

**STATE OF INDIANA  
Board of Tax Review**

In the matter of the Petition for Review )  
of Assessment, Form 131 ) Petition No. : 49-500-97-1-4-00001

Parcel No.: 5001160

Assessment Years: 1997

Petitioner: Shelby Street Realty Corp.  
1414 S. West St.  
Indianapolis, IN 46206

Petitioner Representative: Donald Foley  
342 Massachusetts Avenue, # 300  
Indianapolis, IN 46204

**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**

Whether additional obsolescence is warranted for the subject property.

## 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, the Petitioner filed a petition requesting a review by the State. The Form 131 Petition was filed on May 24, 2000. The Form 115 Final Determination of the Marion County Property Tax Assessment Board of Appeals (PTABOA) was issued on April 28, 2000.
  
3. Pursuant to Ind. Code § 6-1.1-15-4, a hearing was held on March 8, 2001 before Hearing Officer Debra Eads. Testimony and exhibits were received into evidence. Donald Foley and Stephen Cobb represented the Petitioner. Kathy Price, Jeff Tracy and Fred Butler represented Perry Township. No one was present to represent Marion County.
  
4. At the hearing, the subject Form 131 petition was made part of the record and labeled Board Exhibit A. The Notice of Hearing is labeled Board Exhibit B. In addition, the following exhibits were submitted into evidence:

Petitioner's Ex. 1 – Ten (10) photos of the subject property

Petitioner's Ex. 2 – Cobb & Associates, Inc report of functional depreciation

Petitioner's Ex. 3 – PTABOA 115 Determination for subject property dated  
September 25, 1998

Submitted with the Form 131 Petition and introduced into evidence at the hearing were the following exhibits:

Exhibit A – Form 115 Final Determination for subject property dated 4-28-2000

Exhibit B – Subject property record card

Exhibit C – Requested adjustments to property dated 5-6-99

Exhibit D – Site sketch of subject property

Exhibit E – *Mills v. State Board of Tax Commissioners* court finding

Exhibit F – Information from Handex Environmental, Inc. relating to site contamination

Respondent's Exhibit 1 – Four (4) photos of the subject property

Respondent's Exhibit 2 – Aerial photo of the subject site.

5. The subject property is located at 3000 S. Shelby Street, Indianapolis, Perry Township, Marion County, Indiana.
6. The Hearing Officer did not conduct an on-site inspection of the subject property.

### **Obsolescence**

7. The subject property is a multi-building facility in Indianapolis. The buildings have been given varying degrees of obsolescence ranging from 0 to 50%. The Petitioner is requesting most buildings to be given 50% obsolescence and 60% on one building based on an appraisal (Petitioner's Ex. 2).
8. Mr. Foley testified to the following:
  - (a) The buildings on the subject property were built primarily in the 1920's with two (2) buildings added in the mid 1960's.
  - (b) The various ages and wall heights of the property create obsolescence for the subject property.
  - (c) The subject property underwent major environmental mediation at a cost in excess of \$ 300,000 subsequent to the assessment date.
  - (d) Several buildings have transite asbestos that has not been removed. The cost associated with the removal and disposal of the asbestos would exceed the value of the structures.
  - (e) Lack of truck docks of appropriate size, lack of rail siding and the "hodge-podge" nature of the subject structure limits the ability to use the subject

property for an integrated use, thereby requiring multiple tenants with specialized uses.

- (f) On the assessment date the occupancy was approximately 60%.
  - (g) A Final Determination made by the Marion County Board of Review for the 1995 assessment year that granted 50% obsolescence to the subject property has not been accurately reflected in subsequent assessments made by the Township.
  - (h) A letter from Handex Environmental Inc. (Petitioner's Exhibit F) details the environmental contamination of the subject property as of 1998.
9. Mr. Cobb and Mr. Foley reviewed the ten (10) photographs submitted as Petitioner's Exhibit 1 and related the photographs to the site plan of the property that was submitted with the Form 131 Petition as Exhibit D.
10. Mr. Cobb reviewed the sales information and subsequent obsolescence calculation for four (4) comparables included in Petitioner's Ex. 2.
11. Ms. Price testified to the following:
- (a) The Township properly applied the obsolescence granted by the Marion County Board of Review.
  - (b) The subject property is reviewed annually on March 1 in order to accurately determine the level of occupancy for each assessment year.
  - (c) She substantially agreed with the Petitioner with regard to physical depreciation and environmental limitations, however, various tenants utilize the subject property to some extent.
12. Ms. Price asked Mr. Cobb if he had an estimate of the current market value of the subject property. Mr. Cobb replied that the land was more valuable than the buildings and without a calculation involving the rental income for the buildings he couldn't estimate a value.

