners did not meet their burden to prove that the amount of woodland area should be corrected. There are no dimensions or calculations on the Petitioners' aerial map to delineate the amount of wooded acreage on the parcel. *Searcy testimony.*

ISSUE 2 – THE HOMESITE VALUATION

13. Summary of Petitioners' contentions in support of alleged error in the assessment:
- a) The \$21,000 value applied to the subject homesite is excessive and was improperly obtained. Assessment regulations require valuation by neighborhood in each township, but the county officials developed a value of \$21,000 for the entire township. *Blakesley testimony; Petitioners Exhibits 2-3.*
 - b) There is more than one neighborhood in Washington Township, which should result in different homesite values for each neighborhood. Homesites are categorized into three different classes including residential, rural, and agricultural with each class of homesite to be independently valued. *Blakesley testimony; GUIDELINES, ch. 2 at 70.* There is no evidence that the township officials developed and valued these three separate classes of homesites. *Blakesley testimony.*
 - c) After a base value for a homesite is properly developed, each individual homesite can be adjusted based on influence factors that were not accounted for in the assessment. *Blakesley testimony; Petitioners Exhibit 3.*

- d) The negative influence factors that are relevant to the subject homesite include a less desirable school system, the noise from the toll road, and outdated farm buildings. *Id.*
- e) A more reasonable value for the subject homesite is approximately \$13,000, based on excess land values that average about \$10,000 per acre and adding \$3,100 for a septic and well and ingress/egress to the property. The \$3,100 amount for the well and septic was obtained from the assessor's calculations for the lack of these items on a home across the street from the subject property. *Blakesley testimony.*
- f) The assessor's list of developed home sales where the value of the land was estimated is not applicable to agricultural homesites. The GUIDELINES state the proper mechanism for pricing rural and agricultural homesites is to find sales of vacant land and add the development costs. *Blakesley testimony.*
- g) The public hearing regarding land valuations probably does not apply to agricultural sites. *Blakesley testimony.*

14. Summary of Respondent's contentions in support of the assessment:

- a) Although the Petitioners requested a \$13,000 homesite value, they failed to supply any evidence that the homesite should be \$10,000, or that the well and septic should be valued at approximately \$3,000. In rebuttal, the Respondent has provided several items of information supporting the homesite calculations, including the land value summary, proof of publication of the public land hearing, land to building ratio study, sales disclosures, and excess land calculations. *Searcy testimony; Respondent Exhibits 4-8.*
- b) Based on sales disclosure statements, Washington Township's homesite valuations were determined to be approximately \$21,000. The Respondent performed a calculation to determine the average homesite value in the county. The result was also \$21,000. *Searcy testimony; Respondent Exhibit 4.*
- c) The land value should have been contested at the public hearing regarding the homesite values. *Searcy testimony; Respondent Exhibit 5.* There was no remonstrance at the public hearing. *Inbody testimony.*
- d) Whether the homesites were classified as rural or residential, the average value was determined to be in the \$21,000 price range. The homesites situated all around the subject property and throughout the township were consistently assessed at \$21,000. *Searcy testimony.*

ISSUE 3 – THE FINISHED ATTIC PRICING

15. Summary of Petitioners' contentions in support of alleged error in the assessment:
- a) The property is currently assessed with 936 square feet of finished attic, but the finished area is only 576 square feet. *Blakesley testimony*.
 - b) The Township officials calculated the total attic area by taking the 936 square feet of unfinished attic, times the multiplier, and added it to 936 finished square feet of attic area, times the multiplier, to develop a total attic value. This is not the correct methodology. *Blakesley testimony; Petitioners Exhibit 5*.
16. Summary of Respondent's contentions in support of the assessment:
- a) The calculations were computer driven. The computer applies the appropriate price per square foot and that was done in accordance with the GUIDELINES, which are difficult to understand. *Searcy testimony*.
 - b) The attic pricing is correct. *Searcy testimony; GUIDELINES, app. C at 2 - 4*.

