

**STATE OF INDIANA
Board of Tax Review**

In the matter of the Petition for Review)
of Assessment, Form 131) Petition No. : 87-062-95-1-5-00022

Parcel No. : 06240300086

Assessment Year: 1995

Petitioners: Alan T. & Marie-Paule Marty
214 West Water Street
Newburgh, IN 47630

Petitioners Representative: James L. Angermeier
604 College Highway
Evansville, IN 47714

Findings of Fact and Conclusions of Law

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

Issues

1. Whether the land value is correct.
2. Whether the grade of the subject structure is correct.
3. Whether the neighborhood rating is correct.

4. Whether the condition rating of the subject structure is correct.

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, James L. Angermeier, on behalf of Alan T. & Marie-Paule Marty (Petitioners), filed a Form 131 petition requesting a review by the State. The Form 131 was filed on August 21, 1997. The Warrick County Board of Review's (County Board) Assessment Determination on the underlying Form 130 is dated July 29, 1997.
3. Pursuant to Ind. Code § 6-1.1-15-4, a hearing was held on February 24, 1998, before Hearing Officer Robert Norris. Testimony and exhibits were received into evidence. James L. Angermeier represented the Petitioners. Mary Kay Fisher represented Ohio Township. No one appeared to represent Warrick County.
4. At the hearing, the subject Form 131 was made a part of the record and labeled as Board Exhibit A. Notice of Hearing on Petition is labeled Board Exhibit B. In addition, the following exhibits were submitted to the State:
 - Board Exhibit C – Property record card (PRC) for the subject property
 - Board Exhibit D – Page 13 of 19, Warrick County Land Valuation Order (Land Order) for Ohio Township

 - Petitioner Exhibit A – List of “comparable” properties
 - Petitioner Exhibit B – PRC and exterior photos of “comparable” property (Stransky property)
 - Petitioner Exhibit C – Subject property’s State Board Final Determination for the assessment as of March 1, 1993

5. The subject property is a residence located at 214 West Water Street, Newburgh, Ohio Township, Warrick County.
6. The Hearing Officer inspected the subject property on March 2, 1998.

Issue No. 1 – Whether the land value is correct.

7. The Petitioners claim nearby properties with much better land features are valued lower than the subject. *Angermeier testimony.*

Issue No. 2 – Whether the grade of the subject structure is correct.

8. In 1994 the subject residence's grade factor was reduced from 180% to 150% via a Form 130/ 131 petition. A Form 11 was issued for 1995 with a grade factor of 180%. It is the Petitioner's contention there was no clear reason for a grade increase from one year to the next. *Angermeier testimony. Petitioner's Exhibit C.*
9. A review of the Petitioner's Exhibit C shows the State Board's Final Determination as referenced in the Petitioner's testimony was for the assessment as of March 1, 1993. In that determination the State Board did not change the grade factor.
10. The Petitioner also submitted photographs and PRC of a purported "comparable"; and a hand-written spreadsheet that included parcel numbers, grade and design factors in percentages, neighborhood ratings and condition rating based on Old Hickory and Lake Ride Crossing sub-divisions. *Petitioner Exhibit A and B.*

Issue No. 3 – Whether the neighborhood rating is correct.

11. The Petitioner contends the neighborhood is declining due to environmental problems. *Angermeier testimony.*

Issue No. 4 – Whether the condition rating of the subject property is correct.