13. Mr. Butler testified that he has visited the property for several years on March 1, and that the majority of the buildings on the subject property have been at least partially occupied.

### **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. See also Ind. Code § 4-21.5-2-4(a)(10) (Though the State is exempted from the Indiana Administrative Orders & Procedures Act, it is cited for the proposition that Indiana follows the customary common law rule regarding burden).
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.

### **C. Obsolescence**

#### **1. 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. These standardized techniques enable a knowledgeable person to associate cause and effect to value pertaining to a specific property.
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) lack of truck doors of an appropriate size, (b) lack of rail siding, (c) the “hodge-podge” nature of the structure, which limits the ability to use it for an integrated use and therefore requires multiple tenants, (d) the presence of asbestos, and (e) environmental contamination.
32. The Petitioner presented evidence including photographs of the subject, a letter stating the result of an environmental investigation, and a report of functional depreciation. The Petitioner introduced the testimony of an expert witness, Mr. Steven L. Cobb, an appraiser certified as a Member of the Appraisal Institute (MAI). Mr. Cobb presented an obsolescence analysis using four (4) comparable properties.
33. The Respondents agreed with the Petitioner regarding the physical depreciation and the environmental limitations, but noted the subject was utilized to some extent. The subject was reviewed on an annual basis to determine the level of occupancy.

### 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 United 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 S. 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 Board 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 (2<sup>nd</sup> Cir. 1996) (valuation of land); *Frymire-Brinati v. KPM Peat Marwick*, 2F. 3d 183, 186088 (7<sup>th</sup> 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 Board'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 Board to require taxpayers and local taxing officials alike to participate in such determinations at the hearings. Therefore, the State Board'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 Board 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. The Township and the Petitioner agreed in principal that obsolescence exists with regard to the subject property. The existence of obsolescence is supported by the application of obsolescence depreciation by the Marion County PTABOA. The Petitioner must now establish that the amount of obsolescence applied by the PTABOA was insufficient.
43. The Petitioner used the sales comparison approach in the effort to quantify the request for additional obsolescence. If properly administered, this method is one of the recognized methods to measure depreciation.
44. The method used by the Petitioner to calculate obsolescence is substantially correct, however, flaws exist in the specifics of the calculation.
45. Shortcomings in the Petitioner's calculation include the following:
  - (a) No effort was made by the Petitioner to establish true comparability of the subject with the four (4) properties identified as comparable;



- (b) No adjustment was made for time of sale for any of the sales utilized. (Sale dates range from January 1990 to January 1997.)
  - (c) No documentation was submitted to support the land rate used for the comparables, which was \$ 50,000 for three (3) comparables and \$ 90,000 for the fourth.
  - (d) The square foot rates for the improvements of the four (4) comparables were established at \$ 16.60, \$ 23.45 and \$ 25.60 (2 comparables) with no explanation as to why the varied square foot rates were set.
46. Following the calculation of obsolescence for each of the Petitioner's comparables, the Petitioner indicates, "The overall rate selected for determining the functional and economic obsolescence of the subject property has been estimated at 50-70%, well below the comparables..." The Petitioner failed to offer any meaningful correlation between the obsolescence calculated for the Petitioner's comparables and the obsolescence "estimated" for the subject property.
47. For all the reasons set forth above, the Petitioner did not meet the second prong of the burden of proof, quantifying the obsolescence. There is no change in the assessment as a result of this issue.

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.

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Chairman, Indiana Board of Tax Review