ISSUE 4 – GRADE OF THE DWELLING

17. Summary of Petitioners' contentions in support of alleged error in the assessment:
- a) The dwelling should be graded a "D+1" instead of the current "C" grade. This assertion is based on items such as the block wall basements, the ¾" on 2" x 8" joist flooring, the all vinyl exterior, and the 2" x 4" gable roof construction with less than a 12" overhang. Further, the hollow core doors, plank stairs, 60 amp electric service, and rectangular shape are all characteristics of a grade "D" dwelling. *Blakesley testimony; GUIDELINES, app. A at 9 - 14*.
 - b) The GUIDELINES are not very specific regarding grade application for residential dwellings other than offering grade specific photographs. *Blakesley testimony*.
18. Summary of Respondent's contentions in support of the assessment:
- a) The Respondent submitted photographs of the subject dwelling. *Respondent Exhibit 3*. The Respondent studied the grade specification tables and determined that the grade was typical for a home of the subject's age and construction quality. *Searcy testimony*.
 - b) The issue of grade was not listed on the original petition. Nevertheless, this issue was reviewed by the PTABOA. The Petitioners did not meet their burden of proof. Therefore, no change was made by the PTABOA. *Id*.

ISSUE 5 – CONDITION OF THE DWELLING

19. Summary of Petitioners’ contentions in support of alleged error in the assessment:
- a) The dwelling is inaccurately described as being in “average” condition. It should be listed as “fair” condition due to its location next to the toll road. *Blakesley testimony.*
 - b) Location is a condition-generating mechanism in accordance with the GUIDELINES, which state that “fair” condition dwellings are located in a less desirable location within the neighborhood than the majority of the structures. *Blakesley testimony; Petitioners Exhibit 7.*
20. Summary of Respondent’s contentions in support of the assessment:
- a) The age of the improvements must be considered in determining the property condition. *Searcy testimony.*
 - b) The buildings are in “average” condition for their age. *Id.*

ISSUE 6 – DWELLING’S CONSTRUCTION DATE

21. Summary of Petitioners’ contentions in support of alleged error in the assessment:
- a) The dwelling was constructed in 1950 rather than 1958. *Blakesley testimony.*
 - b) The house was already constructed before the Petitioners’ representative was born in 1952. In support of this position, the Petitioners presented two pages from a diary. The diary entry indicates the house was built in 1950. *Id.; Petitioners Exhibit 8.*
22. Summary of Respondent’s contentions in support of the assessment:
- a) The PRC reports the year of construction of the dwelling to be 1957, rather than 1958 as indicated by the Petitioners. *Respondent Exhibit 1.*
 - b) Petitioners did not provide adequate evidence regarding the dwelling’s year of construction to warrant a change. *Searcy testimony.*

ISSUE 7 – THE OUTBUILDINGS

23. Summary of Petitioners' contentions in support of alleged error in the assessment:
- a) The condition and year of construction of seven outbuildings are at issue in this hearing. *Blakesley testimony; Petitioners Exhibits 9 - 11.*³
 - b) All the structures under appeal were given an "average" condition rating, although some of the structures are in "poor" condition. *Id.*
 - c) The Petitioners presented photographs of four of the outbuildings under appeal. *Blakesley testimony; Petitioners Exhibit 9.*
 - d) The top photograph is the 22' x 40' pole barn (No. 6 on PRC 1 of 2). The year of construction is incorrect and should be 1942. The condition should be changed from "average" to "poor." *Id.*
 - e) The middle photograph represents two metal grain bins. The 12' x 18' bin on the left (No. 7 on PRC 1 of 2) is rusted out at the bottom and is not usable. The condition rating of the 16' x 15' bin on the right side of the photograph (No. 8 on PRC 1 of 2) should be changed from "average" to "fair" to "poor" condition. *Id.*
 - f) The third photograph at the bottom of the exhibit represents a 26' x 64' barn (No. 1 on PRC 2 of 2), which is in "poor" condition rather than "average" condition because the front doors are in bad condition and do not close and a side door is missing. The building suffered severe structural damage in a storm and is relatively unstable. *Id.*
 - g) The Petitioners presented three additional photographs of three other outbuildings that are assessed improperly. *Blakesley testimony; Petitioners Exhibit 10.*
 - h) The 30' x 36' barn in the top photograph (No. 2 on PRC 2 of 2) is in "poor" condition. *Id.*
 - i) The middle photograph shows the 11' x 18' shed (No. 4 on PRC 2 of 2), which is obviously in "very poor" condition and should be graded a "D" rather than "C." It was constructed in 1942 rather than 1958. *Id.*
 - j) The bottom photograph shows the 30' x 30' lean-to (No. 4 on PRC 1 of 2). The lean-to building was constructed in 1950 rather than 1957. The condition, age and grade were not properly addressed by the PTABOA. *Id.*

³ The PRC consists of three pages. The first page appears to be a summary sheet containing only True Tax Values, but no specifics concerning the features of the property. The second page contains the notation "01/02" in the parcel number box. The third sheet contains the notation "02/02" in the parcel number box. *Respondent Exhibit 1.* The Board will make no reference to the summary sheet, but will refer to the remaining two pages using the terminology contained on the PRC, cards "1 of 2" and "2 of 2."