12. At the hearing, the Petitioner presented no testimony or evidence pertaining to this issue.

Conclusions of Law

1. The Petitioner is limited to the issues raised on the Form 130 petition filed with the Property Tax Assessment Board of Appeals (PTABOA) or issues that are raised as a result of the PTABOA's action on the Form 130 petition. 50 IAC 17-5-3. See also the Forms 130 and 131 petitions authorized under Ind. Code §§ 6-1.1-15-1, -2.1, and -4. In addition, Indiana courts have long recognized the principle of exhaustion of administrative remedies and have insisted that every designated administrative step of the review process be completed. *State v. Sproles*, 672 N.E. 2d 1353 (Ind. 1996); *County Board of Review of Assessments for Lake County v. Kranz* (1964), 224 Ind. 358, 66 N.E. 2d 896. Regarding the Form 130/131 process, the levels of review are clearly outlined by statute. First, the Form 130 petition is filed with the County and acted upon by the PTABOA. Ind. Code §§ 6-1.1-15-1 and -2.1. If the taxpayer, township assessor, or certain members of the PTABOA disagree with the PTABOA's decision on the Form 130, then a Form 131 petition may be filed with the State. Ind. Code § 6-1.1-15-3. Form 131 petitioners who raise new issues at the State level of appeal circumvent review of the issues by the PTABOA and, thus, do not follow the prescribed statutory scheme required by the statutes and case law. Once an appeal is filed with the State, however, the State has the discretion to address issues not raised on the Form 131 petition. *Joyce Sportswear Co. v. State Board of Tax Commissioners*, 684 N.E. 2d 1189, 1191 (Ind. Tax 1997). In this appeal, such discretion will not be exercised and the Petitioner is limited to the issues raised on the Form 131 petition filed with the State.

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

A. Indiana's Property Tax System

3. Indiana's real estate property tax system is a mass assessment system. Like all other mass assessment systems, issues of time and cost preclude the use of assessment-quality evidence in every case.
4. The true tax value assessed against the property is not exclusively or necessarily identical to fair market value. *State Board of Tax Commissioners v. Town of St. John*, 702 N.E. 2d 1034, 1038 (Ind. 1998)(*Town of St. John V*).
5. The Property Taxation Clause of the Indiana Constitution, Ind. Const. Art. X, § 1 (a), requires the State to create a uniform, equal, and just system of assessment. The Clause does not create a personal, substantive right of uniformity and equality and does not require absolute and precise exactitude as to the uniformity and equality of each *individual* assessment. *Town of St. John V*, 702 N.E. 2d at 1039 – 40.
6. Individual taxpayers must have a reasonable opportunity to challenge their assessments. But the Property Taxation Clause does not mandate the consideration of whatever evidence of property wealth any given taxpayer deems relevant. *Id.* Rather, the proper inquiry in all tax appeals is “whether the system prescribed by statute and regulations was properly applied to individual assessments.” *Id.* at 1040. Only evidence relevant to this inquiry is pertinent to the State's decision.

B. Burden

7. Ind. Code § 6-1.1-15-3 requires the State to review the actions of the PTABOA, but does not require the State to review the initial assessment or undertake

reassessment of the property. The State has the ability to decide the administrative appeal based upon the evidence presented and to limit its review to the issues the taxpayer presents. *Whitley Products, Inc. v. State Board of Tax Commissioners*, 704 N.E. 2d 1113, 1118 (Ind. Tax 1998) (citing *North Park Cinemas, Inc. v. State Board of Tax Commissioners*, 689 N.E. 2d 765, 769 (Ind. Tax 1997)).

8. In reviewing the actions of the PTABOA, the State is entitled to presume that its actions are correct. See 50 IAC 17-6-3. “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. One manner for the taxpayer to meet its burden in the State’s administrative proceedings is to: (1) identify properties that are similarly situated to the

contested property, and (2) establish disparate treatment between the contested property and other similarly situated properties. *Zakutansky v. State Board of Tax Commissioners*, 691 N.E. 2d 1365, 1370 (Ind. Tax 1998). In this way, the taxpayer properly frames the inquiry as to “whether the system prescribed by statute and regulations was properly applied to individual assessments.” *Town of St. John V*, 702 N.E. 2d at 1040.

12. The taxpayer is required to meet his burden of proof at the State administrative level for two reasons. First, the State is an impartial adjudicator, and relieving the taxpayer of his burden of proof would place the State in the untenable position of making the taxpayer’s case for him. Second, requiring the taxpayer to meet his burden in the administrative adjudication conserves resources.
13. To meet his burden, the taxpayer must present probative evidence in order to make a prima facie case. In order to establish a prima facie case, the taxpayer must introduce evidence “sufficient to establish a given fact and which if not contradicted will remain sufficient.” *Clark*, 694 N.E. 2d at 1233; *GTE North, Inc. v. State Board of Tax Commissioners*, 634 N.E. 2d 882, 887 (Ind. Tax 1994).
14. In the event a taxpayer sustains his burden, the burden then shifts to the local taxing officials to rebut the taxpayer’s evidence and justify its decision with substantial evidence. 2 Charles H. Koch, Jr. at §5.1; 73 C.J.S. at § 128. See *Whitley*, 704 N.E. 2d at 1119 (The substantial evidence requirement for a taxpayer challenging a State Board determination at the Tax Court level is not “triggered” if the taxpayer does not present any probative evidence concerning the error raised. Accordingly, the Tax Court will not reverse the State’s final determination merely because the taxpayer demonstrates flaws in it).