24. Summary of Respondent's contentions in support of the assessment:
- a) The additional evidence requested by the PTABOA and provided by the Petitioners regarding the year of construction for the outbuildings is not adequate to show that the age of the buildings was incorrect. *Searcy testimony.*
 - b) The condition rating of buildings is based on their age. If a comparison is made to other similar buildings that are the same age as the subject buildings, it is apparent the subject outbuildings are in "average" condition for their older ages. *Id.*

Record

25. The official record for this matter is made up of the following:
- a) The Petition,
 - b) The tape recording of the hearing labeled STB 5335,
 - c) Petitioners Exhibit 1: Aerial Map of the subject property,
Petitioners Exhibit 2: Copy of GUIDELINES, Chapter 2 at 8-10,
Petitioners Exhibit 3: Copy of GUIDELINES, Chapter 2 at 80-82,
Petitioners Exhibit 4: Copy of Timber Harvest Contract,
Petitioners Exhibit 5: Copy of GUIDELINES, Chapter 3 at 39,
Petitioners Exhibit 6: Page 2 from the PTABOA hearing notes,
Petitioners Exhibit 7: Copy of GUIDELINES, Appendix B at 7,
Petitioners Exhibit 8: Copies of diary entries,
Petitioners Exhibit 9: Photographs of outbuildings,
Petitioners Exhibit 10: Photographs of outbuildings,
Petitioners Exhibit 11: Copy of GUIDELINES, Chapter 5 at 8,
Petitioners Exhibit 12: Subject Form 115,
Respondent Exhibit 1: Copy of the subject PRC,
Respondent Exhibit 2: Aerial map of subject property,
Respondent Exhibit 3: Photograph of the subject property,
Respondent Exhibit 4: Elkhart County Homesite Value Summary,
Respondent Exhibit 5: Proof of Publication of Land Order Hearings,
Respondent Exhibit 6: Land to building ratio for county default data,
Respondent Exhibit 7: Fourteen sales disclosures for parcels in Washington Township,
Respondent Exhibit 8: Elkhart County Excess Land Analysis, pages,
 - d) These Findings and Conclusions.

Analysis

26. The most applicable governing cases are:
- a) A Petitioner seeking review of a determination of an assessing official has the burden to establish a prima facie case proving that the current assessment is incorrect and specifically what the correct assessment would be. *See Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998).
 - b) In making its case, the taxpayer must explain how each piece of evidence is relevant to the requested assessment. *See Indianapolis Racquet Club, Inc. v. Washington Twp. Assessor*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004) (“[I]t is the taxpayer’s duty to walk the Indiana Board . . . through every element of the analysis”).
 - c) Once the Petitioner establishes a prima facie case, the burden shifts to the assessing official to rebut the Petitioner’s evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). The assessing official must offer evidence that impeaches or rebuts the Petitioner’s evidence. *Id.*; *Meridian Towers*, 805 N.E.2d at 479.

ISSUE 1 – AGRICULTURAL LAND CLASSIFICATION

27. The Petitioners did not provide sufficient evidence to support their contentions regarding this issue. This conclusion was arrived at because:
- a) Petitioners made three claims regarding the land classification. 1) There are 9.5 acres of woodland area rather than four acres as reported on the PRC. 2) The 2.6 acres of land containing farm buildings were not segregated and priced correctly. 3) The two-acre pond is not priced correctly on the PRC.

Woodland

- b) The Petitioners asserted the assessing officials, when determining the number of acres of woodland, did not realize the wooded acreage at the back of the subject site near the overpass was included with the subject parcel. The Petitioners asserted the Respondent’s aerial map is incomplete. They presented a different aerial map to support their assertions regarding the amount of wooded acreage. *Respondent Exhibit 2; Petitioners Exhibit 1*. The Petitioners also presented a copy of a Timber Purchase Contract, dated January 2000, showing the wooded areas are actively harvested.
- c) Although the Petitioners claimed the area of wooded land is 9.5 acres, they failed to offer any explanation as to the manner in which this conclusion was reached.

Petitioners' aerial map contains no scale to determine the dimensions of the wooded area. Further, the Petitioners presented no testimony to prove that they had measured the wooded area. The Petitioners' unsubstantiated conclusory statements do not constitute probative evidence. *Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).

- d) The Petitioners' contract for timber harvesting fails to prove the amount of acreage attributable to woodlands. The timber contract is vague and apparently includes other acreage. The timber contract is not probative evidence that the area of wooded acreage is any different than indicated on the PRC.
- e) The Petitioners failed to provide the necessary evidence to support their arguments that the woodland designation should apply to 9.5 acres. There is no change to the assessment regarding the woodland classification.

Land Containing the Farm Buildings

- f) The Petitioners argued that 2.6 acres containing farm structures should be assessed as land type 71.
- g) The Petitioners again failed to offer probative evidence as support for the amount of acreage they opined should have the type 71 classification. Rather, they merely offered a conclusory statement that 2.6 acres are the area occupied by the farm structures. No probative evidence was submitted to demonstrate how much land should have the type 71 classification.
- h) The Petitioners failed to establish a prima facie case on this issue.

Pond

- i) The Petitioners opined the two-acre pond should have been priced as type 72 farmland, which would benefit from an influence factor deduction.
- j) Again, the Petitioners' evidence is insufficient to make a prima facie case regarding the amount of acreage containing the pond. The aerial map contains no scale. The record lacks any dimensions, drawings, or other probative evidence to support the Petitioners' claims that the area of pond is two acres.
- k) There is no change to the assessment as a result of this issue.

ISSUE 2 – HOMESITE VALUATION

28. The Petitioners did not provide sufficient evidence to support their contentions. This conclusion was arrived at because:
- a) The Petitioners argued the \$21,000 value applied to the subject homesite was excessive and improperly determined. They contended that all agricultural homesites and residential homesites in their township got the same value, even though assessors must value the agricultural and residential homesites separately, and also by neighborhood within a township. They argued there is more than one neighborhood in Washington Township, but the base rates fail to reflect the difference in values for each neighborhood.
 - b) The Petitioners' contentions do not prove error in the assessment. It is not enough to merely allege errors in an assessing method. Instead, the Petitioners must present evidence that the assessment does not reflect a reasonable measure of True Tax Value.⁴
 - c) The Petitioners asserted the homesite value should be reduced to \$13,000, based on excess land values that average "about" \$10,000 per acre and adding the cost of a well and septic improvements at \$3,000. Petitioners failed to produce any market evidence, such as sales or evidence of the assessment of comparable properties, to support this claim. Similarly, the Petitioners presented no probative evidence that well and septic improvements add \$3,000 to the value of the homesite. Conclusory testimony does not constitute probative evidence. *Whitley*, 704 N.E.2d at 1119.
 - d) The Petitioners further argued the homesite value is excessive because the subject property is influenced by factors such as an undesirable school system, noise from the toll road, and the outdated agricultural buildings.
 - e) An influence factor refers to a "multiplier that is applied to the value of land to account for characteristics of a particular parcel of land that are peculiar to that parcel. The factor may be positive or negative and is expressed as a percentage." GUIDELINES, Glossary at 10.
 - f) To establish a prima facie case that an influence factor is warranted the Petitioners must present evidence that would support the application of a negative influence factor and present a quantification of the influence factor. *Phelps Dodge v. State Bd. of Tax Comm'rs*, 705 N.E.2d 1099, 1106 (Ind. Tax Ct. 1999).

⁴ "No technical failure to comply with the procedures of a specific assessing method violates this rule so long as the individual assessment is a reasonable measure of 'True Tax Value,' and failure to comply with the Real Property Assessment Guidelines for 2002 – Version 'A' ...does not in itself show that the assessment is not a reasonable measure of 'True Tax Value.'" 50 IAC 2.3-1-1(d).

- g) The Petitioners failed to offer probative evidence that the purported negative factors have a specific impact on the market value of their property. The Petitioners' unsubstantiated conclusions do not constitute probative evidence. *Whitley*, 704 N.E.2d at 1119.
- h) Further, the Petitioners failed to establish that factors such as an undesirable school system or the presence of a toll road are "peculiar" to their parcel, rather than factors that impact all properties in the neighborhood similarly. The Petitioners failed to satisfy the first prong of the *Phelps Dodge* test.
- i) Additionally, the Petitioners did not support their claim with probative evidence to quantify the influence factor. No calculation or other probative evidence was submitted to show how the purported negative influences impacted the homesite valuation or to link a specific loss in value with the appropriate percentage of the negative influence. The Petitioners also failed to satisfy the second prong of the *Phelps Dodge* test.
- j) For all the reasons listed above, there is no change to the assessment regarding the homesite valuation.