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

15. Because true tax value is not necessarily identical to market value, any tax appeal that seeks a reduction in assessed value solely because the assessed

value assigned to the property does not equal the property's market value will fail.

16. Although the Courts have declared the cost tables and certain subjective elements of the State's regulations constitutionally infirm, the assessment and appeals process continue under the existing rules until a new property tax system is operative. *Town of St. John V*, 702 N.E. 2d at 1043; *Whitley*, 704 N.E. 2d at 1121.
17. *Town of St. John V* does not permit individuals to base individual claims about their individual properties on the equality and uniformity provisions of the Indiana Constitution. *Town of St. John*, 702 N.E. 2d at 1040.

Issue No. 1 – Whether the land value is correct.

18. The Petitioners maintain that the land value for the subject property is excessive. Mr. Angermeier testified that nearby properties with better land features are valued lower than the subject property.
19. Other than Mr. Angermeier's conclusory statement regarding better land features and lower land values, the Petitioners failed to submit any evidence to support their claim that the subject's land is excessively valued.
20. 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.
21. Taxpayers are expected to make detailed 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)).

22. One manner for the taxpayer to meet its burden in the State’s administrative proceedings is to: (1) identify properties that are similarly situated to the contested property, and (2) establish disparate treatment between the contested property and other similarly situated properties. *Zakutansky v. State Board of Tax Commissioners*, 691 N.E. 2d 1365, 1370 (Ind. Tax 1998). 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.
23. Mr. Angermeier failed to identify any properties that were similarly situated to the subject. Having failed to do this, Mr. Angermeier also failed to show disparate treatment of the subject property.
24. 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).
25. A review of the Land Order and the subject PRC shows the land with a base rate of \$75per front foot. The \$75 per front foot falls within the range established by the Land Order at \$55 to \$110 per front foot.
27. For all the reasons set forth above, the Petitioner’s request for a change in the land value is denied. No change in the assessment is made as a result of this issue.

Issue No. 2 – Whether the grade of the subject structure is correct.

28. The Petitioners requested the grade of the home be lowered from “A+2” to “A-2”, thereby reducing the grade factor from 200% to 150%. It should be noted the local officials applied a grade factor of “A+1” or 180% to the subject structure.
29. The approach to valuing residential homes is primarily found in 50 IAC 2.2-7. The approach to valuing homes is the application of various models to represent typical types of construction. “A model is a conceptual tool used to replicate reproduction costs of given structures using typical construction materials.” 50 IAC 2.2-7-6. The model assumes that there are certain elements of construction defined as specifications. These specifications create an average or “C” grade home. *Id.*
30. “Grade” is defined as the classification of an improvement based on certain construction specifications and quality of materials and workmanship. 50 IAC 2.2-1-30.
31. Not all residences in the State are average or “C” grade homes. Therefore, grade factors are applied to account for differences in construction specifications and quality of materials and workmanship between the models in the Regulation and the home being assessed. *Clark*, 694 N.E. 2d at 1236, n. 6. The major grade classifications are “A” through “E”. 50 IAC 2.2-7-6 (d)(1). The cost schedules in the Regulation reflect the “C” grade standards of quality and design. The following grade factors (or multipliers) are assigned to each major grade classification:

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

50 IAC 2.2-7-6 (e).

32. Intermediate grade levels ranging are also provided for in the Regulation to adequately account for quality and design features between major grade classifications. 50 IAC 2.2-7-6 (g).
33. The determination of the proper grade factor requires assessors to make a variety of subjective judgments regarding variations in the quality of materials and workmanship and the quality of style and design. *Mahan v. State Board of Tax Commissioners*, 622 N.E. 2d 1058, 1064 (Ind. Tax 1993). The selected represents a composite judgment of the overall quality and design. *Mahan*, 622 N.E. 2d at 1064; 50 IAC 2.2-7 (f).
34. Subjectivity is used in the grading process. For assessing officials and taxpayers alike, however, the Regulation provides indicators for establishing grade. The text of the Regulation provides indicators for establishing grade. The text of the Regulation (see 50 IAC 2.2-7-6 (d)), the grade specification table (50 IAC 2.2-7-6 (b)), and graded photographs (50 IAC 2.2-7-10) all provide guides for establishing grade.
35. Though it may be difficult to establish whether a home has a “cheap quality interior finish with minimal built-in features” or is “devoid of architectural treatment”, this does not mean that a taxpayer is precluded from offering evidence tending to demonstrate that the home has these characteristics. *Whitley*, 704 N.E. 2d at 1119, n.12.
36. In property tax appeals, the Petitioner has the responsibility to provide probative and meaningful evidence to support a claim that the grade factor assigned by the local officials is incorrect. The inability to provide information identifying features and building specifications reveals that a claim for a grade change is purely speculative and is not supported by significant evidence.

37. The Petitioners' evidence in this appeal primarily focused on the Petitioner's testimony that the State assigned a grade factor of "A -2" grade to the subject residence as a result of an appeal for tax year 1994. The Petitioners also include a purported "comparable", a purported "comparable" spreadsheet and a copy of the State's Grade Specification Table with features circled.
38. Before applying the evidence to reduce the contested assessment, the State must first analyze the reliability and probity of the evidence to determine what, if any, weight to accord it.
39. A review of the previous State determination (Petitioner Exhibit C) shows the determination was for the assessment as of March 1, 1993 and not 1994. Secondly, the State did not make any change regarding the grade issue at that time. Also the grade applied to the subject structure by the County was "A-1" not an "A-2".
40. The State will not reduce the grade of the home under appeal on the basis of its Final Determination for tax year 1993. That Final Determination did not specifically state the basis for the grade assigned, and did not reflect or meaningfully deal with the evidence considered in determining the "A-1" grade factor.
41. The Petitioner presented exterior photographs and PRC of a purported "comparable" property. The Petitioners did not make any detailed comparison between the subject and the "comparable" to show that the two (2) properties are in fact comparable.
42. When the two (2) PRCs are reviewed one finds that the properties are graded the same at "A+1", have the same condition rating of "good" and have the same neighborhood rating of "average".

43. The Petitioner also sought a reduction in grade based upon allegedly lower grade factors applied to homes in other neighborhoods, the Old Hickory and Lake Ride Crossing subdivisions (Petitioner Exhibit A). The Petitioners submitted a hand-written spreadsheet that included parcel numbers, grade and design factors in percentages, neighborhood ratings and condition rating of homes on those parcels.
44. However, the information that was not provided in support of such testimony is significant. For example: (1) PRCs for the properties listed in Petitioner's Exhibit A were not submitted, (2) photographs of homes in Old Hickory and Lake Ride Crossing subdivisions were not submitted, except for the Stransky home, (3) there is no analysis showing how the properties are in fact comparable to the subject, and (4) the Petitioner's did not present any construction cost information pertaining to the subject property for analysis.
45. The application of the proper grade factor is based on many specific facts that are particular to the home in question. Because the evidence relating to other homes in Old Hickory and Lake Ride Crossing does not provide detailed information regarding the overall quality of materials and workmanship throughout the structures, the State does not find the evidence attempting to compare (or distinguish) the subject home under appeal from homes in the Old Hickory or Lake Ride Crossing subdivisions terribly probative.
46. The Petitioner failed to identify properties that were similarly situated to the home under appeal and to establish that the home under appeal was treated differently than other similarly situated homes. *Town of St. John V*, 702 N.E. 2d at 1040.
47. Finally, the Petitioner presented the Grade Specification Table from the Regulation with features circled allegedly representing that of the subject residence.