ISSUE 3 – FINISHED ATTIC PRICING

29. The Petitioners provided sufficient evidence to support their contentions. This conclusion was arrived at because:
- a) The Petitioners contended that, although the area of unfinished attic is correct at 936 square feet, the area of the finished portion of the attic is only 576 square feet.
 - b) Testimony established that the finished area encompasses only 576 square feet.
 - c) Respondent's testimony that the calculations are computer driven, that the computer applies the appropriate square foot price, and that the pricing is "difficult to understand" is all irrelevant and conclusory evidence. None of it is probative of the question, which is simply the size of the finished area.
 - d) Respondent offered no probative evidence to rebut or impeach the testimony that the finished area constitutes only 576 square feet of the total attic. Only that area should have the finished attic multiplier, not the entire 936 square feet.
 - e) There must be a change to the assessment of the finished attic area.

ISSUE 4 – GRADE OF THE DWELLING

30. The Petitioners did not provide sufficient evidence to support their contentions. This conclusion was arrived at because:
- a) The Petitioners argued the dwelling should be graded a “D+1,” instead of the current “C” grade, based on various items listed in the grade specification chart found in the GUIDELINES.
 - b) “For each of the types of improvements...a model has been defined to summarize the elements of construction quality that are typical of the majority of that type improvement. This typical model has been assigned a “C” quality grade for residences. The characteristics of these typical models can be thought of as construction specifications for an improvement that was built with average quality materials and workmanship.” GUIDELINES, app. A at 4.
 - c) The Petitioners contended the structure has several “D” grade features, such as block wall basements, the ¾” on 2” x 8” joist flooring, the all vinyl exterior, and the 2” x 4” gable roof construction with less than a 12” overhang. Further, the hollow core doors, plank stairs, 60 amp electric service, and rectangular shape are all characteristics of a grade “D” dwelling. *GUIDELINES, app. A at 9 - 14.*
 - d) To make a prima facie case on grade, Petitioners can offer "specific evidence tied to the descriptions of the various grade classifications." *See Sollers Pointe Co. v. Dept. of Local Gov't Fin.*, 790 N.E.2d 185, 191 (Ind. Tax Ct. 2003). While the hollow core doors and the 60 amp electric service are two elements that might indicate a D grade, the other elements that Petitioners rely on to establish D grade are also C grade characteristics. Without further explanation, a few references to the grade specification tables are conclusory statements and not probative. *Bernacchi v. State Bd. of Tax Comm'rs*, 727 N.E.2d 1133, 1136 (Ind. Tax Ct. 2000).
 - e) Petitioners failed to make a prima facie case regarding grade of the home. There is no change on this issue.

ISSUE 5 – CONDITION OF THE DWELLING

31. The Petitioners did not provide sufficient evidence to support their contentions. This conclusion was arrived at because:
- a) “Condition” is defined as “a rating assigned each structure that reflects its effective age in the market. It is determined by inspection of the structure and by relating the structure to comparable structures within the subject’s neighborhood.” GUIDELINES, app. B at 5.

- b) “Average” condition rating indicates the “structure has been maintained like and is in the typical physical condition of the majority of structures in the neighborhood. It offers the same utility as the majority of the structures in the neighborhood. It has the same location influences as the majority of structures in the neighborhood.” *Id.* at 7.
- c) “Fair” condition rating indicates the “structure suffers from minor deferred maintenance and demonstrates less physical maintenance than the majority of structure within the neighborhood. It suffers from minor inutilities in that it lacks an amenity that the majority of the structures in the neighborhood offer. It is in a less desirable location within the neighborhood than the majority of structures.” *Id.*
- d) In order to prevail on the issue of condition, the Petitioners must show both the level of deterioration of the property and how the deterioration affected the building’s remaining usefulness. *Fleet Supply, Inc. v. State Bd. of Tax Comm’rs*, 747 N.E.2d 645 (Ind. Tax Ct. 2001).
- e) The Petitioners opined the subject dwelling’s condition should be rated “fair” due to its less desirable location along the toll road. The Petitioners presented no market evidence to support their opinion that the presence of the toll road has an adverse impact on the value of the dwelling. The Petitioners’ unsubstantiated conclusions do not constitute probative evidence. *Whitley*, 704 N.E.2d at 1119.
- f) Additionally, the Petitioners presented no meaningful discussion of the level of deterioration of the property, how their improvements have experienced a greater level of deterioration than similarly situated properties, or how the deterioration has affected the building’s remaining usefulness. Instead, the Petitioners pointed to only one component within the definition of the “fair” condition rating, and ignored the remaining criteria. Accordingly, they failed to establish the dwelling is best described as being in “fair” condition.
- g) The Petitioners failed to make a prima facie case that the condition rating is incorrect. There is no change in the assessment as a result of this issue.

ISSUE 6 - CONSTRUCTION DATE OF THE DWELLING

32. The Petitioners provided sufficient evidence to support their contentions. This conclusion was arrived at because:

- a) The Petitioners introduced testimony that the dwelling was constructed in 1950 rather than the year identified on the PRC.⁵ Petitioners also submitted two pages from the diary of their representative’s mother. Petitioners concluded the diary is from 1950 by looking back over the days and the months (the dates listed on the

⁵ The PRC indicates the dwelling was built in 1957, Petitioner’s mistakenly, claim that the PRC says 1958. *Respondent Exhibit 1.*

calendar do not show the year for the entries). The diary indicates only that the writer “finished moving out of the old house” on an unspecified date.

- b) This diary entry is vague and probably would not independently be sufficient to establish the year of construction for the house. The diary entry, together with the direct, un rebutted or unimpeached testimony that the house was built prior to 1952, makes a prima facie case that the assessment data should reflect the house was built in 1950.
- c) Respondent offered no probative evidence that the home newer.
- d) For all the reasons above, there must be a correction in the dwelling’s year of construction on the property record card.

ISSUE 7 – THE OUTBUILDINGS

33. The Petitioners provided sufficient evidence to support one of their contentions. This conclusion was arrived at because:
- a) The Petitioners opined that the year of construction, the grade, and the condition rating are incorrect on several outbuildings.
 - b) Regarding the first contention, the Petitioners claim that the year of construction is incorrect. The Petitioners did not present any legal transfer records, deeds, bank mortgage records, or actual construction records. Instead, the Petitioners offered only conclusory statements, which are not probative evidence of an error in the assessment. *Whitley*, 704 N.E.2d at 1119. There is no change to the assessment regarding the year of construction of any of the outbuildings.
 - c) Petitioners claimed the grade is incorrect on the 11’ x 18’ utility shed. The Petitioners opined the grade applied to the utility shed should be changed from a “C” to a “D” grade factor. Again, no probative evidence was presented by the Petitioners to support the opinion the current grade assigned to the utility shed is in error. Unsubstantiated conclusory statements do not constitute probative evidence. There is no change to the assessment regarding the grade of the utility shed.
 - d) All of the subject outbuildings were determined to be in “average” condition by the local officials. The Petitioners failed to identify properties that are similarly situated to the contested property, and establish disparate treatment between the contested property and other similarly situated properties. Although the Petitioners presented a copy of the definitions of the condition ratings for yard improvements, with one exception, the Petitioners introduced no specific evidence of deterioration tied to these descriptions of the various condition ratings. Instead, the Petitioners again offered only unsupported conclusory

statements that the condition ratings were incorrect. The unsupported conclusions do not represent probative evidence of an error in the assessment.

- e) Petitioners introduced substantial, specific testimony that the 12' x 18' bin is rusted out and not usable. That testimony made a prima facie case that the condition for this bin should be reduced to "very poor." Respondent did not rebut or impeach that evidence. Therefore, there should be one change to the assessment regarding the condition ratings of the outbuildings for this grain bin.
- f) For all the reasons listed above, the Petitioners met their burden of proof only on the condition claim for one metal grain bin. There must be a change in the assessment for that one outbuilding only.

Conclusion

- 34. Petitioners made a prima facie case for some changes. Respondent did not rebut or impeach that evidence.

Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should be changed.

ISSUED: _____

Commissioner,
Indiana Board of Tax Review

- 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. You must name in the petition and in the petition's caption the persons who were parties to any proceeding that led to the agency action under Indiana Tax Court Rule 4(B)(2), Indiana Trial Rule 10(A), and Indiana Code §§ 4-21.5-5-7(b)(4), 6-1.1-15-5(b). The Tax Court Rules provide a sample petition for judicial review. The Indiana Tax Court Rules are available on the Internet at <http://www.in.gov/judiciary/rules/tax/index.html>. The Indiana Trial Rules are available on the Internet at http://www.in.gov/judiciary/rules/trial_proc/index.html. The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code>.