48. An important element of the “weighted average calculation” is identifying the features of the home under appeal and “matching” those features to a grade column in the grade specification table. Likewise, the same element appears in the “major grade classification analysis” because features in the home are identified and “matched” to the text found at 50 IAC 2.2-7-6(d). For example, the home was alleged to have good grade plumbing fixtures (grade “B”) and good quality cabinets (grade “B”). Board Exhibit A. Conclusory statements such as the home has “good grade plumbing fixtures” are not evidence demonstrating that the home has these characteristics. *Whitley*, 704 N.E. 2d at 1120. With no probative evidence presented, the burden of proof is not met. *Bernacchi*, 727 N.E. 2d 1133.
49. Further, neither the grade specification table nor the descriptive text of the Regulation lists or identifies every conceivable feature of every home in the State. It would be impossible for the State to make such a list. For example, neither the grade specification table nor the text lists skylights or built-in bookcases. Yet, the “method” used to “quantify” grade in this appeal do not provide for features not specifically listed in the Regulation.
50. Also, the “method” used in this appeal gives equal weight to the cost of each feature listed in the grade specification table and descriptive text and allegedly present in the contested home.
51. The Supreme Court has upheld assessments that assign grades in excess of A. *State Board of Tax Commissioners v. Garcia*, 766 N.E. 2d 341 (Ind. 2002), 2002 WL 550985. Petitioner has failed to prove that the grade assigned by the local assessing official is incorrect.
52. For all the reasons set forth above, the Petitioners failed to meet their burden in this appeal. Accordingly, there is no change in the assessment as a result of this issue.

Issue No. 3 – Whether the neighborhood rating is correct.

53. The Petitioners maintain that the neighborhood rating should be equalized with other neighborhoods in the area. Mr. Angermeier added the neighborhood rating is declining due to environmental problems.
54. 50 IAC 2.2-7-7.1(f)(7) defines neighborhood as a composite judgment of the overall desirability based on the condition of agreeable living and the extent of residential benefits arising from the location of the dwelling. Neighborhoods are categorized in pertinent part:
“Good” – to indicate an attractive and desirable area.
“Average” – to indicate an average area.
“Fair” – to indicate extremely unattractive and undesirable area.
55. The Petitioners sought a change in neighborhood rating based upon allegedly lower neighborhood ratings in other nearby neighborhoods. The evidence regarding neighborhood classification consisted of conclusory testimony of Mr. Angermeier and an unverified handwritten spreadsheet (Petitioner Exhibit A) indicating the neighborhood ratings of various properties in Old Hickory and Lake Ride Crossing sub-divisions.
56. The application of the proper neighborhood rating is based on many specific facts that are particular to that geographic area. For example, amenities, land use, economic and social trends and housing characteristics. The Petitioners did not present any detailed analysis comparing the alleged comparable neighborhoods to the subject neighborhood. There is no discussion presented regarding any similarities or differences between the neighborhoods.
57. Because the evidence relating to other neighborhoods does not provide detailed information, the State does not find the evidence attempting to compare (or distinguish) the home under appeal from homes in other nearby areas as probative or meaningful.

58. Regarding Mr. Angermeier's statement of environmental concerns affecting the neighborhood rating, it is just that, a statement. Mr. Angermeier does not present any evidence whatsoever regarding these purported environmental problems and how they would affect the neighborhood rating. Mr. Angermeier's statement is conclusory and unsubstantiated and does not constitute probative evidence. *Whitley*, 704 N.E. 2d at 1119.
59. 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.
60. Taxpayers are expected to make detailed 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)).
61. The Petitioners have not established disparate treatment between the contested property and other similarly situated properties has occurred.
62. For all the reasons set forth above, the Petitioners failed to meet their burden in this appeal. Accordingly, no change in the assessment is made as result of this issue.

Issue No. 4 – Whether the condition rating of the subject property is correct.

63. The Petitioners maintain that the condition rating of the subject structure is incorrect. However, the Petitioners gave no testimony or presented any evidence in support of their contention.
64. 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.
65. 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)).
66. By failing to submit any testimony or evidence regarding this issue, the Petitioners have not sustained their burden of proof. Therefore, the appeal on this issue is denied and no change in the assessment is made.

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